

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI.  
Original Application No.109 of 2022

**IN THE MATTER OF: -**

Vivek Kamboj & Anr.

.....Applicant

Versus

Union of India & Ors.

.....Respondents

**STATUS REPORT ON BEHALF OF HARYANA STATE  
POLLUTION CONTROL BOARD IN COMPLIANCE OF  
ORDER DATED 17.02.2022.**

1. That the above titled matter has been filed alleging non-compliance of Solid Waste Management Rules, 2016 at Solid Waste Management site i.e. Village Bandhwari site. This Hon'ble Tribunal, while taking note of contentions made in present Original Application, vide order dated 17.02.2022 has sought report from a Joint Committee of State PCB, Divisional Forest Officers and District Magistrate, Gurugram and Faridabad. The relevant portion of order dated 17.02.2022 is being reproduced below:-

*"1. Grievance of the applicant is that solid waste is being dumped from the Bandhwari landfill site to the nearby forest areas of Aravalli falling in the Faridabad and Gurugram Districts of Haryana. The dumping of the solid waste and leachate in the area is affecting the community at large and the fragile eco-system of Aravalli forest. The same is also dangerous for the wildlife of the area. It is submitted that this*

*Tribunal in O.A No.514/2018 filed by the applicant in which issue of violation of Municipal Solid Waste Rules and discharge of leachate around Bandhwari landfill site was raised, has issued several directions and recorded the fact that there has been serious failure of authorities in performing their responsibility and directed the Chief Secretary of the State of Haryana to personally monitor the compliances periodically. The Haryana Pollution Control Board inspected the outlet of leachate treatment plant and also water body in the forest area nearby to the Bandhwari Landfill and collected samples on 12.08.2021 from the Common Municipal Solid Waste management Plant facility, Bandhwari and leachate pond on forestland adjacent to Bandhwari plant. The analysis of the sample collected revealed that untreated leachate is being discharged in the forest area which has formed a kind of leachate pond. It is submitted that dumping of the solid waste in the forest area of Aravalli falling in Faridabad and Gurugram District of Haryana is being done by Municipal Commissioners and District Magistrates of Gurugram and Faridabad.*

*2. Having regard to the seriousness of the allegations, it appears necessary to ascertain the factual position in the matter through a joint Committee of the State PCB, Divisional Forest Officers and District Magistrates, Gurugram and Faridabad. The State PCB will be the Nodal agency for coordination and compliance. The joint Committee may meet within four weeks and undertake site visit and look into the grievance of the applicant. Factual and action taken report may be furnished within three months by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF."*

2. That it is humbly submitted that on similar issues pertaining to same site, an Original Application No.172/2021 has previously been

filed taking note of which this Hon'ble Tribunal passed the order dated 19.07.2021. The directive portion of the order dated 19.07.2021 passed in O.A. No.172/2021 is reproduced below:

*"5. In view of above, to ascertain the factual status, we constitute a three-member Committee comprising CPCB, Haryana State PCB and the District Magistrate, Gurgaon. The Committee may visit the site, interact with the stakeholders and take assistance from any other individual/institution and give its report within one month by e-mail by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF with a copy to the Chief Secretary, Haryana. The report may inter alia include causes of fire, reasons for unauthorized persons working in the landfill premises, progress on remediation of site and setting up of waste processing plant in furtherance of order of this Tribunal dated 7.4.2021 in OA 514/2018, steps taken by the MCG to prevent sliding of garbage mound due to fire and during monsoon and status of compliance of Rules on relevant aspects. The report may also mention status of legacy waste dump site in terms of order dated 17.7.2019 in OA 519/2019.*

*6. The Chief Secretary, Haryana may give response within one month thereafter about remedial action taken to comply with the law and steps taken against erring officers for failure for long time to remedy the situation resulting into such ugly situation. The monitoring mechanism in place to ensure that such failures do not happen may also be mentioned. The report may be furnished by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF."*

3. That in compliance of order dated 19.7.2021, a Joint Committee Report dated 25.3.2022 has been filed in O.A. No.172/2021 mentioning about ground position at the site. The said

Report dated 25.3.2022 was considered in review meeting held under the Chairmanship of Chief Secretary, State of Haryana and it was decided to direct that the Deputy Commissioner as Chairman, Senior Environmental Engineer from State Pollution Control Board and a Senior Officer of Central Pollution Control Board should personally join the field inspections and then make recommendations. Accordingly, a Committee consisting of Senior Officers as mentioned above is to submit its Report as per mandate of order dated 19.7.2021. A copy of Joint Committee Report dated 25.3.2022 filed in O.A. No.172/2021 is annexed herewith as **ANNEXURE R-1**. A copy of Status Report dated 12.05.2022 filed by State of Haryana in compliance of order dated 19.7.2021 of Hon'ble NGT is annexed herewith as **ANNEXURE R-2**.

4. That after receiving the report from the Committee of the Senior Officers as referred in Para 3 above, requisite action shall be taken in the present O.A. also in coordination with all concerned Officers including Officers from Forest Department Haryana.

  
Regional Officer, Gurgaon North,  
HSPCB (Nodal Agency)

Place: Gurgaon  
Dated: 26.05.2022

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
O.A. No. 172 of 2021**

**In the matter of:**

**Poonam Yadav**

**Vs.**

**Applicant**

**M/s Ecogreen Energy Pvt. Ltd.**

**Respondents**

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*Divya*

**(Divya Sinha)**  
Scientist-E

Central Pollution Control Board  
Parivesh Bhawan, East Arjun Nagar  
Delhi-110032

Dated: 25.03.2022  
Place: Delhi



Date: 25-03-2022

**Joint Committee Report in the Matter of Poonam Yadav Vs M/s Ecogreen Energy Pvt. Ltd. & Ors. (OA No. 172/2021)**

**1.0 Background**

Vide its Order dated July 19, 2021 in the matter of Poonam Yadav Vs M/s. Ecogreen Energy Pvt. Ltd. & Ors. (OA No. 172/2021), Hon'ble NGT issued the following Directions:

**Para 5** “---we constitute a three-member Committee comprising CPCB, Haryana State PCB and the District Magistrate, Gurgaon. The Committee may visit the site, interact with the stakeholders and take assistance from any other individual/institution and give its report within one month by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF with a copy to the Chief Secretary, Haryana. Their report may inter alia include causes of fire, reasons for unauthorized persons working in the landfill premises, progress on remediation of site and setting up of waste processing plant in furtherance of order of this Tribunal dated 7.4.2021 in OA 514/2018, steps taken by the MCG to prevent sliding of garbage mound due to fire and during monsoon and status of compliance of Rules on relevant aspects. The report may also mention status of legacy waste dump site in terms of order dated 17.7.2019 in OA 519/2019.”

**2.0 Action Taken Report**

In compliance of Para 5 of aforesaid Hon'ble NGT's Order, Joint committee comprising of following members has been constituted:

Sr. No.	Name & Designation of Officer	Nominee
1	Dr. Chandra Kant Dixit, Sc 'C'	CPCB
2.	Ms. Akansha Tanwar, AEE, HSPCB, Gurugram Region (North)	HSPCB, Gurugram Region (North)
3.	Sh. Darpan Kamboj, Tehsildar, Gurugram	District Magistrate, Gurugram

Details of Action taken by the Committee in compliance of Order dated 19.7.21 are enumerated in this section:

The Committee visited Bandhwari Landfill site on 18.10.2021 to verify facts and also interacted with the stakeholders including the applicant, Municipal Corporation of Gurgaon (MCG), M/s Ecogreen Energy Private Limited.

The applicant Smt. Poonam Yadav was contacted telephonically to know her concerns regarding the landfill site and she submitted that the major concern was the fire on 11.07.2021 at landfill site and non-compliance of Solid Waste Management Rules, 2016 at the Bandhwari landfill site.

Municipal Corporation, Gurugram (MCG) and Municipal Corporation Faridabad have concessionaire agreement for Development of Integrated Solid Waste Management (collection, transportation, processing and disposal) in Faridabad-Gurugram Cluster. The Concession Agreement was signed on 14.08.2017 for a period of twenty two years i.e. up to 2039. As per the Clause 5.8 of the Agreement, scope of work to be carried out by M/s Ecogreen Energy Pvt. Ltd includes setting up of waste processing facility (waste to energy plant & biological processing), sanitary landfill as well as manage the legacy waste at the site. The waste processing & disposal facility is to be set up on the land reclaimed from remediation of legacy waste. Copy of the concessionaire agreement between MCG & M/s Ecogreen Energy Pvt. Ltd is enclosed as **Annexure I (134 pages)**.

### **3.0 Findings/Observations of Constituted Committee:-**

#### **3.1 Fire incidents at Landfill site:**

MCG was contacted to find out the details of major fire incident which took place on July 11, 2021. Details of fire incidents, causes of fire as well as the remedial measures in place to check the fire incidents are given below:

(i) **Details of fire incidents:** MCG has informed that the fire incident on July 11, 2021 was the only fire incident happened at the sanitary landfill site till date. The location of fire was bioremediation site and its duration was from 11.07.2021 evening to 12.07.2021 night (24 hours). The fire was controlled in the night of 12.07.2021. The location at which the fire took place falls under the jurisdiction of MCG and maintained by M/s Ecogreen Energy Pvt. Ltd.

(ii) **Impact of fire incident on Air Quality**

There are 4 Continuous Ambient Air Quality Stations (CAAQMS) at Gurugram.

- NISE Gwal Pahari (Approx distance from Bandhwari Landfill Site is 2 Km)
- Teri Gram (Approx distance from Bandhwari Landfill Site is 2 Km)
- Sector-51 (Approx distance from Bandhwari Landfill Site is 12 Km)

- Vikas Sadan (Approx distance from Bandhwari Landfill Site is 18 Km)

The Air Quality Index (AQI) data and the prominent pollutant for the month of July 2021 at above 4 CAAQMS was examined to evaluate impact of the fire incident on the Air quality. AQI for the four stations of Gurugram for the month of July 2021 is given in the table below:

Date	NISE Gwal Pahari ( 2 km )	Teri Gram( 2 km)	Sector-51 ( 12 km)	Vikas Sadan( 18 km)
1-Jul-21	149 PM <sub>10</sub>	201 PM <sub>2.5</sub>	162 PM <sub>10</sub>	107 PM <sub>2.5</sub>
2-Jul-21	139 PM <sub>10</sub>	101 PM <sub>10</sub>	148 PM <sub>10</sub>	*
3-Jul-21	90 PM <sub>10</sub>	115 PM <sub>10</sub>	111 PM <sub>10</sub>	76 PM <sub>2.5</sub>
4-Jul-21	93 PM <sub>10</sub>	81 PM <sub>10</sub>	111 PM <sub>10</sub>	79 PM <sub>2.5</sub>
5-Jul-21	120 PM <sub>10</sub>	105 PM <sub>10</sub>	103 PM <sub>10</sub>	83 PM <sub>2.5</sub>
6-Jul-21	107 PM <sub>10</sub>	129 PM <sub>10</sub>	139 PM <sub>10</sub>	76 PM <sub>2.5</sub>
7-Jul-21	119 PM <sub>10</sub>	153 PM <sub>10</sub>	118 PM <sub>2.5</sub>	*
8-Jul-21	121 PM <sub>10</sub>	142 PM <sub>10</sub>	125 PM <sub>10</sub>	*
9-Jul-21	67 PM <sub>10</sub>	82 PM <sub>10</sub>	123 PM <sub>10</sub>	89 PM <sub>2.5</sub>
10-Jul-21	*	91 PM <sub>2.5</sub>	128 PM <sub>10</sub>	69 PM <sub>2.5</sub>
11-Jul-21	64 PM <sub>2.5</sub>	76 PM <sub>2.5</sub>	138 PM <sub>10</sub>	60 Ozone
12-Jul-21	59 PM <sub>2.5</sub>	82 PM <sub>10</sub>	140 PM <sub>10</sub>	66 PM <sub>2.5</sub>
13-Jul-21	48 PM <sub>10</sub>	62 PM <sub>2.5</sub>	75 PM <sub>10</sub>	68 PM <sub>2.5</sub>
14-Jul-21	*	82 PM <sub>2.5</sub>	87 PM <sub>2.5</sub>	54 PM <sub>2.5</sub>
15-Jul-21	52 Ozone	53 PM <sub>2.5</sub>	99 PM <sub>2.5</sub>	67 PM <sub>2.5</sub>
16-Jul-21	51 PM <sub>10</sub>	57 PM <sub>10</sub>	107 PM <sub>2.5</sub>	69 PM <sub>2.5</sub>
17-Jul-21	*	71 PM <sub>2.5</sub>	160 PM <sub>2.5</sub>	89 PM <sub>2.5</sub>
18-Jul-21	40 PM <sub>2.5</sub>	74 PM <sub>10</sub>	100 PM <sub>2.5</sub>	72 PM <sub>2.5</sub>
19-Jul-21	*	49 PM <sub>10</sub>	62 PM <sub>2.5</sub>	61 Ozone
20-Jul-21	*	50 PM <sub>10</sub>	*	60 Ozone
21-Jul-21	*	61 PM <sub>10</sub>	69 PM <sub>10</sub>	60 Ozone
22-Jul-21	*	70 PM <sub>2.5</sub>	82 PM <sub>10</sub>	81 CO
23-Jul-21	*	53 PM <sub>10</sub>	88 PM <sub>2.5</sub>	64 PM <sub>2.5</sub>
24-Jul-21	61 PM <sub>10</sub>	81 PM <sub>10</sub>	170 PM <sub>2.5</sub>	87 PM <sub>2.5</sub>

Date	NISE Gwal Pahari ( 2 km )	Teri Gram( 2 km)	Sector-51 ( 12 km)	Vikas Sadan( 18 km)
25-Jul-21	*	89 PM <sub>2.5</sub>	170 PM <sub>2.5</sub>	86 PM <sub>2.5</sub>
26-Jul-21	*	69 PM <sub>10</sub>	100 PM <sub>2.5</sub>	66 PM <sub>2.5</sub>
27-Jul-21	72 PM <sub>10</sub>	128 PM <sub>10</sub>	*	131 PM <sub>2.5</sub>
28-Jul-21	*	70 PM <sub>10</sub>	68 PM <sub>2.5</sub>	68 PM <sub>2.5</sub>
29-Jul-21	*	67 PM <sub>10</sub>	71 PM <sub>10</sub>	39 PM <sub>2.5</sub>
30-Jul-21	*	57 PM <sub>10</sub>	83 PM <sub>2.5</sub>	59 PM <sub>2.5</sub>
31-Jul-21	*	41 PM <sub>10</sub>	76 PM <sub>10</sub>	52 PM <sub>2.5</sub>
<b>Good</b>	<b>2</b>	<b>3</b>		<b>1</b>
<b>Satisfactory</b>	<b>9</b>	<b>20</b>	<b>13</b>	<b>25</b>
<b>Moderate</b>	<b>6</b>	<b>7</b>	<b>16</b>	<b>2</b>
<b>Poor</b>	-	<b>1</b>	-	-
<b>Very poor</b>	-	-	-	-
<b>Severe</b>	-	-	-	-

(\* Data not available)

No significant variation was observed in the AQI at the stations located closer to the dumpsite (2 km distance) than those located further away (16-18 km) during the period fire incident has been reported at the site

(iii) **Cause of fire at landfill site:** As informed by MCG, the fire took place at the bio-remediation site. Aerobic decomposition of waste by bacterial activity raise the temperature up to 75 °C resulting in generation of “hot spot”. The generated methane gas during decomposition comes into contact of high temperature and results the fire. The fire at the Bandhwari land fill site occurred due to the formation of these “Hot Spots”.

(iv) **Remedial measures:** The Committee observed during the visit that the temperature is being monitored regularly at windrows with the help of dial thermometer. The copy of temperature profile log book being maintained by MCG is enclosed as **Annexure II**. As per the copy of the logbook the temperature was in the range of 35 °C to 59°C. Treated leachate is used to spray on the waste when rise in temperature is observed at the bioremediation site. Daily Bio-culture spray for decomposition and management of fire is being done on waste. One fire tender is available 24 X 7 and deployed on the site. (Relevant photographs are enclosed as **Annexure IIa**). It was also informed by MCG that the training has been provided to employees at site for using fire equipment.

### **3.2. Reasons for unauthorized persons working in the landfill premises:**

At Bandhwari site, there are three gates (gate no. 01, 02 & 03). It was informed by MCG that all three gates have guards 24X7 and the entry of the unauthorized person is not allowed and only authorized persons work at the site.

It was also informed that visitors have to take permission from the plant in-charge and proper gate pass is issued to any visitor (**Annexure III**). During the visit, guards were present at the gate and committee did not observe any unauthorized entry during its visit. During the visit The Committee observed that gate pass issuing system was functional.

### **3.3 Progress on remediation of legacy waste dumpsite**

#### **3.3.1 Treatment of legacy waste**

- 17 trommels of capacity 300 TPD each having screen size of 4 mm, 16 mm and 35 mm have been installed (**Annexure IV**).
- Approx 33,00,000 MT of legacy waste is dumped at the site as informed by MCG. CPCB had earlier inspected this dumpsite in January 2021 in O.A No. 514/ 2018 and at that time also total dumped waste was reported as 33,00,000 MT indicating very little variation in the total quantity of waste dumped at the site. This is primarily due to the reason that fresh waste @ 2000 TPD is continued to be dumped at site. MCG informed that at present the processing capacity of legacy waste is 5100 TPD. It was also informed by MCG that processing of additional 10000 TPD shall start by end of Oct-21, so total processing will be approx 15000 TPD. It was informed by MCG that presently in January 2022 the same has been complied by MCG and total processing is 15,000 TPD.
- Approx 2000 TPD (Gurugram 1100 TPD & Faridabad 900 TPD) of fresh waste is continued to be dumped at the legacy waste dumpsite. Hence, net 3100 TPD of waste is currently being remediated at the site. It was informed that MCG and MCF have identified separate lands for processing of daily fresh waste, but due to large scale public agitation, they are not able to divert the fresh waste to the identified sites.
- The present height of the dumpsite is 38 m, as informed by MCG. As per report filed by CPCB in O.A 514/2018 in January 2021, the height of point of dumpsite was 40 m, indicating that there has been a very marginal decrease in height of the dumpsite during the intervening period.
- Waste is first excavated and bio remediated via windrows, turning of windrows

and spray of bio-culture for 25-30 days (**Annexure V**). Waste is then turned periodically and temperature is noted. When temperature comes down to 35 °C, waste is brought to trommels for segregation.

- Trommels are segregating waste into RDF, Inert and compost. Compost is sent for use in parks and RDF to Waste to Energy Plant at Sonipat and Cement plants at Mangrol and Nimach. Inert are used for filling low lying areas. Biomining Process Flow sheet is enclosed as **Annexure VI**.

The present (January 2022) details as informed by MCG about Biomining of legacy waste (total waste Bio remediated, total waste available for biomining & total quantity of screened fractions formed & disposed) are given in table below:

Total Waste Bio Remediation (MT)	Total Waste Available for bio mining, after 35-40% decomposition against total Bio-remediation (MT)	Total Bio Mined waste (MT)	Total RDF (MT)		Total Compost (MT)		Total Inert (MT)	
			Obtained	Disposed	Obtained	Disposed	Obtained	Disposed
1402592	1023893	551947	220082	76226	111430	107455	215358	210995

- There is difference in the waste available for Bio-Mining and total bio mined material. It was informed by MCG that this material was not bio-mined due to rain. There is also difference between the quantity of RDF obtained and the quantity disposed off. As informed, due to rain the moisture content of the RDF had increased and on the request of the cement plants and the Waste to Energy Plant the transportation of the RDF was put on hold. The transportation of the same shall commence as the material dry. Month wise Biomining Details at Bandhwari landfill site as provided by MCG is enclosed as **Annexure VII**. Copy of Biomining log book being maintained by MCG is enclosed as **Annexure VIIa**. It is observed that only 42 % of legacy waste dumped at the site has been remediated so far In addition, fresh waste approx 2000 TPD is continued to be received at the site hence there is no appreciable reduction in the total quantity of waste stored at the dumpsite. Further it is also observed that MCG has failed to adhere to the action plan submitted in Hon'ble NGT in the matter of Vivek Kamboj Vs. Union of India wherein it was submitted by Commissioner, MCG that by November, 2020, 20 working trommels would be installed at site and 27,00,000 tonne of waste would be bio-remediated. ULB, Haryana should fix responsibility of the erring officers of MCG.

- **Utilization of Screened fractions (Compost, Segregated Combustible Fractions (SCF) and Inert)**

Total quantity of segregated material utilized is 394676 MT which is 72 % of the total screened fraction produced indicating that approx one-third of the screened fraction produced has not been utilized so far. Details of utilization of screened fraction as informed by MCG is given below:

- **Compost/Good Earth Soil:**

Out of 111430 MT segregated good earth soil, 107455 MT has been utilized in green belts and parks of the Municipal Corporation Gurugram (MCG), Municipal Corporation Faridabad (MCF), Gurugram Metropolitan Development Authority (GMDA) & Faridabad Metropolitan Development Authority (FMDA).

- **SCF (Segregated Combustible Fractions)/RDF**

Out of total 220082 MT segregated SCF, 76226 MT has been utilized by Cement Plants i.e. J.K. Cement Mangrol, Ultra Tech Cement Nimach and Waste to Energy plant at Murthal, Sonipat. The relevant documents (Vehicles, net weight details verified by MCG, Delivery Challan and Weight at *Dharmkanta*) of the RDF transportation to these plants, work order issued and agreement with cement plants for disposal of RDF is enclosed as **Annexure VIII**.

- **Inerts**

Out of 215358 MT segregated inerts, 210995 MT inerts used for filling of the low lying areas and preparation of the Ramps at site. Work Order issued to M/s Samunder Singh and M/s Tanwar Enterprises for disposal of Compost & Inerts enclosed as **Annexure IX**.

### **3.3.2 Action Plan for treatment of legacy waste**

The action plan to treat the legacy waste as provided by MCG is attached as **Annexure X**. As per the Action Plan -

- (a) The total quantity of legacy waste to be remediated is 3310000 MT.
- (b) The treatment of legacy waste shall be completed by July 2022 as per the quantity TPD mentioned in the action plan.

It is observed that the action plan does not clearly indicate plan for treatment of fresh waste and the plan for utilization of screened fractions.

### 3.3.3 Leachate Treatment

One Leachate treatment plant of 150 KLD and 2 Disc Tube Reverse Osmosis System (DTRO) of 200 KLD each have been installed, so the total treatment capacity of leachate is 550 KLD. One DTRO was operational during the visit.

The sample of untreated and treated leachate was collected from the inlet and outlet of that plant and analyzed at HSPCB Laboratory. The analysis report of HSPCB Laboratory is enclosed as **Annexure XI**. All the parameters were found within the limit for treated leachate as specified in Schedule II of SWM Rules 2016 except total dissolved solids which was 3150 mg/L against the prescribed limit of 2100 mg/L.

### 3.4. Progress on setting up of Waste to Energy plant

MCG submitted that Waste to Energy shall be commissioned by October 2023. It will be an integrated waste management plant. The schedule for the commissioning of the plant in said time is enclosed as **Annexure XII**. Consent to Establish Common treatment and disposal facilities has been obtained (**Annexure XIII**) and 06 acre land out of total 10 Acre required land for Waste to Energy Plant has been reclaimed. During the visit it was informed by MCG that the complete land of 10 acres will be reclaimed by 30<sup>th</sup> Nov 2021 and same will be handed over to concessionaire to commission the Waste to Energy Plant. As per updated information received from MCG, total 10 acres of land has been cleared by shifting the waste from area identified for Waste to Energy plant at landfill site and handed over to concessionaire on 07.12.2021.

A meeting, chaired by Hon'ble CM of Haryana was held with the stakeholders on 7.12.2020. In the meeting, Municipal Corporation, Gurugram was directed to Bio-remediate the legacy waste in Bhandwari at the risk and cost of the Ecogreen. (Minutes of the meeting are enclosed as **Annexure XIV**). Thereafter, for reclamation of land identified for waste to energy plant, after tendering, work order dated 10.09.2021 for treating the legacy waste of total quantity of approx 200000 MT waste has been awarded by MCG to M/s The Peoples Association for Total Help and Youth Applause (PATHEYA), enclosed as **Annexure XV**. The committee observed the progress of reclamation as slow and MCG informed that due to the frequent rains the progress is slow. MCG also informed that the M/s The Peoples Association is bound to complete the work within given time line. For any delay there is a provision of Penalties/Liquidity damages, in the agreement, "In case of delay in completion of the contract, liquidated damages @ (0.5%) half percent of the contract value per week of delay subject to a

maximum of ten percent of the contract value should be levied on the contractor. The penalty damages mentioned in the Work Contract shall be levied on the contractor in addition to these penalties". It was informed by MCG that PATHEYA has cleared 10 acres land by shifting the waste from the area identified for the Waste to Energy plant. The bio-mining of 85000 MT of legacy waste has been completed till January 2022 and the processing of remaining 115000 MT waste is under progress.

### **3.5. Sliding of garbage out side from the SLF**

As informed by MCG the western side of the site is vulnerable to sliding during monsoon due to increase in the moisture content of garbage. To prevent the same the remediation work is being done in that area by making steps instead of steep side slopes (photograph is annexed as **Annexure XVI**). It was informed that the remediation of this area will be completed within the 03 months. It will prevent the sliding of garbage. No sliding has been reported during the last one year.

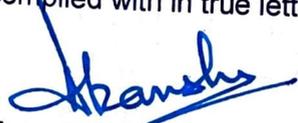
### **4.0 Recommendation:**

The Municipal Corporation, Gurugram and M/s Ecogreen Energy Pvt. Ltd. may be directed to implement the following for the effective implementation of the Solid Waste Management, Rules 2016:

- To make availability of Methane Gas Detectors at site so that area with high methane concentration can be identified and accordingly preventive actions can be taken.
- To restrict smoking in all areas of the sanitary landfill.
- Waste that is unloaded in the filling area should be examined visually for potential fire sources (glowing ash or glowing burning remains).
- If fire sources are located, these have to be neutralized with cover material immediately.
- Restriction of entry of unauthorized person should be ensured strictly.
- The difference between the quantity of waste available for Biomining and quantity of waste biomined should be reduced by speeding up the Biomining work.
- The RDF stored should be disposed off at the earliest.
- The commissioning of the Waste to Energy plant should be ensured as planned.
- Action plan shall clearly indicate plan for treatment of fresh waste as well as for disposal of screened fractions.
- MC, Gurugram and M/s Ecogreen Energy Pvt. Ltd. will ensure that the processing of legacy waste at Bandhwari landfill site be done as per the timeline given in the Action Plan.

The Report is submitted for kind consideration of this Hon'ble Tribunal. The direction passed by this Hon'ble Tribunal shall be complied with in true letter and spirit.

  
**Chandra Kant Dixit**  
Sc 'C', CPCB

  
**Akansha Tanwar, AEE**  
HSPCB, Gurugram (N)

  
**Darpan Kamboj,**  
Tehsildar, Gurgaon

Bond



## Indian-Non Judicial Stamp Haryana Government



Date :24/07/2017

Certificate No. G0X2017G1734

Stamp Duty Paid : ₹ 101  
(Rs. Only)

GRN No. 29375462

Penalty : ₹ 0  
(Rs. Zero Only)

### Deponent

Name: Ecogreen Energy gurgaon Faridabad pvt ltd

H.No/Floor : Na

Sector/Ward : Na

Landmark : Na

City/Village : Gurugram

District : Gurugram

State : Haryana

Phone : 0



Purpose : GENERAL to be submitted at Other

SHYAM DASS  
ST. MP V. VANDORA  
GURUGRAM

### CONCESSION AGREEMENT

BETWEEN

The Government of State of Haryana,  
Represented by the Director,  
Directorate of Urban Local Bodies, Haryana

AND

Municipal Corporation, Gurugram  
Acting through its Commissioner

AND

Municipal Corporation, Faridabad  
Acting through its Commissioner

AND

Ecogreen Energy Gurgaon Faridabad Private Limited ("Concessionaire")

AND

Ecogreen Energy Private Limited ("Selected Bidder")

For

Development of Integrated Solid Waste Management (collection, transportation, processing and disposal) in Faridabad-Gurugram Cluster

*[Signature]*

*[Signature]*  
14/8/17

*[Signature]*  
14/8/17

*[Signature]*  
14/8/17

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## CONCESSION AGREEMENT

**THIS CONCESSION AGREEMENT** (hereinafter referred to as the “**Agreement**”) made this 14<sup>th</sup> day of August 2017 at Gurugram

### BETWEEN

The Governor of Haryana acting through **Director, Directorate of Urban Local Bodies** herein referred to as “**Department**”, which expression shall unless excluded by or repugnant to the context, be deemed to include its successors and administrators

### AND

**Municipal Corporation, Gurugram** established under the provisions of the Haryana Municipal Corporation Act, 1994 acting through its **Commissioner** hereinafter referred to as “**Designated ULB**”, which expression shall unless excluded by or repugnant to the context, be deemed to include its successors and assigns;

### AND

**Municipal Corporation, Faridabad** established under the provisions of the Haryana Municipal Corporation Act, 1994 acting through its **Commissioner** hereinafter referred to as “**Participating ULB**”, which expression shall unless excluded by or repugnant to the context, be deemed to include its successors and assigns;

### AND

**M/s Ecogreen Energy Gurgaon Faridabad Private Limited**, a special purpose vehicle incorporated under provisions of the Companies Act, 2013, having its registered office at **160, Tatvam Villas, Sector-48, Sohna Road, Gurugram**, acting through its **Director, Mr. Ankit Aggarwal** hereinafter referred to as “**Concessionaire**” which expression shall unless repugnant to the context include its successors and permitted assigns.

### AND

**M/s Ecogreen Energy Private Limited**, a registered under the Companies Act, 1956/ 2013 having its registered office at **219, IInd Floor, Vipul Trade Centre Sohna Road Sector-48 Gurugram**, in its capacity as the **Confirming Party** to this Agreement (hereinafter referred to as the “**Selected Bidder**” which expression shall, unless the context otherwise requires, include its successors and permitted assigns) represented herein through its **Director, Mr. Rakesh Kumar Aggarwal**.

Collectively referred to as “**Parties**”, and individually as “**Party**”

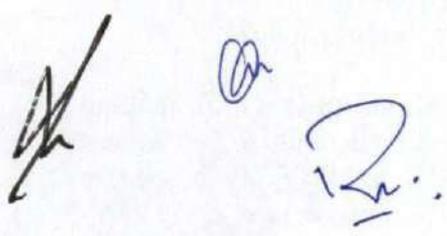
## WHEREAS

- A. The Directorate of Urban Local Bodies, Haryana ("**Department**") is engaged in the development of cluster based integrated solid waste management projects in the State of Haryana. The Department is desirous of implementing such cluster based integrated solid waste management project by seeking private sector participation on Public Private Partnership ("**PPP**") mode by inviting Proposals for setting up of an integrated solid waste management facility for Faridabad-Gurugram Cluster;
- B. Faridabad-Gurugram Cluster comprises of Urban Local Bodies in Faridabad and Gurugram, (collectively referred to as "**Participating ULBs**");
- C. The Participating ULB has entered into an Inter-ULB Agreement dated 30.06.2017 for management of MSW generated within their municipal areas whereby the Designated ULBs has been empowered to discharge the obligations set out herein on behalf of the Participating ULB in addition to itself.
- D. The Participating ULB has nominated Municipal Corporation, Gurugram as their lead member (hereinafter referred to as ("**Designated ULB**") and authorized the Designated ULB to discharge obligations set out herein on behalf of the Participating ULB.
- E. Designated ULB on behalf of Participating ULB desires to develop integrated solid waste management facility through private participation on Design, Build, Finance, Operate and Transfer (DBFOT) basis and management of all Project Assets and Facilities and resources required for integrated management of Municipal Solid Waste ("**MSW**") covering the following activities :
- (i) Door to door collection of MSW in segregated manner from waste Generators in Project Area; however bins for primary collection at household level will not be provided by the Designated ULB or the Concessionaire
  - (ii) Provide suitable type and number of containers/bins at Collection Points identified from time to time by Designated and Participating ULB as the case may be for storage of segregated MSW;
  - (iii) Transportation of MSW from secondary collection points to the Processing Facility;
  - (iv) Fitting of all the MSW transportation vehicles with tracking device (GPS) to monitor their route and provide a feed to Designated ULB
  - (v) Design and setup of Processing Facility and Sanitary Landfill of the capacity to treat the entire MSW generation of the cluster; The Processing Facility shall include a waste to energy plant having capacity of at least 10 MW and treatment of organic fraction by biological processing (composting, bio-methanation);
  - (vi) Procurement of all the Project Assets at its cost, as may be essential to implement the Project;
  - (vii) Operation and maintenance of all the Project Assets including the Processing Facility and Sanitary Landfill;
  - (viii) Transportation of inert/Residual waste from Processing Facility to the Sanitary Landfill;

- (viii) Transportation of inert/Residual waste from Processing Facility to the Sanitary Landfill;
- (ix) Setting up and managing Complaint Redressal Centre to monitor Project activities and to address user complaints with a provision to have a call centre with monitoring mechanism;
- (x) Carrying out Information, Education and Communication (IEC) activities to sensitize users about MSW management;
- (xi) Collection of User Charges as per the notification of Participating ULBs under the provision of SWM Rules 2016.
- (xii) Transportation of street sweeping waste from the designated points established by Participating ULBs in Consultation with Concessionaire.

The obligation of the Concessionaire to undertake the above and related activities shall be together referred to as the “**Project**”

- E. The Department had invited competitive request for proposals from eligible Bidders for implementing the Project and in response thereto received proposals from Bidders including the selected bidder for implementing the Project.
- F. The Department, after evaluating the aforesaid Proposals, accepted the Proposal submitted by the Selected Bidder and issued Letter of Award (LoA) No. **TA/XEN-1/DULB/1889 dated 21/4/2017** to it for developing the Project. The LoA has been duly accepted by the Selected Bidder by its acknowledgement dated 21/4/2017.
- G. The Selected Bidder has since promoted and incorporated the Concessionaire (“Special Purpose Vehicle” or “SPV”) as a limited liability company under the Companies Act 2013, and has requested the Department and Designated ULB to accept the Concessionaire as the entity which shall undertake and perform the obligations and exercise the rights of the Selected Bidder under the LOA, including the obligation to enter into this Concession Agreement pursuant to the LOA for implementing the Project.
- H. By its acknowledgement dated 21/4/2017, the Concessionaire has also joined in the said request of the Selected Bidder to the Department and Designated ULB to accept it as the entity which shall undertake and perform the obligations and exercise the rights of the Selected Bidder including the obligation to enter into this Concession Agreement pursuant to the LOA. The Concessionaire has further represented to the effect that it has been promoted by the Selected Bidder for the purposes hereof.
- I. The Department and Designated ULB has accordingly agreed to enter into this Concession Agreement with the Concessionaire for execution of the Project on DBFOT basis, subject to and on the terms and conditions set forth hereinafter.

Handwritten signatures and initials in blue ink, including a large signature on the left and several smaller initials or marks in the center.A small handwritten signature or mark in blue ink on the right side of the page.

**NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:**

**ARTICLE 1**

---

**1. DEFINITIONS AND INTERPRETATION**

**1.1. Definitions**

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

- 1.1.1. **“Abandonment”** means the total cessation of activity in the Project by the Concessionaire and of its obligations under the Agreement for a:
- (i) continuous period of more than 15 (fifteen) days during the Concession Period, or
  - (ii) cumulative period of more than 45 (forty-five) days during the Concession Period other than as a result of an event of Force Majeure or a Material Breach of its obligations by the Designated ULB;
- 1.1.2. **“Access Road”** means the motorable approach road for access to the Site(s) from public road;
- 1.1.3. **“Acceptance of Concession”** shall have the meaning assigned thereto in **Clause 2.1.5**;
- 1.1.4. **“Accounting Year”** means the financial year commencing on 1st April in each year and ending on 31st March in the next year;
- 1.1.5. **“Additional Cost”** means the additional capital expenditure and/or the additional operating costs or both as the case may be, which the Concessionaire would be required to incur as a result of Change in Law;
- 1.1.6. **“Adjusted Equity”** means the Equity funded in Indian Rupees and adjusted on the first day of the current month (the **“Reference Date”**), in the manner set forth below, to reflect the change in its value on account of depreciation and variations in Wholesale Price Index (WPI), and for any Reference Date occurring:
- (a) on or before COD, the Adjusted Equity shall be a sum equal to the Equity funded in Indian Rupees and expended on the Project, revised the extent of one half of the variation in WPI occurring between the first day of the month of Appointed Date and the Reference Date;
  - (b) from COD and until the 4th (fourth) anniversary thereof, an amount equal to the Adjusted Equity as on COD shall be deemed to be the base (the **“Base Adjusted Equity”**) and the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, revised at the commencement of each month following COD to the extent of variation in WPI occurring between COD and the Reference Date;

- (c) after the 4th (fourth) anniversary of COD, the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, reduced by 0.33% (zero point three three percent) thereof at the commencement of each month following the 4th (fourth) anniversary of COD and the amount so arrived at shall be revised to the extent of variation in WPI occurring between COD and the Reference Date;

For the avoidance of doubt, the Adjusted Equity shall, in the event of Termination, be computed as on the Reference Date immediately preceding the Transfer Date; provided that no reduction in the Base Adjusted Equity shall be made for a period equal to the duration, if any, for which the Concession Period is extended, but the revision on account of WPI shall continue to be made provided that if all or any part of the Debt Due is convertible into Equity at the option of Lenders and/or the Concessionaire, it shall for the purposes of this Agreement be deemed to be Debt Due even after such conversion and the principal thereof shall be dealt with as if such conversion had not been undertaken;

- 1.1.7. **“Affected Party”** means the Party claiming to be affected by a Force Majeure Event in accordance with **Clause 11.1**;
- 1.1.8. **“Agreement”** or **“Concession Agreement”** means this agreement executed between the Department, the Concessionaire, the Participating ULBs and the Selected Bidder(as Confirming Party) including its schedules and Annexures and includes any amendments made thereto in accordance with the provisions hereof;
- 1.1.9. **“Annexures”** means any of the annexures, appendices, supplements or documents annexed to this Agreement and as amended from time to time;
- 1.1.10. **“Applicable Law”** means all laws, acts, ordinances, rules, regulations, and notification in force and effect, including Solid Waste Management Rules, 2016, as of the date hereof and which may be promulgated or brought into force and effect hereinafter in India including judgments, decrees, injunctions, writs or orders of any court of record, as may be in force and effect during the period of subsistence of this Agreement and applicable to the Project;
- 1.1.11. **“Applicable Approvals”** means all the authorizations, licenses, clearances, permits, no-objections, sanctions and consents as required under Applicable Laws, at its respective cost, to be procured by the Concessionaire in connection with the implementation of the Project;
- 1.1.12. **“Appointed Date”** means the date of signing of this agreement;
- 1.1.13. **“Arbitration Act”** means the Arbitration and Conciliation Act, 1996 and shall include any amendment to or any re-enactment thereof as in force from time to time;

- 1.1.14. **“Associates”** means any company (ies) which is (are) controlled by the company concerned. For the purpose of this definition, the term “control shall have the meaning as contained in the applicable law, which shall include but not be limited to the power to direct the management or policies of such entity, directly or indirectly, through the ownership of shares or other securities, by contract or otherwise, provided that the direct or indirect ownership of fifty one per cent (51%) or more of its voting share capital is deemed to constitute control of such entity, and “controlling” and “controlled” shall be construed accordingly, ;
- 1.1.15. **“Bio-methanation”** means an anaerobic decomposition process that entails enzymatic decomposition of the organic matter by microbial action to produce methane rich biogas;
- 1.1.16. **“C&T” or “Collection and Transportation”** refers to primary and secondary collection and transportation of MSW from the Project Areato the Processing Facility/ Sanitary Landfill;
- 1.1.17. **“Construction & Demolition (C&D) Debris” or “Debris”** means solid waste resulting from construction, re-modelling, repair, renovation or demolition of Structures or from land clearing activities. **“Structures”** for the purposes of this definition means buildings of all types (both residential and non-residential), utilities, infrastructure facilities and any other type of man-made structure. **Debris** includes, but is not limited to bricks, concrete rubble and other masonry materials, soil, rock, wood (including painted, treated and coated wood and wood products), land clearing debris, wall coverings, plaster, drywall, plumbing fixtures, roofing, waterproofing material and other roof coverings, asphalt pavement, glass, plastics, paper, gypsum boards, electrical wiring and components containing no hazardous materials, pipes, steel, aluminium and other non-hazardous metals used in construction of structures;
- 1.1.18. **“Change in Law”** shall have the meaning assigned thereto in **Clause 11.B;**
- 1.1.19. **“Cluster”** shall have the meaning as assigned to it in **Annexure 1**
- 1.1.20. **“Commencement Date”** shall have the meaning as assigned to it in **Clause 2.3**
- 1.1.21. **“Compliance Date(s)”** means the latter of the date by which the Condition Precedent of the Concessionaire or Participating ULBs under Clause 2.2 are achieved or waived;
- 1.1.22. **“Composting”** means a controlled process involving microbial decomposition of organic matter;
- 1.1.23. **“Concession”** shall have the meaning as assigned thereto in Article 2;
- 1.1.24. **“Conditions Precedent(s)”** means Conditions Precedent as specified in Clause 2.2;

- 1.1.25. **“Compliance Period”** shall have the meaning assigned thereto in Clause 2.2.2;
- 1.1.26. **“Commercial Operations Date” or “COD”** means the date when the Concessionaire begins commercial operations of the Processing Facility pursuant to issuance of Operational Acceptance Certificate by the Project Management Unit;
- 1.1.27. **“Contractor” or “Sub-Contractor”** means any Person with whom the Concessionaire has entered into/may enter into any material contract in relation with the Project;
- 1.1.28. **“CPCB”** means the Central Pollution Control Board of Government of India
- 1.1.29. **“Daily Weight Sheet”** shall have the meaning assigned thereto in **Annexure 3**;
- 1.1.30. **“Dead Remains”** means the dead bodies, carcasses, bones or skeletal remains of animals, rodents and other living beings (other than plants);
- 1.1.31. **“Debt Due”** means the aggregate of the following sums expressed in Indian Rupees outstanding on the Transfer Date:
- (a) the principal amount of the debt provided by Lenders under the Financing Agreements for financing the Total Project Cost (the **“principal”**) but excluding any part of the principal that had fallen due for repayment six (6) months prior to the Transfer Date;
  - (b) all accrued interest, financing fees and charges payable under the Financing Agreements on, or in respect of, the debt referred to in Sub-Article (a) above until the Transfer Date but excluding (i) any interest, fees or charges that had fallen due three (3) months prior to the Transfer Date, (ii) any penal interest or charges payable under the Financing Agreements to any Lender, and (iii) any pre-payment charges in relation to accelerated repayment of debt except where such charges have arisen due to Government Default.
  - (c) the subordinated debt disbursed by lenders for financing the Total Project Cost may also be considered as part of Debt Due. However, any part of Debt Due [including Subordinated Debt] which converts into Equity shall not be deemed as forming part of Debt Due.
- 1.1.32. **“Debt Service”** means the sum of all payments on account of principal, interest, financing fees and charges due and payable in an Accounting Year to the Lenders under the Financing Agreements;
- 1.1.33. **“Dispute”** shall have the meaning assigned thereto in Clause 15.1(a) hereof;

- 1.1.34. **“Dispute Resolution Procedure”** means the procedure for resolution of disputes as set forth in Article 15;
- 1.1.35. **“EIA”** means the Environment Impact Assessment for the Project;
- 1.1.36. **“Emergency”** means conditions or situation that is likely to endanger the safety of the individuals on or about the Project or which poses an immediate threat of material damage to any of the Project;
- 1.1.37. **“Encumbrances”** means any encumbrance such as mortgage, charge, pledge, lien, hypothecation, security interest or other obligations and shall also include physical encumbrances, including encroachments on the Site;
- 1.1.38. **“Engineered Sanitary Landfill Site” or “Sanitary Landfill Site” or “Sanitary Landfill”** means the Sanitary Landfill Site to be developed, constructed and operated by the Concessionaire at the allocated site i.e. Bandhwari in Gurugram in conformance with the MSW Rules or any revision thereof, for disposal of Residual Inert Matter and Rejected Waste;
- 1.1.39. **“Equity”** means the sum expressed in Indian Rupees representing the paid up equity share capital of the Concessionaire for meeting the equity component of the Total Project Cost, and for the purposes of this Agreement shall include convertible instruments or other similar forms of capital, which shall compulsorily convert into equity share capital of the Company, but does not include any grant from a Government Agency;
- 1.1.40. **“Event of Default”** shall have the meaning assigned thereto in **Article 12** ;
- 1.1.41. **“Event of Default - Concessionaire”** shall have the meaning assigned thereto in **Clause 12.2**;
- 1.1.42. **“Event of Default – Designated ULB”** shall have the meaning assigned thereto in **Clause 12.3**;
- 1.1.43. **“Escrow Account”** means an Account which the Concessionaire shall open and maintain with a Bank in which all fee payable to the Concessionaire shall be credited, in accordance with the provisions of this Agreement.
- 1.1.44. **“Estimated Project Cost”** shall be as given in Feasibility Report annexed as Annexure –I with the RFP Document;
- 1.1.45. **“Excluded Waste”** means waste material of the nature that the Project is not designed or authorised to receive, manage, process and dispose which includes (i) Hazardous Waste, (ii) Bio-Medical Waste and (iii) Dead Remains (iv)E waste (v) construction and demolition waste;
- 1.1.46. **“Financing Agreements” or “Financing Documents”** means collectively the agreements entered into for providing the debt financing for the implementation of the Project and shall include the security documents creating the rele-

vant security (such as mortgages or charges or liens) on the Project or any part thereof in line with this Agreement, for securing the debt provided;

- 1.1.47. **“Financial Default** means occurrence of breach of the terms and conditions of the Financing Agreements or continuous default in Debt service by the Concessionaire for period of 3 (three) months;
- 1.1.48. **“Financial Proposal”** means the final quotation of the Successful Bidder in response to the RFP document, which has been accepted by the Department and the Participating ULBs, annexed hereto as **Annexure 2**;
- 1.1.49. **“Financial Year”** shall be same as Accounting Year;
- 1.1.50. **“Force Majeure”** or **“Force Majeure Event”** means an act, event, condition or occurrence as specified in **Article 11**;
- 1.1.51. **“GoI”** means the Government of India;
- 1.1.52. **“GoH”** means the Government of Haryana
- 1.1.53. **“Good Industry Practice”** means 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 or any of them of facilities similar to the Project Facilities to be constructed, operated and maintained pursuant to the Project;
- 1.1.54. **“Government Agency”** means GoI, GoH, DULB, Participating ULBs or any governmental department having jurisdiction over the Concessionaire, the Site/Project 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;
- 1.1.55. **“Grant”** means one time capital grant as Viability Gap Funding (VGF) to be provided by the Designated ULB according to the guidelines of Swachh Bharat Mission for setting up collection, transportation, treatment and disposal of MSW for the designated capacity which shall be INR 75 crores as per the guidelines of Swachh Bharat Mission
- 1.1.56. **“Hand Over of Project”** shall have the meaning assigned thereto in **Article 14**;
- 1.1.57. **“Hazardous Waste”** shall have the meaning as defined under the Hazardous Wastes (Management and Handling) Rules, 1989 and as amended thereto;
- 1.1.58. **“Integrated MSW Management System”** or **“Project”** refers to the project for collection, transportation, processing and disposal of MSW for the Faridabad-Gurugram Cluster and for that purpose to design, develop, finance, construct, operate and maintain the Project, as defined in Recital D;

- 1.1.59. **“Independent Expert”** refers to a person appointed by the Designated ULB to monitor the activities of the Concessionaire and shall be a member of the PMU.
- 1.1.60. **“Landfilling”** means the disposal of the Residual Inert Matter and Rejected Wastes at the Engineered Sanitary Landfill Site in accordance with the terms of this Agreement including MSW Rules;
- 1.1.61. **“Land Lease Agreement(s)”** means the Agreement(s) pursuant to which, the Site(s) shall be leased to the Concessionaire in its capacity as the lessee, for setting up the Project for the Term, format of which is attached as annexure 11;
- 1.1.62. **“Lenders”** or **“Senior Lenders”** means any person, financial institutions, banks, funds and trustees for bond holders or debenture holders, who have provided loans for financing any part of the Project as evidenced in Financing Documents;
- 1.1.63. **“MNRE”** means Ministry of New & Renewable Energy, GoI;
- 1.1.64. **“MSW”** or **“Municipal Solid Waste”** means solid waste generated by households, public utility services, agricultural farms/ lands, poultry & dairy farms, commercial establishments and industries located within the jurisdiction of Participating ULBs, and shall include solid waste, and Organic Waste, but shall not include the Excluded Wastes;
- 1.1.65. **“MSW Rules”** means the Solid Waste Management Rules, 2016 framed by the Government of India under the Environment (Protection) Act, 1986 (Act 29 of 1986) and includes any statutory amendments / modifications thereto or re-enactments thereof, from time to time;
- 1.1.66. **“Material Adverse Effect”** means a material adverse effect of any act or event on the ability of any Party to perform any of its obligations under and in accordance with the provisions of this Agreement and which act or event causes a material financial burden or loss to any or all Party(ies);
- 1.1.67. **“Material Breach”** means a breach by any 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;
- 1.1.68. **“Nominated Company”** means the entity that is selected either by the Lenders or by Designated ULB for substituting the Concessionaire, upon occurrence of Concessionaire’s Event of Default or Financial Default, in terms of the provisions of the Agreement and the Substitution Agreement;
- 1.1.69. **“Operational Acceptance Certificate(s)”** shall refer to the Certificate to be issued by the PMU as set out in **Annexure 4**, upon successful commissioning and functioning of the Processing Facility;

- 1.1.70. **"Output Based Incentive" or "OBI"** shall have the meaning assigned to it in Clause 9.3.
- 1.1.71. **"Organic Waste"** means such type of MSW that can be degraded by micro-organisms, but shall not include Excluded Wastes;
- 1.1.72. **"Participating ULBs"** means the ULBs as listed in **Annexure 1** of this Agreement
- 1.1.73. **"P&D" or "Processing & Disposal"** refers to Processing & Disposal of MSW collected from Project Area, as is more clearly defined in Scope of Works;
- 1.1.74. **"Performance Security"** means the guarantee for performance of its obligations as per terms of this Agreement, to be furnished by the Successful Bidder (or the Concessionaire), in accordance with **Clause 5.1** in the format given at **Annexure 5**;
- 1.1.75. **"Person"** means (unless otherwise specified or required by the context), any individual, company, corporation, partnership, joint venture, trust, unincorporated organization, government or government body or any other legal entity;
- 1.1.76. **"Post Closure Activities"** means the activities to be undertaken by the Parties after closure of Sanitary Landfill Site (SLF);
- 1.1.77. **"Post Closure Period"** means a period of twenty (20) years starting from the date of Closure of the specific cell of the Engineered SLF during which Post Closure Activities are to be undertaken.
- 1.1.78. **"Post-COD Period"** means the period starting on and from the COD and ending on the Transfer Date;
- 1.1.79. **"Power Plant"** means the waste to energy plant having capacity of at least 10 MW to be set up by the Concessionaire as a part of the Processing Facility, in line with the policy of MNRE, GoI, Solid Waste Management Rules, 2016 and NGT guidelines as applicable from time to time and as per the provisions of this Agreement;
- 1.1.80. **"Power Purchase Agreement" or "PPA"** means the draft of Power Purchase Agreement as attached in **Annexure 6**;
- 1.1.81. **"Pre-COD Period"** means the period commencing from the Appointed Date and extending upto the COD;
- 1.1.82. **"Preliminary Notice"** means 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;
- 1.1.83. **"Processing Plant/Processing Facility"** means the infrastructure to be created for processing of MSW prior to its final disposal at Engineered Sanitary

Landfill Site, and also includes a waste to energy plant having capacity of at least 10 MW and treatment of organic fraction by biological processing (composting, bio-methanation);

- 1.1.84. **“Project”** shall have the meaning as assigned to it under Recital D above;
- 1.1.85. **“Project Agreements”** means any material contracts or agreements entered into by the Concessionaire after the date of this Agreement relating to the construction, operation and maintenance of the Project, including without limitation the Land Lease Agreement(s).
- 1.1.86. **“Project Area”** means the area presently under municipal boundaries of the Participating ULBs or any extension thereof during the Term;
- 1.1.87. **“Project Assets”** means all physical and other assets relating to and forming part of the Sites including (a) rights over the Sites in the form of lease and/ or license (as applicable) or right of usage or otherwise (b) tangible assets such as civil works and equipment including but not limited to foundations, buildings, grievance redressal centre, Processing Facility, electrical systems, communication systems, transport vehicles and administrative office; (c) Project Facilities situated on the Sites; (d) all rights of the Concessionaire under the Project Agreements; (e) financial assets, such as receivables, security deposits etc.; (f) insurance proceeds; and (g) Applicable Approvals and authorisations relating to or in respect of the Project;
- 1.1.88. **“Project Facilities”** means all the amenities and facilities required as basic and support infrastructure for implementing the Project and includes transportation vehicles, machinery and equipment procured, inherited, installed & operated and all other project related physical assets;
- 1.1.89. **“Project Monitoring Unit” or “PMU”** means the unit set up by the Participating ULBs comprising of the members as specified in Clause 4.1 to monitor and supervise the activities of the Concessionaire;
- 1.1.90. **“Proprietary Material”** shall be as defined in Article 17.1;
- 1.1.91. **“Refuse Derived Fuel” or “RDF”** means the solid fuel in the form of fluff or pellets/briquettes that is produced by separation and drying of combustible fractions of the MSW;
- 1.1.92. **“Residual Inert Matter”** means the inert matter left for final disposal in Engineered Sanitary Landfill Site after processing of the MSW by one or more of the relevant Project;
- 1.1.93. **“Rupees or Rs”** refers to the lawful currency of the Republic of India;
- 1.1.94. **“Secondary Collection Points”** means areas of land allocated by the /Participating ULBs in consultation with the Concessionaire to temporarily store the MSW collected by the Concessionaire from Project Area by way of door-to-door waste collection system;

- 1.1.95. **"Share Transfer Agreement"** means the agreement to be entered into between the Successful Bidder and the existing shareholders of the Concessionaire for transfer of equity shareholding of the Concessionaire to the Successful Bidder;
- 1.1.96. **"Site(s)"** means the piece(s) of land made available to the Concessionaire under Land Lease Agreement(s), for implementing the Project, . i.e. land for transfer stations, Processing Facility, Landfill site;
- 1.1.97. **"SPCB"** means State Pollution Control Board particularly Haryana State Pollution Control Board (HSPCB);
- 1.1.98. **"Substitution Agreement"** is an agreement that may be executed between the Concessionaire, Designated ULB and the Lenders, pursuant to which, in case of Default by the Concessionaire including any Financial Default, Lenders (through its nominee) shall be allowed to take charge of the Concessionaire's roles and responsibilities under this Agreement. Draft of Substitution Agreement has been given in **Annexure 8**, however, the actual agreement may vary depending on Lender's requirements;
- 1.1.99. **"Selected Bidder" or "Successful Bidder"** means a Person selected through a competitive bidding process for implementing the Project through the Concessionaire;
- 1.1.100. **"Supplementary Fuel"** means any fuel that can be used as a supplement to the MSW to enrich RDF / fuel during commissioning / start of activities. Use of supplementary fuel would be permissible as per MNRE guidelines.
- 1.1.101. **"Tax"** means and includes all taxes, fees, cess, levies that may be payable by the Parties under Applicable Law(s);
- 1.1.102. **"Term"** means the time period of twenty two (22) years commencing from the Appointed Date and shall also include such additional time period/s as may be granted by the Designated ULB under this Agreement;
- 1.1.103. **"Termination"** means early termination of this Agreement pursuant to Termination Notice or otherwise in accordance with the provisions of this Agreement but shall not, unless the context otherwise requires, include expiry of this Agreement due to efflux of time in the normal course;
- 1.1.104. **"Termination Date"** means the date specified in the Termination Notice as the date on which Termination occurs / comes into effect;
- 1.1.105. **"Termination Notice"** means the notice of Termination by any of the Parties to the other Party, in accordance with the applicable provisions of this Agreement;
- 1.1.106. **"Termination Payments"** means the payments payable pursuant to Articles 11.4 and 12.4 of this Agreement;

- 1.1.107. **“Tipping fee”** shall be as fee payable defined in Article 9.1
- 1.1.108. **“Third Party”** means any Person other than the Parties to this Agreement;
- 1.1.109. **“Total Project Cost”** means the lowest of the following :
- (i) The estimated project cost as specified in the RFP; or
  - (ii) Project Cost as set forth in the Financing Documents; or
  - (iii) Actual capital cost of the Project upon completion of construction of the Project as certified by the Statutory Auditors.
- 1.1.110. **“Transfer Date”** means the date on which this Agreement and the Concession hereunder expires pursuant to the provisions of this Agreement or is terminated by a Termination Notice. In the event of Termination, Transfer Date shall be same as the Termination Date;
- 1.1.111. **“Transfer Station”** means the point(s) where MSW collected by the Concessionaire from the Project Area would be stored to achieve economies of scale before further transportation to the Processing Facility or Engineered Sanitary Landfill Site, as applicable;
- 1.1.112. **“Tests”** means the tests to be carried out by the Concessionaire at its cost, in the presence of PMU as may be required for getting Statutory clearances / Approval or asked by PMU in respect of the Processing Facility including Power Plant and SLF to ensure that the same conforms to the requirements as per Good Industry Practice and Applicable Law or Applicable Approvals;
- 1.1.113. **“User Charges”** means the fees chargeable from Waste Generators in line with the policy on Door-to-Door collection of MSW, duly notified by the Participating ULBs, and appended as **Annexure 9**, for providing door-to-door MSW collection service to such Waste Generators;
- 1.1.114. **“Vacant Possession”** means delivery to the Concessionaire of possession of the Site(s) free from all Encumbrances and the grant of all rights and all other rights appurtenant thereto within the scope of this Agreement;
- 1.1.115. **“Waste Generators”** all residential, commercial and industrial establishments generating MSW and located within Project Area;
- 1.1.116. **“Weighbridge”** means the electronic weighbridge capable of performing the operations to meet the Concessionaire obligations as specified in Article 5.

## 1.2. Interpretation

1.2.1 In this Agreement, unless the context otherwise requires:

- (i) the words, phrases and expressions defined hereinabove in Article 1.1 or defined elsewhere by description in this Agreement, together with their respective grammatical variations and cognate expressions shall carry the respective

meanings assigned to them in the said Article 1.1 or in this Agreement and shall be interpreted accordingly. Expressions which have not been defined in this Agreement shall carry the respective meanings assigned to them in their ordinary applicability read in context with the manner of their usage in this Agreement or in their respective technical sense, as the case may be;

- (ii) references to any legislation or any provision thereof shall include amendment or re-enactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or consolidation applies or is capable of applying to any transaction entered into hereunder;
- (iii) references to laws of India or Indian law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, bye laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted;
- (iv) all words in singular shall be deemed to connote their respective plurals and vice-versa, unless the context suggests otherwise;
- (v) the words "include" and "including" are to be construed without limitation;
- (vi) the headings of the Articles in this Agreement are merely for purposes of convenience and shall have no bearing on the interpretation of this Agreement;
- (vii) the Annexures and Recitals to this Agreement form an integral part of this Agreement and will be in force and effect as though they were expressly set out in the body of the Agreement;
- (viii) any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both such days and dates;
- (ix) references to Recitals, Articles, Clauses or Annexures in this Agreement shall, except where the context otherwise requires, mean references to Recitals, Articles, Clauses and Annexures of to this Agreement, and references to a Paragraph shall, subject to any contrary indication, be construed as a reference to a Paragraph of this Agreement or of the Annexure in which such reference appears;
- (x) 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 (the "**Damages**"); and
- (xi) time shall be of the essence in the performance of the Parties' respective obligations. If any time period specified herein is extended, such extended time shall also be of the essence.

1.2.2 Unless expressly provided otherwise in this Agreement, any Documentation required to be provided or furnished by the Concessionaire to the Designated ULB and/ or the



Participating ULBs and/or the PMU shall be provided free of cost and in three copies, and if the Designated ULB and/ or the Participating ULBs and/or the PMU is required to return any such Documentation with their comments and/or approval, they shall be entitled to retain two copies thereof.

1.2.3 The rule of construction, if any, that a contract should be interpreted against the parties responsible for the drafting and preparation thereof, shall not apply.

1.2.4 Any word or expression used in this Agreement shall, unless otherwise defined or construed in this Agreement, bear its ordinary English meaning and, for these purposes, the General Clauses Act 1897 shall not apply.

### **1.3. Measurements and arithmetic conventions**

All measurements and calculations shall be in the metric system and calculations done to 2(two) decimal places, with the third digit of 5 (five) or above being rounded up and below 5(five) being rounded down.

### **1.4. Priority of agreements, clauses and annexures**

1.4.1 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 else wherein this Agreement, the priority of this Agreement and other documents and agreements forming part thereof referred to herein shall, in the event of any conflict between them, being the following order:

(a) this Agreement; and

(b) all other agreements and documents forming part hereof or referred to herein; i.e. the Agreement at (a) above shall prevail over the agreements and documents at (b) above.

1.4.2 Subject to the provisions of Clause 1.4.1, in case of ambiguities or discrepancies within this Agreement, the following shall apply:

(a) Between two or more Articles of this Agreement, the provisions of a specific Article relevant to the issue under consideration shall prevail over those in other Articles;

(b) Between the Articles of this Agreement and the Annexures, the Articles shall prevail;

(c) Between any two Annexures, the Annexure relevant to the issue shall prevail;

(d) Between the written description on the Drawings and the Specifications and Standards, the latter shall prevail; and

(e) Between any value written in numerals and that in words, the latter shall prevail.

## ARTICLE 2

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### 2. THE CONCESSION AND CONDITIONS PRECEDENT

#### 2.1. The Concession

##### 2.1.1. Grant of Concession

Subject to and in accordance with the terms and conditions set forth in this Agreement, Participating ULBs and the Department hereby grant and authorise the Concessionaire to design, setup, finance, operate maintain and transfer (DBFOT) of an Integrated Solid Waste Management Project including management of all the Project Assets and the Project Facilities and resources required for integrated management of Municipal Solid Waste and to exercise and/ or enjoy such rights, powers, benefits, privileges, authorisations and entitlements as set forth in this Agreement ("the Concession").

##### 2.1.2. Rights Associated with the Grant of Concession

Without prejudice to the generality of foregoing, the Concession hereby granted to the Concessionaire shall entitle the Concessionaire, , to enjoy, the following rights, privileges and benefits in accordance with the provisions of this Agreement and Applicable Laws:

- (a) to design, engineer, finance, procure, construct, install, commission, operate and maintain the Project either itself or through such Person/Contractor as may be selected by it;
- (b) upon achieving COD of Processing Facilities, to manage, operate and maintain the same either itself or through such Person as may be selected by it;
- (c) to obtain financing for the Project in the form of equity, debt and other sources, from domestic and foreign sources, through public issues, private placements or direct borrowings or investment from the capital markets, banks, lending institutions, mutual funds, insurance companies, pension funds, provident funds and any other source as it may deem necessary for implementing the Project; and  
Provided that the Designated ULB shall be informed by the Concessionaire as to the creation of any Security Interest in favour of the Lenders within a period of 14 (fourteen) days from the date such Security Interest comes into existence and provide to the Designated ULB within such time, notarized true copies of any and all documents/agreements relating thereto.  
Provided further, nothing contained in sub-clause (d) of this Article 2.1.2 shall (i) absolve the Concessionaire from its responsibilities to perform/discharge any of its obligations under and in accordance with the provisions of this Agreement; (ii) authorise or be deemed to authorise the Lenders to implement and execute Project themselves; and (iii) under any circumstances amount to any guarantee from or recourse to the Designated ULB.
- (d) to collect and process entire MSW from the Project Area and dispose-off the Residual Inert Matter and Rejected Waste/ processing rejects in SLF and / air pollution control residue in secured landfill;



- (e) to collect User Charges from Waste Generators, and appropriate/retain and utilize the same at its own discretion;
- (f) to store, use, appropriate, market and sell or dispose-off all the constituents / products / by-products from the MSW, including but not limited to recyclables, electricity, methane (biogas), RDF, Compost, Residual Inert Waste and to further retain and appropriate any revenues generated from the sale of such products/ by-products;
- (g) to share the fiscal incentives and benefits in the ratio of 50:50 accruing in respect of or on account of the Project including Certified Emission Reductions (CERs) or Verified Emission Reductions (VERs) under Kyoto Protocol / Climate Change initiative;
- (h) to obtain the utilities required for enabling the construction of the Project, without any additional cost or charges, other than the applicable charges for the utilities;
- (i) to exclusively hold, possess, control the Site(s), in accordance with the terms of the Concession Agreement and Land Lease Agreement(s), for the purposes of the due implementation of this Project;
- (j) to appropriate, possess and control and to further, at its sole discretion, utilize, renovate, modify, replace or demolish, free of any cost or charges or any liability for payment of compensation in respect thereof, all the buildings and structures and infrastructure that may be existing on Secondary Collection Points and Sites with reference to MSW management in Project Area;
- (k) to develop the Project using such technology to establish a waste to energy plant having capacity of at least 10 MW and treatment of organic fraction by biological processing (composting, bio-methanation); such technology may be suitable and commercially viable for the purposes of implementing the Project, in accordance with terms of this Agreement, MSW Rules and Good Industry Practices;
- (l) to modify, adapt, upgrade or change the technology, from time to time, based on actual operations of the Processing Facility, Good Industry Practices and the requirements of the Project except in respect of the building by laws;

### 2.1.3. Concession Period

The Concession hereby granted is for the period of Twenty Two (22) years starting from the Appointed Date and ending on the Transfer Date ("**the Concession Period**"). During the Concession Period, the Concessionaire is authorised to implement the Project on DBFOT basis including management of all facilities and resources required for integrated management of Municipal Solid Waste in accordance with the provisions hereof.

Provided that 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.

### 2.1.4. Renewal of Concession

The Designated ULB may agree to renew or extend the Concession after the expiry of the initial Term, for another mutually agreed period on existing terms and conditions. Such period of contract can be decided mutually, provided that the Concessionaire

shall have not committed any Event of Default in the last 5 years of Concession Period. Any such extension of contract period shall also lead to an extension of Land Lease Agreement(s) for an equal period. In case the parties are not able to mutually agree on common period for which the Concession needs to be extended, at least six months prior to the end of Term of the Concession, then the Concession shall not be extended further.

#### 2.1.5. Acceptance of Concession

In consideration of the rights, privileges and benefits conferred upon the Concessionaire, as expressed herein, the Concessionaire hereby accepts the Concession and agrees and undertakes to perform / discharge all of its obligations in accordance with the provisions hereof.

### 2.2. CONDITIONS PRECEDENT

#### 2.2.1 Conditions Precedent

Save and except as may otherwise be expressly provided herein, the obligations of a Party under this Agreement except under this Article 2.2 shall be subject to the satisfaction in full of the conditions precedent relating to the other Party (the "**Conditions Precedent**"). The obligations of a Party under this Article 2.2 shall be effective from the date of execution of this Agreement.

##### 2.2.1.1 Conditions Precedent for Participating ULBs

The obligations of the Concessionaire hereunder are subject to the satisfaction in full of the following Conditions Precedent by the Participating ULBs. The Participating ULBs shall have:

- (a) Finalised and allocated Secondary Collection Points in the Project Area in consultation with the Concessionaire;
- (b) Allocated site for dumping of MSW till the time processing and disposal facilities are established as a part of the Project;
- (c) Facilitated and ensured that Land Lease Agreement(s) are executed for all Site(s) and vacant and unencumbered possession of all the Site(s) is handed over to the Concessionaire. It is clarified that the respective Participating ULBs shall be responsible for execution of Land Lease Agreements for Site(s) under their jurisdiction
- (d) Facilitated the Concessionaire in terms of support and participation by its representatives or sending follow-up letters to the Departments concerned/ Competent Authority for obtaining of all Applicable Approvals, if requested by the Concessionaire;
- (e) Provided the Concessionaire with authority letter for collection of User Charges effective from such date as indicated in the operational plan submitted by Concessionaire;
- (f) Issued order/ notification for the area falling in their respective jurisdictions, regarding payment of User Charges by the Waste Generators to the Concessionaire at the rates notified by the Participating ULBs;

- (g) Provide Access Roads to the Site(s) including for the Site(s) for Transfer Stations;
- (h) Shall within 120 (one hundred and twenty) days of Appointed Date, ensure termination of the existing contracts with other contractors for collection and transportation of MSW within their respective jurisdictions as per the operational plan submitted by Concessionaire and Executed inter-ULB agreement

**2.2.1.2 Conditions Precedent for Concessionaire**

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

- (a) provided a certified true copy of its constituent documents;
- (b) achieved financial closure i.e. procured and raised all the funds (debt, equity, etc.) necessary to finance the Project as evidenced by the funding documents becoming effective and the Concessionaire having immediate access to the funds there under;
- (c) finalised and taken over Secondary Collection Points in the Project Area in consultation with the Participating ULBs;
- (d) provided the Designated ULB notarised true copies of its board resolution authorising the execution, delivery and performance of this Agreement by the Concessionaire;
- (e) executed and procured execution of Escrow Agreement in terms of Article 10
- (f) executed and procured execution of Substitution Agreement;
- (g) confirmed that all the representations and warranties of the Concessionaire/Successful Bidder set forth in the Proposal of the Successful Bidder and in this Agreement are true and correct.
- (h) executed the Land Lease Agreement(s) and taken over vacant and unencumbered possession of all the Site(s) from the Participating ULBs
- (i) procured at its own cost, water connection, power connection and other service connections to the Site.
- (j) Submission of Operational plan for collection and transportation of MSW

**2.2.1.3. Condition Precedent for Department**

Procure execution of PPA between Concessionaire and DISCOM

Provided that upon request in writing by the Concessionaire, the Participating ULBs/ Designated ULB may in its sole discretion, waive fully or partially any or all the Conditions Precedent set forth in this Article 2.2.

**2.2.2 Satisfaction of Conditions Precedent**

- (a) Each Party shall make all reasonable endeavours at its respective cost and expense to procure the satisfaction in full of the Conditions Precedent relating to it within a period of 180 (One Hundred & Eighty) days from the Appointed Date (the “**Compliance Period**”) unless specified otherwise.
- (b) The latter of the date within such time when the Participating ULBs/ Department or ,the Concessionaire fulfils its Conditions Precedent (unless the Designated ULB on behalf of the Participating ULBs waives the same for the Concessionaire) shall be the date from which the relevant and respective obliga-

tions of the Parties hereunder shall commence (“**Compliance Date** – respectively).

### 2.2.3 Non-Compliance with Conditions Precedent

- (a) In the event the Conditions Precedent for Concessionaire have not been satisfied within the stipulated time and the Designated ULB / Participating ULB 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 the Designated ULB/Participating ULB shall not be liable in any manner whatsoever to the Concessionaire or Persons claiming through or under it.
- (b) In the event this Agreement fails to come into effect on account of non-fulfilment of the Concessionaire’s Conditions Precedent, the Designated ULB shall forfeit and encash the Performance Security.
- (c) In the event the Conditions Precedent for Participating ULBs/Department have not been satisfied within the stipulated time, then the Concessionaire shall have the option to either: (i) mutually extend the time period for satisfaction of the Conditions Precedent for Participating ULBs /Department or (ii) terminate this Agreement. In event of termination, the Participating ULBs /Designated ULB shall pay to the Concessionaire, the development costs, as mutually agreed. For the estimation of the development cost, it is hereby accepted by both the parties that the Designated ULB shall propose three names of Reputed Valuers, out of which Concessionaire can object to one and the Designated ULB shall appoint any one Valuer out of remaining two for determining such development cost. In case of extension of CPs for Participating ULBs beyond a period of 180 (One Hundred and Eighty) days from the Appointed Date, the Term of the Agreement shall be extended for the same period.
- (d) In the event this Agreement fails to come into effect on account of the non-fulfilment of the Participating ULBs’ /Department’s Conditions Precedent, the Designated ULB shall in addition to payment of development cost in terms of sub-clause (c) above, shall return the Performance Security to the Concessionaire provided there are no outstanding claims of the Participating ULBs on the Concessionaire.
- (e) Instead of terminating this Agreement as provided in this Article 2.2, the Parties may by mutual agreement extend the time for fulfilling the Conditions Precedent
- (f) Further, in the event of delay on part of Participating ULBs / Department in fulfilling its Condition Precedent and parties mutually agree to extend time for such fulfilment, then the Concession Period will also be extended proportionately.



### 2.3. Collection and Transportation of MSW by the Concessionaire prior to COD

Notwithstanding the completion of Conditions Precedent, the Concessionaire shall commence its obligation related to collection and transportation of the MSW within the Project Area within 120 (One hundred and twenty) days of the Appointed Date (the "**Commencement Date**"). The Participating ULBs shall grant right of way and right of use to the Concessionaire in respect of the Secondary Collection Points within the aforesaid period. The collected MSW shall be disposed off by the Concessionaire at the designated dump/ Sanitary Landfill site, as per Applicable Law. The Concessionaire shall be paid a fixed Tipping Fee of Rs.1000/- (Rupees One Thousand) per ton of MSW collected, transported to the Processing Facility and disposal at Landfill Site.

Within the aforesaid period of 120 (one hundred and twenty) days, the Concessionaire shall also install an electronic weigh bridge at the Processing Facility/ Landfill site as per the specifications specified in this regard in this Agreement, or get approval from the Designated ULB for using nearest installed weigh bridge to measure the weight of the MSW transported. The weigh bridge installed by the Concessionaire or being used of a third party during initial phase of operation, or in the case of breakdown or maintenance, shall be calibrated as per applicable BIS / IS standard. The calibration report will be submitted to Designated ULB/ PMU. The Concessionaire shall also install CCTV cameras above the weigh bridge.

For measurement of MSW, weigh bridge shall be installed at the entrance of the Landfill site/ Processing Facility site in terms of this Agreement. The weigh bridge shall be operated and maintained by the Concessionaire but the same shall be subject to inspection by the authorized representatives of the Designated ULB and PMU;

Tipping Fee payment to the Concessionaire will be made as per the measurement at the processing weighbridge located at the entry of the Processing Facility;

Each consignment to the Landfill site/ Processing Facility site shall be screened and weighed at the weighbridge. Concessionaire shall also keep a record of weight and volume of each empty delivery truck, in order to determine the net weight of the consignment. The Designated ULB shall have an option to depute a responsible person from the Designated ULB to monitor the operations of the weighbridge who shall provide details of the same to the PMU and Designated ULB on a weekly basis;

The weighbridges shall be monitored and inspected regularly by PMU and/ or Designated ULB to ensure due calibration and accuracy and any errors shall be rectified immediately.

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## ARTICLE 3

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### 3. SITE(S)

#### 3.1. Handover of sites

- (a) Designated ULB shall, within 30 days from the Appointed Date ("**Commencement Date**"), handover the Sites for transfer stations, Processing Facility, Landfill Site, to the Concessionaire on as-is-where-is basis, free from Encumbrance, for the purpose of implementing the Project. Provided however, respective Participating ULBs shall be responsible for providing such Site(s) under their jurisdiction
- (b) Upon the Sites being handed over pursuant to the preceding sub-article (a), the Concessionaire shall, subject to the provisions of Article 3, have the right to enter upon, occupy and use the same or to make it as may be necessary or appropriate to implement the Project in accordance with the provisions of this Agreement.
- (c) Annual advance lease rental of one rupee per square metre per annum to be paid by the Concessionaire to the Participating ULBs for each year of the Concession Period as consideration for the Land Lease Agreement for the Site(s) handed over on leasehold basis to the Concessionaire in its capacity as the lessee for setting up the Processing Facility. In respect of Land Lease Agreements executed with the Participating ULBs for setting transfer stations in the Project Area falling within the jurisdiction of the respective Participating ULBs, the afore-stated lease rental shall be paid by the Concessionaire directly to such Participating ULBs.
- (d) The term of the such Land Lease Agreements shall be co-terminus with this Concession Agreement and upon expiry of this Agreement due to efflux of time or due to early termination on account of default, the term of the Land Lease Agreement shall also expire simultaneously and the Concessionaire shall hand over possession of the Sites in accordance with the terms of this Agreement and Land Lease Agreements.

#### 3.2. Rights, Title and Use of the Sites

- (a) The Concessionaire shall have the right to the use of the Sites 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 and Project Facilities, including the Sites save and except as set forth and permitted under this Agreement.
- (c) The Concessionaire shall not, without the prior written approval of the Designated ULB, use the Sites for any purpose other than for the purpose of the Project and purposes incidental or ancillary thereto.
- (d) The Concessionaire shall allow free access to the Sites to the members of the Project Management Unit, any officer of the Participating ULBs and/ or the Department for inspection of the Sites and the works being undertaken by the Concessionaire.



- (e) The Concessionaire shall allow access to and use of the Sites for laying / installing / maintaining telegraph lines, electric lines or for such other public purposes as the Designated ULB may specify.

Provided, 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.

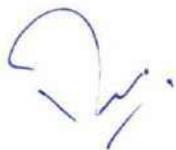
### 3.3. Peaceful Possession

The Designated ULB hereby warrants that:

- (a) The Sites together with the necessary right of way/way-leaves belongs to, or has been leased to the Designated ULB/ Participating ULBs and is vested in the Designated ULB/ Participating ULBs. Further, the Designated ULB/ Participating ULBs has full power to hold, lease, dispose of and deal with the same consistent with the provisions of this Agreement. For the avoidance of doubt, the Concessionaire shall, in respect of the Sites, 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 of land provided by the Participating ULBs. In the event the Concessionaire is obstructed by any Person claiming any right, title or interest in or over the Sites or any part thereof or in the event of any enforcement action including any attachment, appointment of receiver or liquidator being initiated by any Person claiming to have any interest in/charge on the Sites or any part thereof, the Designated ULB/Participating ULB 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 Approvals

The Concessionaire shall obtain and maintain the Applicable Approvals in such sequence as is consistent with the requirements of the Project. The Concessionaire shall be responsible and shall be in compliance with the terms and conditions subject to which Applicable Approvals have been issued.



## ARTICLE 4

### 4. INDEPENDENT EXPERT / PROJECT MANAGEMENT UNIT

#### 4.1. Composition

The PMU shall comprise of an Independent Expert to be appointed by the Designated ULB<sup>2</sup> who shall be the officer in the grade of an Executive Engineer or an external expert with at least 15 years of experience in solid waste management with engineering degree/ masters in environment/ civil engineering and one representative each to be nominated by the Participating ULBs. Such representative shall be an officer of grade of Executive Officer/ Municipal Engineer or above. The Independent Expert shall head the PMU.

#### 4.2. Duties and functions

The PMU shall have the overall responsibility of monitoring and supervision of the Project. The detailed terms and conditions for appointment of Project Management Unit and its rights, responsibilities and scope of works are specified in **Annexure 7**

#### 4.3. Remuneration

The remuneration, cost and expenses of the Independent Expert shall be borne by the Designated ULB.

#### 4.4. Replacement

The Designated ULB may, in its discretion, terminate the appointment of the Independent Expert at any time, but only after appointment of another Independent Expert in its place.

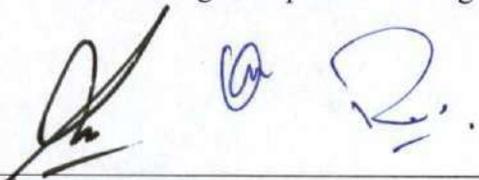
The Participating ULBs may replace their nominated representatives/ members and nominate their replacements by giving 15 (fifteen) days prior notice in writing to the other Parties.

#### 4.5. Tenure

The tenure of the PMU shall commence from the date of its constitution during the Compliance Period and extend upto the Transfer Date, unless the Agreement is terminated earlier in terms hereof.

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<sup>2</sup>Designated ULB shall ensure that a copy of this Agreement is annexed to the appointment letter of the Independent Expert highlighting all the rights and obligations of the Independent Expert to be performed in terms hereof. The appointment letter signed and returned by the Independent Expert shall acknowledge acceptance of its rights and obligations set out in this Agreement.



## ARTICLE 5

### 5. THE CONCESSIONAIRE'S OBLIGATIONS

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

#### 5.1. Performance Security

- (a) The Concessionaire shall, for due and punctual performance of its obligations hereunder relating to the Project simultaneously with the execution of this Agreement, furnish an unconditional and irrevocable bank guarantee from a nationalised or scheduled bank acceptable to Designated ULB, in favour of "Commissioner Municipal Corporation Gurugram", in the form as set out in Annexure 5, ("Performance Security") for a sum equivalent to 10% of the Estimated Project Cost during entire Concession Period.
- (b) The Performance Security Bank Guarantee shall be kept valid and in force for the entire duration of the Concession Period through periodical renewals, at least one month prior to the expiry of the subsisting Performance Security Bank Guarantee. In the event the Concessionaire fails to provide the renewed/ extended/ enhanced Performance Security at least 1 (one) month prior to the expiry of the subsisting bank guarantee, so as to maintain the Performance Security valid throughout the term of the Agreement, the Designated ULB shall have the right to forfeit and appropriate the subsisting Performance Security Bank Guarantee. Failure of the Concessionaire to maintain the Performance Security in full force and effect throughout the term, in accordance with the provisions hereof, shall constitute Concessionaire Event of default in terms hereof.
- (c) In the event of the Concessionaire being in default or breach of the due, faithful and punctual performance of its obligations under this Agreement, in the event of there being any claims or demands whatsoever whether liquidated or which may at any time be made or have been made on behalf of the Designated ULB for or against the Concessionaire under this Contract or against the Designated ULB in respect of this Agreement, the Designated ULB shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to appropriate the relevant amounts from the Performance Security as damages for such default, or loss suffered due to non-completion of works/ services within the time period specified herein, or in respect of any dues, demands damages or claims against the Concessionaire.
- (d) The decision of the Designated ULB as to any breach/ delay having been committed, liability accrued or loss or damage caused or suffered shall be conclusive, absolute and binding on the Concessionaire and the Concessionaire specifically confirms and agrees that no proof of any amount of liability accrued or loss or damages caused or suffered by the Designated ULB under this Concession Agreement is required to be provided in connection with any demand made by the Designated ULB to recover such compensation through appropriation of the relevant amounts from the Performance Security under this Agreement.
- (e) In the event of encashment of the Performance Security by the Designated ULB, in full or part, the Concessionaire shall within 15 (fifteen) days of receipt of the encashment notice from Designated ULB provide a fresh Performance Security or replenish (in case of partial appropriation) the existing Performance Security, as the case may be. The provisions of this Article shall apply *mutatis mutandis* to such fresh Performance Security. The Concessionaire's failure to comply with this provision shall constitute a default or breach of the Concession Agreement by the Concessionaire, which shall entitle the Designated ULB to terminate this Concession Agreement in accordance with the provisions hereof.

- (f) 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 the Designated ULB's right to receive amounts, if any, due from the Concessionaire under this Agreement, be duly discharged and released to the Concessionaire.

## 5.2. Obligation for payment of Transaction Fee

The Concessionaire shall be liable to pay Transaction Fee of 2% (two percent) of the Estimated Project Cost to the Transaction Advisors of the Department i.e. M/s Ernst & Young LLP, as per the following terms:

- (i) Within one week (1 week) of issuance of Letter of Intent to the Concessionaire by the Designated ULB: 60%
- (ii) Within ten days (10 days) Signing of Concession Agreement by Concessionaire and the Designated ULB: 10%
- (iii) Within thirty days (30 days) of commencement of C&T operations by the Concessionaire: 15%
- (iv) Within thirty days (30 days) of commencement of P&D by the Concessionaire: 15%

Failure of the Concessionaire not to make payment of any of the aforesaid instalments of the Transaction Advisor, shall be consider as Concessionaire Event of default.

## 5.3. General Obligations

The Concessionaire shall:

- (a) perform and fulfill all of the Concessionaire's obligations under this Agreement and the Selected Bidder's obligations under the LOA;
- (b) obtain all Applicable Approvals 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 (including without limitation all public and labor related laws and health, safety, and sanitation laws, as then in force) governing the operations of Project (including electricity generation) at all times during the Concession Period;
- (d) endeavour to improve the ancillary conditions and infrastructure related to the Project including assistance to informal recycling workers,
- (e) procure and maintain in full force and effect, as necessary, appropriate proprietary rights, licenses, agreements and permissions for materials, methods, processes and systems used in or incorporated into the Project;

- (f) right to enter into sub-contracts for the purposes of and subject to the terms of this Agreement;
- (g) make efforts to maintain harmony and good industrial relations among the personnel employed in connection with the performance of its obligations under this Agreement and shall be solely responsible for compliance with all labour laws and solely liable for all possible claims and employment related liabilities of its staff employed in relation with the Project and hereby indemnifies Designated ULB against any claims, damages, expenses or losses in this regard and that in no case and for no purpose shall Designated ULB be treated as employer in this regard;
- (h) be responsible for all the health, security, environment and safety aspects of the Project at all times during the Concession Period.
- (i) ensure that the Project 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 to the authorised representatives of Designated ULB for the purpose of ascertaining compliance with the terms, covenants and conditions of this Agreement;
- (k) bear all expenses towards uniforms, safety gear and waste handling equipment to all the waste lifters and drivers;
- (l) ensure that the Project is operational on all calendar days of the year;
- (m) be responsible for the conduct of its staff employed for this Project while on duty;
- (n) shall obtain the approval from transport department as applicable and obtain fitness certificate for the vehicles each year before the due date and shall bear any cost or expense associated with this;
- (o) to operate, maintain, repair and renovate the Project Assets and Project Facilities, in accordance with, *inter alia*, the Applicable Laws, Applicable Approvals and other requirements as per Good Industry Practices;
- (p) commence collection and transportation of the MSW within the Project Area within 120 (one hundred and twenty) days of the Appointed Date in terms of Clause 2.3;
- (q) procure, acquire and put into place at its own cost and expenses all the Project Assets and Project Facilities required by the Concessionaire to implement the Project during the Pre-COD Period so as to achieve COD within the time stipulated in this Agreement;
- (r) promptly rectify and remedy any defects or deficiencies, if any pointed out by the PMU/ Participating ULBs in the Inspection Report and furnish a report within the stipulated time period in respect thereof to the PMU/Participating ULBs;
- (s) comply with all the performance parameters as specified in Service Level Bench-

marks, set forth in Annexure 1;

- (t) to carry out all necessary test(s) and get the approvals as per the land of law and in conformity with Good Industry Practice prior to achieving COD;
- (u) to deal with and resolve any complaints regarding incorrect charging of User Charges and submit compliance thereof to such Participating ULB to whose jurisdiction such complaint pertained to;
- (v) to pay all Taxes, duties and outgoings, including utility charges relating to the Project;
- (w) transfer the Project to the Designated ULB/ Participating ULB upon Termination of this Agreement, in accordance with the provisions hereof.
- (x) provide live GPS feed of movement of transportation vehicles to designated ULB.
- (y) be responsible and indemnify the Participating ULB for any accident due to negligence or otherwise in the performance of the project.
- (z) submit compliance as required to environmental agency and shall provide all information related to project as would be required by Participating ULBs pursuant to any RTI query or any issue raised in State assembly / Parliament.

#### **5.4. Obligation to set-up of Processing Facility including Power Plant**

The Concessionaire shall be obligated to set up at its cost and expense, a Processing Facility at the earmarked Site as detailed in Annexure 1, for processing of MSW prior to its final disposal at Engineered Sanitary Landfill Site, as per the Implementation Schedule submitted by the Concessionaire. The Implementation Schedule shall be submitted in MS Word format. The Processing Facility also includes setting up a waste to power plant having capacity of at least 10 MW which shall be exported to the DISCOM with whom the PPA is signed. The Concessionaire shall have the Processing Facility fully set up and obtained an Operational Acceptance Certificate from the PMU for the newly installed Facility, within a period no later than 24 (twenty four) months from the Appointed Date. The Concessionaire shall also be obligated to promptly rectify and remedy any defects or deficiencies that are pointed by the Participating ULBs / PMU and furnish a report in respect thereof to the PMU.

In the event, the Concessionaire is unable to achieve COD within the said time period, the Concessionaire shall be granted an additional mutually agreed extended period without levy of any damages. In case of any further delay to achieve COD from the mutually agreed additional extended period, Liquidated Damages at the rate of 0.1% (zero point one percent) of the Performance Security per day of delay shall be levied by the Designated ULB on the Concessionaire. Provided however, if the delay to achieve COD is due to any Force Majeure event or delay on the part of any Government authority to grant the requisite approvals within time or due to delay on the part of PMU in issuing Operational Acceptance Certificate, no such Liquidated Damages shall be levied.

#### **5.5. Primary collection of waste from the point of generation**

- (a) The Concessionaire shall undertake daily collection (door to door) of MSW generated within the Project Area commencing from the Commencement Date.

- (b) The Concessionaire shall collect MSW at pre-informed timings. The timings are to be planned after consultation with the respective Resident Welfare Associations (RWAs) of the Participating ULBs. The Concessionaire shall provide the Participating ULBs with a route plan and timings of visit/ time table as decided between the RWAs and the Concessionaire by 15th April and 15th October, every year, for the entire duration of the Concession Period.
- (c) The Concessionaire shall collect notified User Charges from each household on a monthly basis and utilize it for the operations of the Project. A receipt of collected User Charge shall be provided to end user by the Concessionaire. Record of the same will be maintained by the Concessionaire
- (d) The Concessionaire shall arrange for all vehicles fitted with GPS devices, community bins at its own cost to collect all MSW generated in the Project Area.
- (e) The MSW shall be collected using containerized motorised vehicles (such as auto tippers) or containerized tricycles, handcarts, community bins or any other device which is suitable for collection of waste without necessitating deposition of waste on the ground and multiple handling of waste. Further, the Concessionaire shall ensure that :
  - (i) all the containers shall be colour coded as per the MSW Rules.
  - (ii) all such vehicles, devices, community bins shall display a logo of the Participating ULB and Swachh Bharat Abhiyan logo of at least 12 inches by 12 inches size (font size of 6-9 inches) size.
- (f) The Concessionaire shall ensure that the collection bins, vehicles and devices are cleaned on a daily basis using disinfectants.
- (g) The Concessionaire must put a system in place which indicates that the bins are picked up on being full to their capacity.
- (h) The Participating ULBs/ PMU reserves right to conduct random checks

#### 5.6. Secondary Storage of waste

- (a) Participating ULBs shall make available adequate stretch of land(s) for the sole purpose of setting up of Secondary Collection Points free of cost within 30 days of signing of the Concession Agreement. Provided however, during the course of the Concession Period, if due to any exigency as informed by any of the Participating ULBs in writing to the Concessionaire which require change in location or shifting of the Secondary Collection Points (whether constructed or not), the Concessionaire shall comply with such change orders at its own cost.
- (b) Dedicated mobile transfer stations/ dumper placers/ container bins of at least 2 cubic meters capacity or any such equipment which is suitable for storage of waste ("Equipment for secondary storage") shall be positioned by the Concessionaire at such Secondary Collection Points to receive MSW from the vehicles and devices engaged in the primary collection of waste.
  - (i) Equipment for secondary storage shall be designed for at least twice the designed capacity (as per the CPHEEO manual specifications). Waste density to be assumed as 500 kg/ cum. The bins should be designed in line with the transportation system so as to avoid any manual handling of waste.

- (ii) The Concessionaire shall provide equipment for secondary storage at its own cost.
  - (iii) All equipment for secondary storage shall be covered and colour coded as per MSW Rules. All equipment for secondary storage shall be marked with ULB and Swachh Bharat Abhiyan logo of at least 12 inches by 12 inches (font size of 6-9 inches) size. The Concessionaire shall display any other form of advertisement on the equipment for secondary storage only after prior approval of the Designated ULB as per applicable law/ rules/ bylaws governing advertisement. For any other advisories that would be undertaken, the Concessionaire shall abide by the Applicable Laws.
- (c) If required, Transfer Station(s) shall be installed in the Project Area.
- (i) The land for setup of Transfer Station, upon request of the Concessionaire, shall be provided/ procured by the Designated ULB in accordance with Land Lease Agreement within 30 days of signing of the Concession Agreement.
  - (ii) The Transfer Station shall be refurbished/ constructed by the Concessionaire at its own cost. The Concessionaire shall refurbish/ construct the Transfer Station within a period of six months from the date of handing over the vacant land by the Designated ULB to the Concessionaire.
  - (iii) The Transfer Stations/ Dhalaos shall be designed for all weather operations. The Transfer Station shall be operated under cover, so that dust, litter and noise could be effectively controlled. The Transfer Station shall be cleaned daily and the floors washed.
  - (iv) The walls of the Transfer Station / Dhalaos shall be white-washed every six months during the entire duration of the Concession Period and all the vehicles/ equipment shall be re-painted every six months.
  - (v) The Transfer Station shall be equipped with internal roads, ramp and platforms at different levels. These shall be concrete built with a capacity to withstand the load of moving machineries/vehicles.
  - (vi) The Concessionaire shall erect at least one (1) signboard with details (capacity, contact details and warnings) about the transfer station in local language, Hindi and English of a size not less than 2 ft. by 4 ft. each, adjacent to the main entrance to in a manner that it is ordinarily visible to any person using such entrance.
  - (vii) The workers involved in MSW handling shall be provided with gloves, masks, uniforms, aprons and other safety gear.
  - (viii) The Concessionaire shall make provisions to restrict entry of stray animals into the transfer stations, e.g. animal catchers, etc.
  - (ix) The Transfer Station shall display a logo of the Participating ULB and Swachh Bharat Abhiyan of at least 12 inches X 12 inches each (font size of 6-9 inches) size on the outside of all of its walls. Additionally, all the outer walls of the transfer station shall also be painted with this advisory about solid waste management. The Concessionaire shall display any other form of advertisement on the Transfer Stations only after prior ap-

proval of the Designated ULB. For any other advisories that would be undertaken, the Concessionaire shall abide by the Applicable Laws.

- (x) The Concessionaire shall have right to advertise on Processing Facility, transfer Station, Dhalaos, transportation vehicles and Sanitary landfill in accordance with applicable law/ rules/ bylaws governing advertisement. This will be an additional source of revenue for the Concessionaire.

### **5.7. Secondary Transportation of Waste to the Processing Facility**

- (a) The Concessionaire shall transport MSW from Secondary Collection Points to the Processing Facility on a daily basis. In the case of change of site allocated for Processing Facility & SLF occurs after submission of bid and the new allocated site falls with 10 kms of road distance, the Concessionaire shall continue with the transportation of MSW from Secondary Collection Points to the new Processing Facility with no additional cost to ULB's. If the new allocated site will be more than 10 kms far from the previously allocated site, Concessionaire may charge additional amount mutually agreed by both parties in consultation with Independent Expert/ Participating ULBs.
- (b) The Concessionaire shall deploy closed vehicles such as tipper trucks, compactors etc. to transport the MSW generated in the Project Area to the Processing Facility at its own cost.
  - (i) The vehicles deployed shall be roadworthy conforming to approval from the transport regulator.
  - (ii) The Concessionaire shall comply with all Applicable Laws, including all rules and regulation prescribed in the regard, from time to time by any other statutory and Competent Authorities concerned, regarding fuel used or pollution control standards or any other norm.
  - (iii) The Concessionaire shall at periodic intervals check their adequateness and their conformity with the manufacturer's specification for their maintenance and replacement.
  - (iv) Designated ULB/ PMU/ Participating ULB reserves right to conduct random checks.
  - (v) The Concessionaire shall provide automatic position identification systems using Global Positioning System (GPS) technology which shall ensure automatic tracking and recording of vehicle identification and movement in all vehicles.
  - (vi) The Concessionaire shall display Designated ULB (and social message given by Designated ULB) and logo of Swachh Bharat Abhiyaan of at least 12 inches X 12 inches size (font size of 6-9 inches) on the transportation vehicles and shall display any other form of advertisement on the transportation vehicles For any other advisories that would be undertaken, the Concessionaire shall abide by the Applicable Laws.
  - (vii) The drivers appointed/engaged by the Concessionaire shall have a valid driving license as desired for the specific vehicle.
  - (viii) All vehicles shall have High Security Registration Plate and be equipped with electronic toll collection tag.
  - (ix) All penalties, levies and fines levied in relation to the activities / operations of the Concessionaire under the Project, shall be borne by the Concessionaire



only without any liability of the Designated ULB/ Participating ULB/ Department.

- (x) Concessionaire shall provide live GPS feed to Participating ULBs at all time

### **5.8. Processing & Disposal of MSW**

- (a) The Concessionaire shall setup Processing Facility & Sanitary Landfill on the designated lands provided by Designated ULB. The land provided shall only be used for the purposes of the Project.
- (b) The Concessionaire shall take all Applicable Approvals in sequence and comply with the provisions therein from time to time.
- (c) The Concessionaire shall design, construct, operate and maintain all the Project Assets and Project Facilities including Processing Facility & Sanitary Landfill in compliance with all applicable laws at its own cost
- (d) For the Processing Facility, use combustion technology for waste to energy and biological processing (as mentioned in technical proposal) for the in line with the Applicable Laws including but not limited to MSW Rules and other directions having the force of law. The Sanitary Landfill shall be setup in accordance with the requirement of MSW Rules.
- (e) The Concessionaire shall export the power generated at the Power Plant in accordance with the terms and conditions of the PPA executed between the Concessionaire and the DISCOM. The Concessionaire shall take all requisite Approvals as may be required for execution of the PPA.
- (f) The Concessionaire shall employ suitable technology/ processes to manage the waste piled up at the existing site for reclaiming the land to the extent possible including but not limited to the land required for setting up the processing and disposal plant.
- (g) The Concessionaire shall at its cost and expense procure all machinery and equipment for Processing Facility and Sanitary Landfill. The Concessionaire shall comply with proprietary rights, licenses, agreements and permissions for materials, methods, processes and systems used or incorporated in the Project.
- (h) The Concessionaire shall achieve COD within a period of 24 (twenty four) months and construct SLF within a period of 08 (eight) months from the date of signing of this Agreement. The Concessionaire shall submit monthly progress reports during the above period to Designated ULB/ PMU.
- (i) The Concessionaire shall operate and maintain the Processing Facility & Sanitary Landfill in accordance with the Applicable Laws
- (j) The Concessionaire shall ensure that the inert/processing rejects/ash generated from the Processing Facility should not be in excess of 20% (twenty percent) of input waste quantity. The Concessionaire will all time ensure the daily capping of SLF as per Solid Waste Management Rules, 2016. Concessionaire will also ensure treatment and discharge of Leachate generated from Processing Facility & SLF.
- (k) The Concessionaire shall develop a part of sanitary landfill as secured landfill for disposal of fly ash/ air pollution residual.

- (l) All penalties, levies due to any non-compliance of any law or directions having force of law will be borne by the Concessionaire
- (m) The Concessionaire shall receive revenue generated through products produced out of such processing like compost, energy, RDF, biogas, etc. The revenue generated through carbon credits shall be shared in the ratio of 50:50 between the Concessionaire and the Participating ULBs.
- (n) The Concessionaire shall maintain daily records of quantum of incoming, processed waste, rejects, products and product quality in the formats approved by PMU/ Designated ULB. The monthly report shall be submitted by the Concessionaire to the Designated ULB/ PMU. The monthly report may be subject to verification by Designated ULB or PMU.
- (o) The Concessionaire shall arrange for all facilities and equipment for weighment - minimum 2 (two) electronic weighbridges with CCTV cameras, platforms etc.
- (p) The Concessionaire shall erect at least (1) signboard with details (capacity, contact details and signage) about the Processing Facility and Sanitary Landfill in local language, Hindi and English of a size not less than 2ft. by 4ft. each, adjacent to the main entrance in a manner that is ordinarily visible to any person using such entrance
- (q) Concessionaire shall all time comply with the statutory norms of CPCB/ SPCB for pollution control
- (r) Concessionaire will place a board at the entrance of the Processing facility displaying emission and discharge parameters of Air & Water
- (s) The Concessionaire shall display layout at the entrance and indicate warning signs in the Processing Facility and Sanitary Landfill.
- (t) The workers involved in MSW handling shall be provided with gloves, masks, uniforms, aprons and other Personal Protective Equipment (PPE)
- (u) The Concessionaire shall arrange transportation of treated waste water to fulfil the requirement of processing water from the point of supply provided by designated ULB up to processing facility

### 5.9. Setup Complaint Redressal Centre

- (a) The Concessionaire shall setup at least one (1) Complaint Redressal centre which shall be functional by the Commencement Date such that it allows for (a) easy monitoring of operations of the Project and (b) establishment of standard protocol to address customer complaints.
- (b) The Complaint Redressal Centre shall be capable of registering complaints by the way of written communication, telephonically or personal visits by the complainant. The Complaint Redressal Centre shall be supported in English, Hindi and Regional Language.
- (c) The Complaint Redressal Centre shall have at least three (3) operational dedicated phone lines for receiving customer calls / complaints.

- (d) The telephone numbers of the Complaint Redressal Centre shall be clearly reflected on all secondary storage equipment and transportation vehicles. These numbers shall be mentioned in English, Hindi and Regional Language.
- (e) The "Complaint Redressal Centre" shall be kept operational by the Concessionaire from 6 am to 10 pm, seven (7) days a week. All complaints shall be verified and shall be redressed within 24 hours of their receipt.
- (f) The aggrieved residents for registering of their complaints may also contact the offices of the Participating ULBs who shall immediately forward such complaints to the Complaint Redressal Centre. Each of the Participating ULBs shall designate one of their officers not below the rank of Junior Engineer as the Nodal Officer to receive such complaints. The Concessionaire shall be bound to take action on the complaint so forwarded on an immediate basis and send status report to such Nodal Officer within 24 hours of having redressed the complaint specifying the action taken. In the event, the Concessionaire fails to take action or send status report within the aforesaid time period, it shall be liable to pay Liquidated Damages mentioned in Penalty clause for each day of delay.

#### **5.10. Organize and manage IEC activities**

- (a) The Concessionaire shall undertake the IEC activities or alternatively may hire agency having proven credentials in IEC activities. The agency hired by the Concessionaire may be NGO, Society or Body Corporate. The Concessionaire shall impart project specific training to the hired agency prior to deployment.
- (b) IEC activities shall be aimed at creating awareness among the community, and prepare residents for upcoming Project, inform about MSW Rules, source segregation, health and environment impacts, roles of ULB and Concessionaire in the Project, etc. through web site, mass media communication strategies such as newspapers releases, hoardings, glow sign boards, radio, TV, plays, awareness campaigns at schools etc. At least one (1) advertisement in one (1) newspaper of at least 3 by 3 inches shall be released by the Concessionaire every three months. Concessionaire can also distribute the pamphlets with list do's and don'ts as an awareness media'
- (c) The Concessionaire shall organise training programs for RWAs to motivate the community towards waste management for ensuring the sustainability of a system at least once in three (3) months for first year of operations and thereafter at the interval of six months for balance concession period
- (d) The Concessionaire shall submit an annual program of the IEC activities planned for each year (on a monthly basis) to the ULB/ PMU within the first month of each calendar year clearly notifying the components & expenditure under each head of expense.
- (e) All staff uniform and vehicles involved in the Project shall have advisory messages about solid waste management.

#### **5.11. No Breach of Obligations**

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

- (i) Force Majeure Event, subject to Article 11.1;
- (ii) Designated ULB's Event of Default;
- (iii) Compliance with the instructions of the PMU / Designated ULB 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.

### 5.12. Penalties & Damages

In case the Concessionaire fails to fulfil the obligations as set under this Agreement, penalties for non-fulfilment/ damages shall be imposed according to provisions of Annexure 1.

### 5.13. Obligations of the Selected Bidder

The Selected Bidder shall in accordance with and subject to the provisions of this Agreement, undertake or manage, *inter alia*, the following areas of the Concessionaire's activities such that the experience and expertise becomes available to the Concessionaire on an on-going basis:

- (a) Arranging the financing for the Project, including mobilization of debt and Equity;
- (b) facilitate procurement of Applicable Approvals for commencing and implementing the Project;
- (c) facilitate award of Project Agreements in respect of engineering, procurement, construction and operation and maintenance of the Project;
- (d) Ensure timely implementation of the Project in accordance with the provisions of this Agreement, as per the standard specifications, the Applicable Laws, the terms of the Applicable Approvals and Good Industry Practice
- (e) Compliance with and implementation of the environment management plan;
- (f) Compliance with the provisions of this Agreement relating to liability and indemnification; and
- (g) Facilitate implementation of measures for safety, security and protection of the works, property, life and materials at the Project Site and the environment.

### 5.14. Concessionaire's Representative

The Concessionaire shall deploy a representative on its behalf to be designated as the Project Manager who shall have full authority to act on behalf of the Concessionaire for all matters relating to this Agreement and shall be an overall in-charge to ensure implementation of the Project in accordance with the provisions hereof. The Project Manager shall closely co-ordinate with the Project Management Unit / Participating ULBs and shall be responsible to ensure redressal on an immediate basis, any objections, observations, shortcomings, defects or defaults pointed out by the Project Management Unit during routine inspections and project review meetings and submit action take report to the Project Management Unit / Participating ULBs within a period no later than 7 (seven) days from the date of conveying of such defect/ shortcoming. The Project Manager or its nominee shall make themselves available for meetings as and when called upon by the Project Management Unit/ Participating ULBs.

### 5.15. Sole purpose of the Concessionaire

The Concessionaire having been set up for the sole purpose of exercising the rights and observing and performing its obligations and liabilities under this Agreement, the Concessionaire or any of its subsidiaries shall not, except with the previous written consent of PMU/ Designated ULB, be or become directly or indirectly engaged, concerned or interested in any business other than as envisaged herein.

### 5.16. Employment of trained personal

The Concessionaire shall ensure that the personnel engaged by it in the performance of its obligations under this Agreement are at all times properly trained for their respective functions.

### 5.17. Obligations relating to Project Agreements

- (a) It is expressly agreed that the Concessionaire shall, at all times, be responsible and liable for all its obligations under this Agreement notwithstanding anything contained in the Project Agreements or any other agreement, and no default under any Project Agreement or agreement shall excuse the Concessionaire from its obligations or liability hereunder.
- (b) The Concessionaire shall submit to PMU/ Designated ULB the drafts of all Project Agreements or any amendments or replacements thereto for its review and comments, and PMU/ Participating ULBs shall have the right but not the obligation to undertake such review and provide its comments, if any, to the Concessionaire within 15 (fifteen) days of the receipt of such drafts. Within 7 (seven) days of execution of any Project Agreement or amendment thereto, the Concessionaire shall submit to PMU/ Designated ULB a true copy thereof, duly attested by a Director of the Concessionaire, for its record. For the avoidance of doubt, it is agreed that the review and comments hereunder shall be limited to ensuring compliance with the terms of this Agreement. It is further agreed that any failure or omission of PMU/ Designated ULB to review and/or comment hereunder shall not be construed or deemed as acceptance of any such agreement or document by PMU/ Designated ULB. No review and / or observation of PMU / Designated ULB and / or its failure to review and / or convey its observations on any document shall not relieve the Concessionaire of its obligations and liabilities under this Agreement in any manner nor shall PMU / Designated ULB be liable for the same in any manner whatsoever.
- (c) The Concessionaire shall procure that each of the Project Agreements contains provisions that entitle the Designated ULB to step into such agreement, in its sole discretion, in substitution of the Concessionaire in the event of Termination. For the avoidance of doubt, it is expressly agreed that in the event the Designated ULB does not exercise such rights of substitution within a period not exceeding 30 (thirty) days from the Transfer Date, the Project Agreements shall be deemed to cease to be in force and effect on the Transfer Date without any liability whatsoever on the Designated ULB and the covenant shall expressly provide for such eventuality.
- (d) The Concessionaire expressly agrees to include the covenant in all its Project Agreements and undertakes that it shall, in respect of each of the Project Agreements, pro-

cure and deliver to the Designated ULB an acknowledgment and undertaking, in a form acceptable to the Designated ULB, from the counter party(ies) of each of the Project Agreements, whereunder such counter party(ies) shall acknowledge and accept the covenant and undertake to be bound by the same and not to seek any relief or remedy whatsoever from the Designated ULB in the event of Termination.

**5.18. Equity Lock-in requirements**

The Selected Bidder and the Concessionaire acknowledges that:

- 5.18.1. The Selected Bidder shall hold at least 51% shareholding in the paid up equity capital of the Concessionaire until expiry of 3 years from COD; and thereafter hold at least 26% shareholding in the paid up equity capital during the remaining concession period.
- 5.18.2. **[Intentionally left blank]**
- 5.18.3. Any violation/ modification in the shareholding pattern in the equity lock-in requirements would be treated as Concessionaire's Event of Default.



## ARTICLE 6

### 6. FINANCIAL CLOSURE AND SUBSTITUTION AGREEMENT

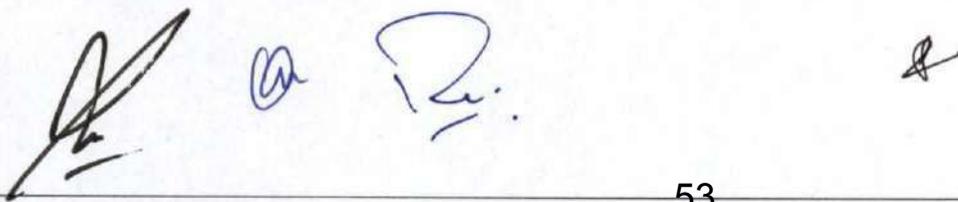
#### 6.1. General Obligations

- 6.1.1. The Concessionaire expressly agrees and undertakes that it shall itself be responsible to arrange for financing and/ or meeting all financing requirements for the Project at its cost and shall enter into Financing Agreements with the Lenders for the same.
- 6.1.2. The Concessionaire hereby agrees and undertakes that it shall achieve Financial Closure within 180 (one hundred and eighty days) days from the date of this Agreement and in the event of delay, it shall be entitled to a further period not exceeding 30 (thirty) days, subject to payment of Damages to the Designated ULB in a sum calculated at the rate of 0.1 (zero point one per cent) of the Performance Security for each day of delay.
- 6.1.3. Damages specified herein shall be payable every week in advance and the period beyond the said 180 days shall be granted only to the extent of Damages so paid; provided further that no Damages shall be payable if such delay in Financial Closure has occurred solely as a result of any default or delay by the Designated ULB or Participating ULBs in procuring satisfaction of the Conditions Precedent specified in Clause 2.2 or due to Force Majeure. For the avoidance of doubt, the Damages payable hereunder by the Concessionaire shall be in addition to the Damages, if any, due and payable under the provisions of penalties.
- 6.1.4. The Concessionaire shall, upon occurrence of Financial Closure, notify the Designated ULB forthwith, and shall have provided to the Designated ULB, at least 2 (two) days prior to Financial closure, 3 (three) true copies of the Financial Package and the Financial Model, duly attested by a Director of the Concessionaire, along with 3 (three) soft copies of the Financial Model in MS Excel version or any substitute thereof, which is acceptable to the Senior Lenders.

#### 6.2. Termination due to failure to achieve Financial closure

Notwithstanding anything to the contrary contained in this Agreement, in the event that Financial closure does not occur, for any reason whatsoever, within the period set forth in Clause 6.1.2 or the extended period provided thereunder, all rights, privileges, claims and entitlements of the Concessionaire under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Concessionaire, and the Concession Agreement shall be deemed to have been terminated by mutual agreement of the Parties. For the avoidance of doubt, it is agreed that in the event the Parties hereto have, by mutual consent, determined the Compliance Date to precede the financial closure, the provisions of this Clause 6.2 shall not apply.

#### 6.3. Substitution Agreement



6.3.1. This Agreement shall not be assigned by the Concessionaire. Provided however, subject to the provisions of this Agreement, Lenders may be given the right of substitution by execution of the Substitution Agreement in the form annexed hereto as Annexure 8.

6.3.2. The Lenders may exercise the rights of step in or substitution as provided in the Substitution Agreement provided that the Nominated Company substituting the Concessionaire shall enjoy all rights and be responsible for performing/ fulfilling all obligations of the Concessionaire under this Agreement.

Provided that in the event the Lenders are unable to substitute the Concessionaire by Nominated Company as per the provisions of the Substitution Agreement, Designated ULB shall proceed terminate the Agreement.



## ARTICLE 7

### 7. DESIGNATED ULB'S OBLIGATIONS

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

#### 7.1. Specific Obligations

The Designated ULB shall:

- (a) identify and earmark/ allocate parcel(s) of land within the Project Area for the purpose of setting up of transfer stations, Processing Facility and Sanitary Landfill for scientific management of MSW. Identify and earmark parcel of land within Project Area for purpose of setting up secondary collection points
- (b) on its behalf and on behalf of the other Participating ULBs provide the Concessionaire with an Authority Letter to collect notified User Charges on its behalf. The Designated ULB shall ensure that the other Participating ULB issues similar Authority Letter in favour of the Concessionaire.
- (c) facilitate in a timely manner all such approvals, permissions and authorisations which the Concessionaire may require or is obliged to seek from Designated ULB and/ or the Participating ULB under this Agreement, in connection with implementation of the Project and the performance of its obligations.
- (d) Appoint Independent Expert to form part of the PMU who shall monitor, supervise, and review Concessionaire's progress details/ activities. The Concessionaire shall submit monthly reports to Designated ULB and PMU regarding progress of the Project. Designated ULB shall validate the data provided by the Concessionaire in monthly progress reports after seeking comments of the PMU.
- (e) on its behalf and on behalf of the Participating ULB handover to the Concessionaire within 60 (Sixty) days of the date of signing of Concession Agreement., the existing infrastructure of Collection & Transportation assets like dumper bins, vehicles, transfer stations, decentralized waste management units etc., deployed in Project Area, on a price to be determined by a Valuer appointed as per mechanism set out below:

For avoidance of doubt it is clarified that the value of the aforesaid C&T assets shall be determined by the Valuer who shall be selected by the process, wherein the Designated ULB shall propose three names of Reputed Valuer, out of which Concessionaire can object to one and the Designated ULB shall appoint any one Valuer out of remaining two for determining such development cost.

- (f) on its behalf and on behalf of the Participating ULB handover the existing infrastructure of Processing & Disposal assets deployed and used at Project Site, on as is where is basis to the Concessionaire, within 60 (Sixty) days of the date of signing of Concession Agreement.
- (g) make timely payments as prescribed in Article 9.
- (h) To make available treated wastewater of upto 4 MLD from the Sewage Treatment

Plant not beyond 10 KMs from the project site.

- (i) shall along with Participating ULB provide land for the parking and workshop to Concessionaire.
- (j) appointed Independent Expert and nominated members of PMU as per provisions of this Agreement. It is hereby clarified that until Participating ULBs appoint PMU, Designated ULB, shall act as approving authority.

## 7.2 Department's Obligations

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

- (a) The Department shall coordinate with the Designated ULB in securing VGF/ Capital Grant for the Project.
- (b) The Department shall, where appropriate, coordinate with the Concessionaire in securing Applicable Approvals.
- (c) The Department shall coordinate with the Designated ULB in securing timely payments to the Concessionaire.
- (d) The Department, if required may be called upon to assist in case of dispute resolution according to Article 15.



## ARTICLE 8

### 8. MONITORING AND INSPECTION

#### 8.1. During Pre-COD Period

##### 8.1.1. Monthly Progress Reports

During the Pre-COD Period, the Concessionaire shall, no later than 7 (seven) days after the close of each month, furnish to the PMU/ Designated ULB, a monthly report bringing out in detail the progress of the work and also organise monthly review meetings on the Processing Facility including the Power Plant & other Project Facilities, the quantity of MSW collected, processed and disposed and any such information as may be considered essential by the PMU.

##### 8.1.2. Inspection

During the Pre-COD Period, the PMU/ Designated ULB shall inspect or cause to be inspected the Processing Facility, Project Assets and Project Facilities at least once a month or at such shorter intervals as may be considered essential by the PMU and make report of such inspection (the "**Pre-COD Inspection Report**") stating in reasonable detail the delay or deficiencies, if any, with particular reference to the scope of the Project, specifications, Good Industry Practices, Applicable Law & Approvals.

It shall send a copy of such a Report to the Concessionaire within 2 (two) days of such inspection/ observation and upon receipt thereof, the Concessionaire shall rectify and remedy the observations, if any, stated in the Inspection Report. Provided however, such inspection or submission of Inspection Report by the PMU shall not relieve or absolve the Concessionaire of its obligations and liabilities hereunder in any manner whatsoever.

##### 8.1.3. Tests

For determining that the Processing Facility, Project Assets and Project Facilities conform to the specifications and requirements of this Agreement, the PMU/ Designated ULB shall require the Concessionaire to carry out or cause to be carried out tests, at such time and frequency and in such manner as may be specified by the PMU/ Designated ULB from time to time, in accordance with Good Industry Practice for quality assurance. The Concessionaire shall, with due diligence, carry out or cause to be carried out all the tests in accordance with the instructions of the PMU/ Designated ULB and furnish the results thereof to the PMU/ Designated ULB. For the avoidance of doubt, the costs to be incurred on any such test undertaken shall be borne solely by the Concessionaire.

In the event that results of any tests conducted under this Clause 8.1.3 establish any defects or deficiencies in the works, the Concessionaire shall carry out remedial measures and furnish a report to the PMU/ Designated ULB in this behalf. For the avoidance of doubt, it is agreed that tests pursuant to this Clause 8.1.3 shall be undertaken in addition to and independent of the tests that shall be carried out by the Concessionaire for its own quality assurance in accordance with Good Industry Practice. It is also agreed that a copy of the results of such tests shall be sent by the Concessionaire to the PMU/ Designated ULB forthwith.

## 8.2. Post COD period

### 8.2.1. Monthly Status Reports

During Post COD Period, the Concessionaire shall, no later than 7 (seven) days after the close of each month, furnish to the PMU/ Designated ULB a monthly report stating in reasonable detail the condition of the Project including its compliance or otherwise with the maintenance requirements, the power generated & exported, the quantity of MSW collected, processed & disposed and shall promptly give such other relevant information as may be required by the PMU/ Designated ULB. In particular, such report shall separately identify and state in reasonable detail the defects and deficiencies that require rectification.

### 8.2.2. Inspection

The PMU/ Designated ULB shall inspect or cause to be inspected the execution of the Project at least once a month. It shall make a report of such inspection (the **"Post COD Inspection Report"**) stating in reasonable detail the defects or deficiencies, if any, with reference to the maintenance requirements, maintenance manual<sup>3</sup>, performance parameters or requirements as set forth in this Agreement including Schedules/ Annexures, and send a copy thereof to the Concessionaire within 7 (seven) days of such inspection and upon receipt thereof, the Concessionaire shall rectify and remedy the defects or deficiencies, if any, stated in the Post COD Inspection Report. Such inspection or submission of Post COD Inspection Report by the PMU/ Designated ULB shall not relieve or absolve the Concessionaire of its obligations and liabilities hereunder in any manner whatsoever.

### 8.2.3. Remedial measures

The Concessionaire shall repair or rectify the defects or deficiencies, which have impact of on the operations/ efficiency of the Project, if any, set forth in the Post COD Inspection Report and furnish a report in respect thereof to the PMU/ Designated ULB within 15 (fifteen) days of receiving the Post COD Inspection Report; provided that where the remedying of such defects or deficiencies is likely to take more than 15 (fifteen) days, the Concessionaire shall submit progress reports to the PMU/ Designated ULB of the repair works once every week until such works are completed in conformity with this Agreement.

In the event that remedial measures are not completed by the Concessionaire in conformity with the provisions of this Agreement, the PMU/ Designated ULB shall be entitled to recover Damages from the Concessionaire at the rate of 0.1 % of Performance Security for each day of delay beyond the period specified for rectification of such defect or deficiency by the PMU/ Designated ULB.

### 8.2.4. Designated ULB/ Participating ULBs right to take Remedial measures

In the event the Concessionaire does not maintain and/ or repair the Processing Facility/ Project Facilities/ Project Assets or any part thereof in conformity with the maintenance requirements, maintenance manual or performance parameters requirements or requirements as set forth in this Agreement including Schedules/ Annexures, and fails to commence remedial

<sup>3</sup>Maintenance manual shall, in particular, include provisions for maintenance of Project Assets and shall provide for life cycle maintenance, routine maintenance and reactive maintenance which may be reasonably necessary for maintenance and repair of the Project Assets, including replacement thereof, such that its overall condition conforms to Good Industry Practice.

works within 15 (fifteen) days of receipt of Post COD Inspection Report or notice in this behalf from the PMU or the Designated ULB, as the case may be, the Designated ULB shall, without prejudice to its right under this Agreement including Termination thereof, be entitled to undertake such remedial measures at the risk and cost of the Concessionaire, and to recover its cost from the Concessionaire. In addition to recovery of the aforesaid cost, an additional sum equal to 10% (ten percent) of such cost shall be paid by the Concessionaire to the Designated ULB as Damages.

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## ARTICLE 9

### 9. PAYMENTS

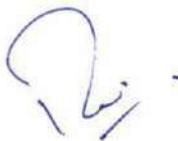
#### 9.1 Tipping Fee

- 9.1.1 Subject to the provisions of this Agreement and in consideration of the Concessionaire accepting the Concession and undertaking to perform and discharge its obligations in accordance with the terms, conditions and covenants set forth in this Agreement, Designated ULB agrees and undertake to pay to the Concessionaire fixed charges of Indian Rupees One Thousand (Rs.1000/-) per ton of waste collected by way of door to door collection in the Project Area and transported to the processing / disposal site by the Concessionaire during the Pre-COD period or period of two years whichever is earlier, provided that this condition shall not apply in the event delay beyond a period of two years is attributable on account of Participating ULBs Event of Default or Force Majeure.
- 9.1.2 Post COD Period, the Designated ULB agrees and undertakes to pay to the Concessionaire charges of Indian Rupees Three Hundred Thirty Three (Rs.333/-) per ton of waste collected by way of door to door collection in the Project Area and transported to the processing / disposal site by the Concessionaire. This amount will be escalated at the rate of 4% per annum after one year of operation for each fiscal year.
- 9.1.3 The amount will be paid on the basis of actual transportation carried out by the Concessionaire and the invoice shall be verified by the PMU. The Concessionaire shall raise monthly invoice and attach daily weights sheets of the electronic weigh bridge installed at the entrance of the Sanitary Landfill/ Processing Facility site.

#### 9.2 Grant

- 9.2.1 Designated ULB shall pay to the Concessionaire cash support by way of an outright payment for an amount equal to INR Seventy Five Crores (the "Grant") as per SBM guidelines.
- 9.2.2 The Grant shall be disbursed to the Concessionaire in two tranches of equal amount. The first tranche of the Grant shall be disbursed to the Concessionaire upon achieving COD of the Waste to Energy Facility and the second tranche within 6 months of the previous tranche. In the event of occurrence of a Concessionaire Event of Default, disbursement of Grant or any part thereof shall be suspended till such Default has been cured by the Concessionaire.

#### 9.3 Output Based Incentive (OBI)



9.3.1 The difference between the amount of OBI quoted (in Rs/ kWh) by the Selected Bidder in its financial quote/ Bid and HERC notified tariff (in Rs/ kWh) ("Tariff"), shall be the amount ("Differential Amount") that will be payable by the Designated ULB to the Concessionaire only if the financial quote of the Selected Bidder is over and above the HERC notified tariff for waste to energy. In the event, the Selected Bidder quotes below the HERC tariff, Designated ULB shall not be liable make any payments to the Concessionaire.

It may be illustrated as follows:

HERC notified tariff (in Rs/ kWh)	Financial Quote(in Rs/ kWh)	OBI payment payable by the Designated ULB (in Rs/ kWh)
7	8	1
7	7	0
7	6	0

9.3.2 Where the financial quote of the Selected Bidder is over and above the HERC notified tariff for waste to energy, the Designated ULB shall be liable to pay the difference between the HERC notified tariff (in respect of each kilowatt hour of power exported to DISCOM) and the financial quote of the Selected Bidder. The difference so determined shall be multiplied with the number of units of power exported per month and the sum so arrived at shall be payable by the Designated ULB to the Concessionaire. The Concessionaire shall raise bills/ invoice based on the output produced (net exportable power in Kilowatt hour) as determined in the manner specified above, on a monthly basis.

9.3.3 The Parties hereby agree that the Concessionaire shall in addition to the Tariff and the Differential Amount, be entitled to a yearly escalation, as per the mechanism enumerated below:

a) With effect from the second year of Concession, the Concessionaire shall be eligible to receive, an additional amount ("Additional Amount") equivalent to 4% of the OBI for immediately previous year. The 4% escalation would be computed on the aggregate amount (i.e. amount arrived by summation of OBI paid by Designated ULB in each relevant year and Additional Amount paid in the immediate preceding year).By way of illustration:- Assuming HERC Tariff for 1<sup>st</sup> year of Concession is INR 7, and Selected bidder quotes OBI of INR 10; therefore Differential Amount for 1<sup>st</sup> year being INR 3, on which, with effect from 2<sup>nd</sup> concession year escalation of 4% would be applicable. This escalated amount shall be added to Differential Amount of second year, and the aggregate amount thus arrived will be used in third year for calculating 4% escalation thereon.

b) For avoidance of doubt it is clarified that the amount paid in any year (except the first year) shall be the arithmetic sum of OBI for that year and the Addi-

tional Amount (i.e. escalation) calculated for that year over the last year amount in the manner described above.

#### 9.4 Payment mechanism

- 9.4.1 The Concessionaire shall raise bill/ invoice for both Tipping Fee and difference of OBI quoted and HERC notified tariff for the preceding month by 5th of the next month. The same shall be approved by the PMU by 15th of the next month and submitted to Designated ULB for release of payment.
- 9.4.2 Designated ULB shall pay 90% of the bill amount to the Concessionaire by the end of the succeeding month in which the bill has been raised. The remaining 10% of the bill amount shall be paid by the Designated ULB by the end of the third month, subject to deductions as applicable.
- 9.4.3 Designated ULB shall pay the bills of the Concessionaire through the Escrow Account mechanism. The Designated ULB shall deposit, at all times, an amount equivalent to two months of payment of both Tipping Fee (as applicable during Pre COD period) and Tipping Fee (as applicable during Post COD period) and difference of OBI quoted and HERC notified tariff in the Escrow Account.

It may be explained as following:

Month	Activity
T1	Month of processing of waste
5 <sup>th</sup> of T2	Bills raised by the Concessionaire, approved by the PMU
15 <sup>th</sup> of T2	Bill approval by the PMU and submission to Designated ULB
End of T2	90% payment by Designated ULB
End of T3	10% payment by Designated ULB



## ARTICLE 10

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### 10. ESCROW ACCOUNT

#### 10.1. Escrow Account

10.1.1 The Concessionaire shall, prior to the Compliance Date, open and establish an Escrow Account with a Bank (the "**Escrow Bank**") in accordance with the terms and conditions of this Agreement and the Escrow Agreement.

10.1.2 The nature and scope of the Escrow Account as fully described in the agreement to be entered into amongst the Concessionaire, the Designated ULB, the Escrow Bank and the Senior Lenders (if any) through the Lenders' Representative, shall be substantially in the form set forth in Annexure-10 (the "**Escrow Agreement**")

#### 10.2. Deposits into Escrow Account

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

- a) all funds constituting equity and the debt disbursed by Senior Lenders in terms of the Financing Agreements;
- b) all revenues from or in respect of the Project including tariff received under Power Purchase Agreement, the OBI and Additional Amount received from Designated ULB as per Article 9.3 and insurance claims;
- c) all payments made by the Designated ULB on account of the SBM Grant and Tipping Fee; and
- d) User Charges recovered from Waste Generators

Provided that the Senior Lenders may make direct disbursements to the EPC Contractor in accordance with the express provisions contained in this behalf in the Financing Agreements.

10.2.2 The Designated ULB shall at all times and in any month of the Concession, ensure that in the Reserve Sub-Account ("**Reserve Fund**") under the Escrow Account, an amount equivalent to immediately next two months fee [i.e. Tipping Fee as applicable during Pre COD Period and (OBI + Tipping Fee) as applicable during Post COD Period] as would be payable to Concessionaire in accordance with terms hereof, is deposited and maintained. The Parties agree that so long as the Concessionaire performs its obligations hereunder and Designated ULB does not notify the Escrow Bank in respect of any non-performance or breach of obligation by Concessionaire directing Escrow bank to stop any appropriation from Reserve Fund; in case of any delay by Designated ULB in payment of due and undisputed amount to Concessionaire subject to and in accordance with terms hereof, the Concessionaire shall be entitled to tap the Reserve Fund to withdraw the amount due, which would be deposited and applied as per the application order herein. In case of such tapping, the Designated ULB shall forthwith top up and maintain the required reserve in the Reserve Fund.

### 10.3 Withdrawals during Concession Period

10.3.1. The Concessionaire shall, at the time of opening the Escrow Account, give irrevocable instructions to the Escrow Bank instructing, inter alia, that deposits in the Escrow Account shall be appropriated in the following order every month, or at shorter intervals as necessary, and if not due in a month then appropriated proportionately in such month and retained in the Escrow Account and paid out therefrom in the month when due:

- (a) all taxes due and payable by the Concessionaire for and in respect of the Project;
- (b) all payments relating to construction of the Project, subject to and in accordance with the conditions, if any, set forth in the Financing Agreements;
- (c) operation and maintenance expenses, subject to the ceiling, if any, set forth in the Financing Agreements;
- (d) operation and maintenance expenses and other costs and expenses incurred by the Designated ULB in accordance with the provisions of this Agreement, and certified by the Designated ULB as due and payable to it;
- (e) all payments and Damages certified by the Designated ULB as due and payable to it by the Concessionaire;
- (g) monthly proportionate provision of Debt Service due in an Accounting Year;
- (j) any reserve requirements set forth in the Financing Agreements; and
- (k) balance, if any, in accordance with the instructions of the Concessionaire.

10.3.2. The Concessionaire shall not in any manner modify the order of payment specified in Clause 10.3.1 above.

### 10.4 Withdrawals upon Termination

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

- (a) all taxes due and payable by the Concessionaire for and in respect of the Project;
- (b) 90% (ninety per cent) of Debt Due;
- (c) all payments and Damages certified by the Designated ULB as due and payable to it by the Concessionaire;
- (d) retention and payments relating to the liability for defects and deficiencies;
- (e) operation and maintenance expenses
- (f) balance, if any, in accordance with the instructions of the Concessionaire:

Provided that no appropriations shall be made under Sub-Article (j) of this Article 10.4.1 until a vesting certificate has been issued by the Designated ULB.

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



## ARTICLE 11

### 11. FORCE MAJEURE

The word "Party" and "Parties" in this Clause shall refer to either the Concessionaire or the Designated ULB. **11.1.** As used in this Agreement, the expression "**Force Majeure**" or "**Force Majeure Event**" shall, save and except as expressly provided otherwise, mean occurrence in India of any or all of Non-Political Event, Indirect Political Event and Political Event, as defined in Clauses 11.2, 11.3 and 11.4 respectively, if it affects the performance by the Party claiming the benefit of Force Majeure (the "**Affected Party**") of its obligations under this Agreement and which act or event (a) is beyond the reasonable control of the Affected Party, and (b) the Affected Party could not have prevented or overcome by exercise of due diligence and following Good Industry Practice, and (c) has Material Adverse Effect on the Affected Party.

#### 11.2 Non-Political Event

A Non-Political Event shall mean one or more of the following acts or events:

- (a) act of God, epidemic, extremely adverse weather conditions, lightning, earthquake, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionising radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Site);
- (b) strikes or boycotts (other than those involving the Concessionaire, Contractors or their respective employees/representatives, or attributable to any act or omission of any of them) interrupting Project development/implementation for a continuous period of 24 (twenty four) hours and an aggregate period exceeding 7 (seven) days in an Accounting Year not being an Indirect Political Event set forth in Clause 11.3;
- (c) any failure or delay of a Contractor but only to the extent caused by another Non-Political Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Contractor;
- (d) any judgement or order of any court of competent jurisdiction or statutory authority made against the Concessionaire in any proceedings for reasons other than (i) failure of the Concessionaire to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Agreement, or (iv) exercise of any of its rights under this Agreement by the Authority;
- (e) the discovery of geological conditions, toxic contamination or archaeological remains on the Site that could not reasonably have been expected to be discovered through a site inspection; or
- (f) any event or circumstances of a nature analogous to any of the foregoing.

### 11.3 Indirect Political Event

An Indirect Political Event shall mean one or more of the following acts or events:

- (g) an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;
- (h) any political or economic upheaval, disturbance, movement, struggle or similar occurrence which could not have been anticipated or foreseen by a prudent person and which causes the construction or operation of the Project to be financially unviable or otherwise not feasible;
- (i) industry-wide or State-wide strikes or industrial action for a continuous period of 24 (twenty four) hours and exceeding an aggregate period of 7 (seven) days in an Accounting Year;
- (j) any civil commotion, boycott or widespread political agitation which prevents collection of Tipping Fee by the Concessionaire for an aggregate period exceeding 7 (seven) days in an Accounting Year;
- (k) failure of the Designated ULB to permit the Concessionaire to continue the construction works, with or without modifications, in the event of stoppage of such works after discovery of any geological or archaeological finds or for any other reason;
- (l) any failure or delay of a Contractor to the extent caused by any Indirect Political Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Contractor;
- (m) any Indirect Political Event that causes a Non-Political Event; or
- (n) any event or circumstances of a nature analogous to any of the foregoing.

### 11.4 Political Event

A Political Event shall mean one or more of the following acts or events by or on account of any Government Instrumentality:

- (a) Change in Law, only if consequences thereof cannot be dealt with under and in accordance with the provisions of Article 11B and its effect, in financial terms, exceeds the sum specified in Clause 11B;
- (b) compulsory acquisition in national interest or expropriation of any Project Assets or rights of the Concessionaire or of the Contractors;
- (c) unlawful or unauthorised or without jurisdiction revocation of, or refusal to renew or grant without valid cause, any clearance, licence, permit, authorisation, no objection certificate, consent, approval or exemption required by the Concessionaire or any of the Contractors to perform their respective obligations under this Agreement and the Project Agreements; provided that such delay, modification, denial, refusal or revocation did not result from the Con-

cessionaire's or any Contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such clearance, licence, authorisation, no objection certificate, exemption, consent, approval or permit;

- (d) any failure or delay of a Contractor but only to the extent caused by another Political Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Contractor; or
- (e) any event or circumstance of a nature analogous to any of the foregoing

### **11.5 Duty to report Force Majeure Event**

11.5.1. Upon occurrence of a Force Majeure Event, the Affected Party shall by notice report such occurrence to the other Party forthwith. Any notice pursuant hereto shall include full particulars of:

- (a) the nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Article 11 with evidence in support thereof;
- (b) the estimated duration and the effect or probable effect which such Force Majeure Event is having or will have on the Affected Party's performance of its obligations under this Agreement;
- (c) the measures which the Affected Party is taking or proposes to take for alleviating the impact of such Force Majeure Event; and
- (d) any other information relevant to the Affected Party's claim.

11.5.2. The Affected Party shall not be entitled to any relief for or in respect of a Force Majeure Event unless it shall have notified the other Party of the occurrence of the Force Majeure Event as soon as reasonably practicable, and in any event no later than 7 (seven) days after the Affected Party knew, or ought reasonably to have known, of its occurrence, and shall have given particulars of the probable material effect that the Force Majeure Event is likely to have on the performance of its obligations under this Agreement.

11.5.3 For so long as the Affected Party continues to claim to be materially affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than weekly) reports containing information as required by Clause 11.5.1, and such other information as the other Party may reasonably request the Affected Party to provide.

### **11.6 Effect of Force Majeure Event on the Concession**

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

11.6.2 At any time after the Compliance Date, if any Force Majeure Event occurs:

- (a) before COD, the Concession Period and the dates set forth in the Project Completion Schedule shall be extended by a period equal in length to the duration for which such Force Majeure Event subsists; or
- (b) after COD, whereupon the Concessionaire is unable to collect Tipping Fee despite making best efforts, the Concession Period shall be extended by a period, equal in length to the period during which the Concessionaire was prevented from collection of said fee on account thereof;.

### **11.7 Allocation of costs arising out of Force Majeure**

11.7.1 Upon occurrence of any Force Majeure Event prior to the Compliance Date, the Parties shall bear their respective costs and no Party shall be required to pay to the other Party any costs thereof.

11.7.2 Upon occurrence of a Force Majeure Event after the Compliance Date, the costs incurred and attributable to such event and directly relating to the Project (the "**Force Majeure Costs**") shall be allocated and paid as follows:

- (a) upon occurrence of a Non-Political Event, the Parties shall bear their respective Force Majeure Costs and neither Party shall be required to pay to the other Party any costs thereof;
- (b) upon occurrence of an Indirect Political Event, all Force Majeure Costs attributable to such Indirect Political Event, and not exceeding the Insurance Cover for such Indirect Political Event, shall be borne by the Concessionaire, and to the extent Force Majeure Costs exceed such Insurance Cover, one half of such excess amount shall be reimbursed by the Designated ULB to the Concessionaire; and
- (c) upon occurrence of a Political Event, all Force Majeure Costs attributable to such Political Event shall be reimbursed by the Designated ULB to the Concessionaire.

For the avoidance of doubt, Force Majeure Costs may include interest payments on debt, operation and maintenance expenses (limited to Tipping Fee during Pre COD), any increase in the cost of construction works on account of inflation and all other costs directly attributable to the Force Majeure Event, but shall not include loss of tipping fee revenues or debt repayment obligations, and for determining such costs, information contained in the financial document may be relied upon to the extent that such information is relevant.

11.7.3 Save and except as expressly provided in this Article 11, neither Party shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event or exercise of any right pursuant hereto.

### **11.8 Termination Notice for Force Majeure Event**

If a Force Majeure Event subsists for a period of 180 (one hundred and eighty) days or more within a continuous period of 365 (three hundred and sixty five) days, either Party may in its discretion terminate this Agreement by issuing a Termination Notice to the other Party without being liable in any manner whatsoever, save as provided in this Article 11, and upon issue

of such Termination Notice, this Agreement shall, notwithstanding anything to the contrary contained herein, stand terminated forthwith; provided that before issuing such Termination Notice, the Party intending to issue the Termination Notice shall inform the other Party of such intention and grant 15 (fifteen) days time to make a representation, and may after the expiry of such 15 (fifteen) days period, whether or not it is in receipt of such representation, in its sole discretion issue the Termination Notice.

### **11.9 Termination Payment for Force Majeure Event**

11.9.1 If Termination is on account of a Non-Political Event, the Designated ULB shall make a Termination Payment to the Concessionaire in an amount equal to 90% (ninety per cent) of the Debt Due less Insurance Cover.

11.9.2 If Termination is on account of an Indirect Political Event, the Designated ULB shall make a Termination Payment to the Concessionaire in an amount equal to:

- (a) Debt Due less Insurance Cover; provided that if any insurance claims forming part of the Insurance Cover are not admitted and paid, then 80% (eighty per cent) of such unpaid claims shall be included in the computation of Debt Due;
- (b) 110% (one hundred and ten per cent) of the Adjusted Equity; and

11.9.3 If Termination is on account of a Political Event, the Designated ULB shall make a Termination Payment to the Concessionaire in an amount that would be payable under Clause 12.4(f) as if it were a Designated ULB Default.

### **11.10 Dispute resolution**

In the event that the Parties are unable to agree in good faith about the occurrence or existence of a Force Majeure Event, such Dispute shall be finally settled in accordance with the Dispute Resolution Procedure; provided that the burden of proof as to the occurrence or existence of such Force Majeure Event shall be upon the Party claiming relief and/or excuse on account of such Force Majeure Event.

### **11.11 Excuse from performance of obligations**

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

- (a) the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;
- (b) the Affected Party shall make all reasonable efforts to mitigate or limit damage to the other Party arising out of or as a result of the existence or occurrence of such Force Majeure Event and to cure the same with due diligence; and

(c) when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party notice to that effect and shall promptly resume performance of its obligations hereunder.

## **ARTICLE 11A**

### **11A. SUSPENSION OF CONCESSIONAIRE'S RIGHTS**

#### **11A.1 Suspension upon Concessionaire Default**

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

#### **11A.2 Designated ULB to act on behalf of Concessionaire**

11A.2.1 During the period of Suspension, the Designated ULB shall, on behalf of the Concessionaire, collect all fee and revenues under and in accordance with this Agreement and deposit the same in the an escrow account. The Designated ULB shall be entitled to make withdrawals from the escrow account for meeting the costs incurred by it for remedying.

11A.2.2 During the period of Suspension hereunder, all rights and liabilities vested in the Concessionaire in accordance with the provisions of this Agreement shall continue to vest therein and all things done or actions taken, including expenditure incurred by the Designated ULB for discharging the obligations of the Concessionaire under and in accordance with this Agreement and the Project Agreement, shall be deemed to have been done or taken for and on behalf of the Concessionaire and the Concessionaire undertakes to indemnify the Designated ULB for all costs incurred during such period.

#### **11A.3 Revocation of Suspension**

11A.3.1 In the event that the Concessionaire shall have rectified or removed the cause of Suspension within a period not exceeding 90 (ninety) days from the date of Suspension, it shall revoke the Suspension forthwith and restore all rights of the Concessionaire under this Agreement. For the avoidance of doubt, the Parties

expressly agree that the Designated ULB may, in its discretion, revoke the Suspension at any time, whether or not the cause of Suspension has been rectified or removed hereunder.

- 11A.3.2 Upon the Concessionaire having cured the Event of Default – Concessionaire within a period not exceeding 90 (ninety) days from the date of Suspension, the Designated ULB shall revoke the Suspension forthwith and restore all rights of the Concessionaire under this Agreement.

#### 11A.4 Substitution of Concessionaire

At any time during the period of Suspension, the Lenders' Representative, on behalf of Senior Lenders, shall be entitled to substitute the Concessionaire under and in accordance with the Substitution Agreement, and upon receipt of notice there under from the Lender's representative, the Designated ULB shall withhold Termination for a period not exceeding 180 (one hundred and eighty) days from the date of Suspension, and any extension thereof under Clause 11A.1, for enabling the Lenders' Representative to exercise its rights of substitution on behalf of Senior Lenders.

#### 11A.5 Termination

- 11A.5.1 At any time during the period of Suspension under this Clause 11A, the Concessionaire may by notice require the Designated ULB to revoke the Suspension and issue a Termination Notice. Subject to the rights of the Lenders' Representative to undertake substitution in accordance with the provisions of this Agreement and within the period specified in Clause 11A.4, the Designated ULB shall, within 15 (fifteen) days of receipt of such notice, terminate this Agreement under and in accordance with Clause 11A.
- 11A.5.2 Notwithstanding anything to the contrary contained in this Agreement, in the event that Suspension is not revoked within 180 (one hundred and eighty) days from the date of Suspension hereunder or within the extended period, if any, set forth in Clause 11A.1, the Concession Agreement shall, upon expiry of aforesaid period, be deemed to have been terminated by mutual agreement of the Parties and all provisions of this Agreement shall apply, *mutatis mutandis*, to such Termination as if a Termination Notice had been issued by the Designated ULB upon occurrence of a Concessionaire Default.

## ARTICLE 11B

### 11B. CHANGE IN LAW

#### 11B.1 Increase in costs

- (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 including laws related to environment/emission/ discharge standards;
  - (ii) The repeal, modification or re-enactment of any Applicable 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 (including interalia, bye laws, directions, orders, regulations to be issued under the SWM Rules),
  - (iii) Any change in the rates of the Taxes which have a direct effect on the Project.
- (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 result of Change in Law, the Concessionaire suffers an increase in costs or reduction in net after-tax return or other financial burden ("Additional Cost"), the aggregate financial effect of which exceeds Rs. One Crore in any Accounting Year, the Concessionaire may so notify the Designated ULB and provide the information's as provided in Article (c) below and propose amendments to this Agreement so as to place the Concessionaire in the same financial position as it would have enjoyed had there been no such Change in Law resulting in increased costs, reduction in return or other financial burden as aforesaid. The said remedial measures would be discussed and consequences arising therefrom shall be dealt with as per terms of Article (d) below.
- (c) Upon occurrence of a Change in Law, the Concessionaire shall promptly, notify Designated ULB and the PMU of the following:
- (i) the nature and the impact of Change in Law on the Project;
  - (ii) the estimate of the Additional Cost likely to be incurred by the Concessionaire on account of Change in Law;
  - (iii) the measures, which the Concessionaire has taken or proposes to take to mitigate the impact of Change in Law, including in particular, minimising the Additional Cost;
  - (iv) therelief sought by the Concessionaire.



(d) Upon notice by the Concessionaire, the Parties shall meet, as soon as reasonably practicable but no later than 30 (thirty) days from the date of notice, and either agree on amendments to this Agreement or on any other mutually agreed arrangement.

Provided that if no agreement is reached in respect of aforesaid remedial measure to cure the adverse effect of Change in Law within 90 (ninety) days of the aforesaid notice, the Concessionaire may by notice require the Designated ULB to pay an amount equivalent to 50% of Additional Cost as determined/certified by PMU based on the facts and circumstances and verification of information submitted by the Concessionaire. For the avoidance of doubt, it is agreed that this Article 11B.1 shall be restricted to changes in law directly affecting the Concessionaire's costs of performing its obligations under this Agreement



## ARTICLE 12

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### 12 EVENTS OF DEFAULT AND TERMINATION

#### 12.1 Events of Default

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

#### 12.2 Concessionaire Event of Default

In addition to any events specified elsewhere in this Agreement, 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 of the following reasons:

- (i) The Concessionaire has failed to process the Municipal Solid Waste at the proposed site for a continuous period of three days or an aggregate period of seven days in any Month; This period shall be exclusive of the maintenance schedule of the Processing Facility;
- (ii) The Concessionaire is in Material Breach of any of its obligations under this Agreement in respect of which a specified time period has not been specified in this Agreement and the same has not been remedied for more than 30 (thirty) days;
- (iii) Any representation made or warranty given by the Concessionaire under this Agreement is found to be false or misleading;
- (iv) A resolution for voluntary winding up has been passed by the shareholders of the Concessionaire;
- (v) 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 Designated ULB, provided that, as part of such amalgamation or reconstruction, the amalgamated or reconstructed entity has unconditionally assumed all surviving obligations of the Concessionaire under this Agreement;
- (vi) The Concessionaire has abandoned the Project;
- (vii) The Concessionaire has unlawfully repudiated this Agreement or has otherwise expressed an intention not to be bound by this Agreement;
- (viii) The Concessionaire has suffered an attachment levied on any of its assets which has caused or is likely to cause a Material Adverse Effect on the Project and such attachment has continued for a period exceeding 90 (ninety) days.
- (ix) The Concessionaire fails to obtain and maintain a valid Performance Bank

Guarantee for the requisite amounts in terms of this Agreement.

### 12.3 Designated ULB Event of Default

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

- (i) Designated ULB has failed to make any payments including payment of Grant and Tipping Fee due to the Concessionaire and more than 90 (ninety) days have elapsed since such default;
- (ii) Designated ULB is in Material Breach of any of its obligations under this Agreement and has failed to cure such breach within 30 (thirty) days of receipt of notice thereof issued by the Concessionaire;
- (iii) Designated ULB has unlawfully repudiated this Agreement or otherwise expressed its intention not to be bound by this Agreement;
- (iv) Designated ULB has unreasonably withheld or delayed grant of any approval or permission (within its jurisdiction and such delay and withholding is not attributable to Concessionaire or Force Majeure) which the Concessionaire is obliged to seek under this Agreement, and thereby caused or likely to cause Material Adverse Effect.
- (v) Any representation made or warranties given by Designated ULB under this Agreement have been found to be false or misleading.

### 12.4 Termination due to Event of Default

#### (a) Termination for Concessionaire Event of Default

- (i) Without prejudice to any other right or remedy which Designated ULB may have in respect thereof under this Agreement, upon the occurrence of a Concessionaire Event of Default, Designated ULB shall, be entitled to terminate this Agreement in the manner as set out under Clause 12.4(a)(ii) and Clause 12.4(a)(iii) herein below .

Provided however that upon the occurrence of a Concessionaire Event of Default as specified under Clause 12.2, Designated ULB may terminate this Agreement by issue of Termination Notice in the manner set out under Clause 12.4(c) after giving the Concessionaire an opportunity of hearing.

- (ii) If Designated ULB decides to terminate this Agreement pursuant to preceding clause (i), it shall in the first instance issue Preliminary Notice to the Conces-

sionaire. Within thirty (30) days of receipt of the Preliminary Notice, the Concessionaire shall submit to Designated ULB 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, Designated ULB shall be entitled to terminate this Agreement by issuing Termination Notice, and appropriate amount of the Performance Security.

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

**(b) Termination for Designated ULB 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 Designated ULB 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 Designated ULB. Within 30 days of receipt of Preliminary Notice, Designated ULB shall forward to the Concessionaire its proposal to remedy/ cure the underlying Event of Default (the "Designated ULB Proposal to Rectify"). In case of non - submission of Designated ULB Proposal to rectify within the period stipulated therefor, Concessionaire shall be entitled to terminate this Agreement by issuing Termination Notice.
- (iii) If Designated ULB Proposal to Rectify is forwarded to the Concessionaire within the period stipulated therefor, Designated ULB shall have further period of 30 days to remedy/ cure the underlying Event of Default. If, however Designated ULB 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 has become entitled to do so decide to terminate this Agreement pursuant to the preceding sub article (a) or (b), it shall issue Termination Notice setting out:

- (i) in sufficient detail the underlying Event of Default;
- (ii) the Termination Date which shall be a date occurring not earlier than 60 days from the date of Termination Notice;
- (iii) the estimated termination payment including the details of computation thereof; and,

(iv) any other relevant information.

**(d) Obligation of Parties**

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

- (i) until Termination is final, the Parties shall, to the fullest extent possible, discharge their respective obligations so as to maintain the continued operation of the Project;
- (ii) the Termination Payment, if any, payable by Designated ULB in accordance with the following sub - article (f) is paid to the Concessionaire within 30 (thirty) days of the Termination Date; and
- (iii) the Project is handed back to Designated ULB as instructed by Designated ULB, by the Concessionaire on the Termination Date free from any Encumbrance along with any payment that may be due by the Concessionaire to Designated ULB.

**(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 Payment for ULB Event of Default**

Upon Termination of this Agreement on account of Designated ULB Event of Default, the Concessionaire shall be entitled to receive back the Performance Security from the Designated ULB and also receive from the Designated ULB, Termination Payment as specified below:

An amount equal to Debt Due and 150% of the Adjusted Equity;

**(g) Termination Payment for Concessionaire Event of Default**

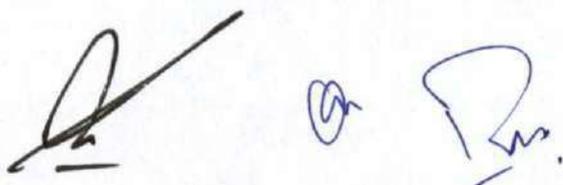
- (i) Upon Termination of this Agreement on account of Concessionaire Event of Default before COD, no Termination Payment shall be made to the Concessionaire and the Designated ULB shall be entitled to forfeit the Performance Security of the Concessionaire.

- (ii) Upon Termination of this Agreement on account of Concessionaire Event of Default after COD, the Designated ULB shall be entitled to forfeit the Performance Security of the Concessionaire and pay Termination Payment to the Concessionaire as specified below:

An amount equal to 90% of Debt Due less Insurance cover; provided that if any insurance claims forming part of the Insurance cover are not admitted and paid, then 80% of such unpaid claims shall be included in the computation of Debt Due

#### 12.5 Rights of Designated ULBs on Termination

- (a) Upon Termination of this Agreement for any reason whatsoever, Designated ULB 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 Facilities and Project Assets forthwith;
  - (ii) prohibit the Concessionaire and any person claiming through or under the Concessionaire from entering upon/ dealing with the Project including Project Facilities and Project Assets;
- (b) Notwithstanding anything contained in this Agreement, Designated ULB shall not, as 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 Facilities and Project Assets by the Concessionaire to Designated ULB shall be free from any such obligation/ fee/ penalties/ taxes.
- (c) Termination Payment shall become due and payable to the Concessionaire within 15 (fifteen) days of a demand being made by the Concessionaire to the Designated ULB with the necessary particulars, and in the event of any delay, the Designated ULB shall pay interest at a rate equal to 3% (three per cent) above the Bank Base Rate on the amount of Termination Payment remaining unpaid; provided that such delay shall not exceed 90 (ninety) days. For the avoidance of doubt, it is expressly agreed that the Termination Payments shall become due and payable by the Designated ULB upon actual or constructive transfer of the Project Assets by the Concessionaire to the Designated ULB and/ or Participating ULBs clear from all encumbrances, charges and liens whatsoever, unless expressly agreed by the Parties otherwise.
- (d) The Concessionaire expressly agrees that Termination Payment under this Clause 12.5 shall constitute a full and final settlement of all claims of the Concessionaire on account of Termination of this Agreement for any reason whatsoever and that the Concessionaire or any shareholder thereof shall not have any further right or claim under any law, treaty, convention, contract or otherwise.



**12.6 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 as 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.

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## **ARTICLE 13**

### **13 SUBSTITUTION OF THE CONCESSIONAIRE**

#### **13.1 Substitution by Lenders' Representative**

In the event of Concessionaire's default, Designated ULB shall, if there be any Lenders, send copy of the Termination Notice to the Lenders' Representative to inform and grant 15 (Fifteen) days to the Lenders' Representative, for making representation on behalf of the Lenders stating the intention to substitute the Concessionaire. In case Designated ULB receives representation on behalf of the Lenders, within the aforesaid period, Designated ULB shall withhold the termination for period not exceeding 180 (one hundred and eighty) days, for enabling the Lenders' Representative to exercise the Lenders' right of substitution in accordance with the Substitution Agreement, and substitute the Concessionaire with Nominated Company.

#### **13.2 Substitution by Designated ULB**

In the event that no company is nominated by the Lender's representative to act as the Nominated Company or the company nominated by the Lender's Representative in terms of Article 13.1 is not acceptable to Designated ULB, Designated ULB may either substitute the Concessionaire with Nominated Company, identified by Designated ULB in accordance with the Substitution Agreement, or terminate the Agreement.

#### **13.3 Substitution Process**

While carrying out substitution, the Lender's representative or Designated ULB, as the case may be, shall invite competitive bids from the prospective parties for acting as the Nominated Company and substituting the Concessionaire. Such Nominated Company shall have to agree to bear all the liabilities of the Concessionaire in terms of this Agreement and Financing Agreement.

#### **13.4 Consequences of Substitution**

Designated ULB shall grant, to the Nominated Company, the right to develop, design, finance, construct, operate and maintain the Project (including entering into Sub-Contracts) together with all other rights of the Concessionaire under this Agreement, subject to fulfilment of the Concessionaire's entire obligation under this Agreement by such Nominated Company, for the remainder of the term of this Agreement. Such rights shall be granted by Designated ULB through the Novation of the Agreement, if applicable, in favour of the Nominated Company.

Designated ULB shall also execute new Substitution Agreement with the Nominated Company and the Lenders, if there be any. All Sub-Contracts and agreements in respect of the Project including Financing Agreements and all Sub-Contracts executed by the Concessionaire shall stand transferred and novated in favour of the Nominated Company. Further all rights of the Concessionaire on the Sites and Project Assets in terms of the Agreement shall stand transferred and novated in favour of the Nominated Company. All approvals/clearances of Designated ULB received by the Concessionaire shall stand transferred and novated in favour of the Nominated Company. The Concessionaire shall get replaced by the Nominated Company for all purposes related to the Project.

## ARTICLE 14

### 14 HANOVER OF PROJECT

#### 14.1 Ownership during the Term of Agreement

Without prejudice and subject to the Agreement, the ownership of the Project except Site(s), including all improvements made therein by the Concessionaire, during the term of the Agreement, shall at all times remain with the Concessionaire.

#### 14.2 Condition Survey

- (a) The Concessionaire agrees that on the service of a Termination Notice or 180 (one hundred and eighty) days prior to the expiry of the Term by efflux of time, it shall conduct or cause to be conducted by the PMU under the supervision of the Designated ULB, a survey ("**Condition Survey**") and inventory of the Project to ascertain the condition thereof, verify compliance with the Concessionaire's obligations under this Agreement and to prepare an inventory of the assets comprised in the Project
- (b) If, as a result of the condition survey, the Designated ULB shall observe/notice that the Project or any part thereof is not in the condition required thereof under this Agreement (except normal wear and tear) the Concessionaire shall, at its cost and expenses, take all necessary steps to put the same in the requisite conditions well before the Termination Date.
- (c) In the event the Concessionaire fails to comply with the provisions of this Agreement, the Designated ULB may itself cause the condition survey and inventory of Project to be conducted. The Designated ULB shall be compensated by the Concessionaire for any costs incurred in conducting such survey and preparation of inventory as also in putting the Project in the requisite condition. In event, the Concessionaire fails to pay the cost incurred, the Designated ULB shall be entitled to recover the amount from its invoices and/ or the Performance Security.

#### 14.3 Concessionaire's Obligations upon Termination

Without prejudice to any other consequences or requirements under this Agreement or under any law, the following consequences shall follow upon termination due to a Force Majeure Event or Event of Default or expiry of the Term by efflux of time.

- (a) The Concessionaire shall subject to the provisions of this Agreement:
  - (i) hand over to the Designated ULB or its nominated agency free of cost the vacant and peaceful possession of the Project.
  - (ii) hand over/transfer to the Designated ULB all its rights, titles and interest in or over the assets comprised in the Project and the Project Assets (including movable assets which the Designated ULB agrees to take over) which are required to be transferred to the Designated ULB in accordance with this Agreement and execute such deeds and documents as

may be necessary for the purpose and complete all legal or other formalities required in this regard.

- (iii) hand over to the Designated ULB all documents, proprietary material, including as built designs, drawings, data, engineering, manuals and records relating to the Project Assets and Project.

It is clarified that only the assets of the Concessionaire shall be taken over and no liabilities, including without limitation liabilities relating to labour and personnel related obligations of the Concessionaire shall be taken over by the Designated ULB. The Concessionaire's employees shall be the Concessionaire's/Successful Bidder's responsibility even after the expiry of the Term.

- (iv) transfer or cause to be transferred/assigned to the Designated ULB any Project Agreements which are (A) valid and subsisting, (B) capable of being transferred to the Designated ULB and (C) those the Designated ULB has chosen to take over, and cancel or cause to be cancelled entirely at its cost such Project Agreements not transferred to the Designated ULB.
  - (v) at its cost, transfer to the Designated ULB all such Applicable Approvals which the Designated ULB may require and which can be legally transferred.
  - (vi) at its cost remove from the Site all such moveable assets which are not taken over by or transferred to the Designated ULB. In the event the Concessionaire fails to remove such objects within the stipulated time, the Designated ULB may remove and transport or cause removal and transportation of such objects, after giving the Concessionaire notice of its intention to do so to a suitable location for safe storage. The Concessionaire shall be liable to bear the reasonable cost and the risk of such removal, transportation and storage.
- (b) All proceeds of insurance claims shall be deposited in a separate account and the Concessionaire or Persons claiming through or under it shall have no claim thereon or rights thereto unless and until all dues of/damages payable to the Designated ULB or any Government Authority or in respect of the Project have been cleared and no amounts payable/refundable to either of them by the Concessionaire pursuant to this Agreement are outstanding.
  - (c) The Concessionaire and the Persons claiming through or under it shall forthwith vacate the Site without any delay or demur.
  - (d) The Designated ULB shall be entitled to encash any subsisting Performance Security/bank guarantee(s) provided by the Concessionaire or the Selected Bidder, if the Termination is on account of Concessionaire Event of Default.

#### 14.4 Divestment Certificate

- (a) On the Termination Date, the PMU shall verify, in the presence of the Concessionaire or of a representative of the Concessionaire, compliance by the Concessionaire with the requirements of this Agreement, as the case may be. In the event the PMU notifies the Concessionaire of shortcomings, if any, in the Concessionaire's compliance with such requirements, the Concessionaire shall forthwith cure the same.
  
- (b) Upon Termination (due to Force Majeure Event or Event of Default or expiry of the Term by efflux of time), the divestment by the Concessionaire of all rights, title and interest in the Project and the Project Assets and the Project Facilities shall be deemed to be complete on the Termination Date but no later than 30 (thirty) days thereafter, by when all the requirements of this Agreement shall be fulfilled. The Designated ULB shall upon fulfilment of the requirements of this Agreement issue a certificate (the "**Divestment Certificate**"), with a copy thereof endorsed to the Designated ULB, the Confirming Party and other Participating ULBs, which shall have the effect of constituting evidence of divestment by the Concessionaire of all of its rights, title and interest in the Project and the Project Assets and the Project Facilities and the vesting thereof in the Designated ULB pursuant hereto.



## ARTICLE 15

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### 15 DISPUTE RESOLUTION

#### 15.1 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, including those arising with regard to acts, decision or opinion of the PMU (the "Dispute") shall in the first instance be attempted to be resolved amicably in accordance with the procedure set forth in **clause (b)** below.
- (b) The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non - privileged records, information and data pertaining to any Dispute.
- (c) Either Party may require such Dispute to be referred to the Commissioner, Designated ULB (or the Person holding charge) 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 fifteen (15) days of such reference to discuss and attempt to amicably resolve the Dispute. If the Dispute is not amicably settled within 15 (fifteen) days of such meeting between the two, either Party may refer the Dispute to arbitration in accordance with the provisions of **Article 15.2** below.

#### 15.2 Arbitration

##### (i) Procedure

Subject to the provisions of **Article 15.1**, any Dispute which is not resolved amicably shall be finally settled by reference to arbitration by a Sole Arbitrator to be appointed with the mutual consent of the Parties. Such arbitration shall be held in accordance with the provisions of the Arbitration Act. The expenses of arbitration shall be borne equally by both the Parties.

##### (ii) Place of Arbitration

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

##### (iii) 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. Any party using Hindi/other than English as language shall supply the other party an authorized transcript of true translation of its submissions into English at its costs and expenses.

**(iv) 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.

**15.3 Performance during Dispute**

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.

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## ARTICLE 16

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### 16 INSURANCE

#### 16.1 Insurance Cover

The Concessionaire shall, at its cost and expense, purchase and maintain effective from the Compliance Date and during the Term such insurance policies for such maximum sums as are necessary and customary under Financing Documents and Applicable Laws, and/or in accordance with Good Industry Practice (or may in the future become available) on commercially reasonable terms and reasonably required to be maintained consistent with projects and facilities of the size and type of the Project, including but not limited to the following:

- (a) Contractors' all risk insurance;
- (b) Erection insurance and/or break down insurance;
- (c) Public liability insurance applicable for the Term, Closure and Post Closure Period;
- (d) Statutory insurances such as workmen's compensation insurance or any other insurance required by the Applicable Laws;
- (e) Comprehensive Third Party liability insurance including injury or death to Persons who may enter the Site;
- (f) Insurance policies related to any of the Concessionaire's obligations hereunder;
- (g) Any other insurance that may be considered necessary by the Designated ULB/GoH/Lenders of the Concessionaire, if any, to protect the Concessionaire, its employees and its assets (against loss, damage or destruction at replacement value) or otherwise, including all Force Majeure Events that are insurable and not otherwise covered in items (a) to (f).

#### 16.2 Insurance Companies and Costs

- (a) The Concessionaire shall insure all insurable Project Assets comprised in the Project and/or the Project.
- (b) All insurance policies supplied by the Concessionaire shall include a waiver of any right of subrogation of the insurers there under against, inter alia, the Designated ULB, and its assigns, subsidiaries, affiliates, employees, insurers and underwriters and of any right of the insurers of any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy.
- (c) The Concessionaire hereby further releases, assigns and waives any and all rights of recovery against, inter alia, the Designated ULB and/ or Participating ULBs, and its affiliates, subsidiaries, employees, successors, assigns, insurers and underwriters, which the Concessionaire may otherwise have or acquire in or from or in any way connected with any loss covered by policies of insurance maintained or required to be maintained by the Concessionaire pursuant to this Agreement (other than Third Party liability insurance policies) or because of deductible Articles in or inadequacy of limits of any such policies of insurance, unless otherwise mentioned in this Agreement.

**16.3 Evidence of Insurance Cover**

The Concessionaire shall, from time to time, provide to the Designated ULB copies of all insurance policies (or appropriate endorsements, certifications or other satisfactory evidence of insurance) obtained by the Concessionaire in accordance with this Agreement.

**16.4 Application of Insurance Proceeds**

All moneys received under insurance policies shall be promptly applied by the Concessionaire towards repair or renovation or restoration or substitution or replacement of the Project or any part thereof, which may have been damaged or destroyed. The Concessionaire shall carry out such repair or renovation or restoration or substitution or replacement to the extent possible in such manner that the Project or any part thereof, shall, after such repair or renovation or restoration or substitution or replacement be as far as possible in the same condition as they were before such damage or destruction, normal wear and tear excepted.

**16.5 Validity of the Insurance Cover**

The Concessionaire shall pay the premium payable on such insurance policies so as to keep the policies in force and valid throughout the Term and furnish copies of the same to the Designated ULB. Each insurance policy shall provide that the same shall not be cancelled or terminated unless 10 (ten) days' clear notice of cancellation is provided to the Designated ULB in writing. If at any time the Concessionaire fails to purchase and maintain in full force and effect any and all of the insurances required under this Agreement, the Designated ULB may at its option purchase and maintain such insurance and all sums incurred by the Designated ULB in this behalf shall be reimbursed by the Concessionaire forthwith on demand, failing which the same shall be recovered by the Designated ULB by exercising right of set off or otherwise from the Performance Security.



## ARTICLE 17

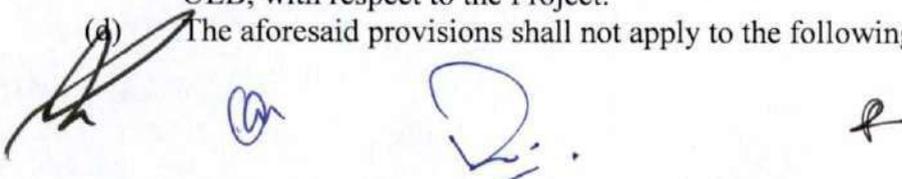
### 17 INTELLECTUAL PROPERTY AND CONFIDENTIALITY

#### 17.1 Proprietary Material

- (a) The property in all designs, drawings, processes, methods, details, plans, concepts, technology, specifications, schedules, programs, reports, calculations, documents and other works relating to the Project, including intellectual property rights therein or thereto, whether registered or not, hereafter referred to as "**Proprietary Material**", which have been or are hereafter written, originated, made or generated by the Concessionaire or any of its employees, contractors, consultants or agents in connection with this Agreement or the design, development, construction, operation and maintenance of the Project/ Project, shall be and remain at all times the property of the Concessionaire, vest exclusively in the Concessionaire and ensure to the exclusive benefit of the Concessionaire.
- (b) The Concessionaire, as beneficial owner, hereby grants to the Project and to the Designated ULB a perpetual non-exclusive license to use such Proprietary Material. Such license shall carry the right to use the Proprietary Material for all purposes connected with the Project; however, it shall not be transferable to a Third Party. Such license shall automatically gets extended to the Designated ULB for Project purpose only, and not for Third Party use or transfer, upon the Termination or expiration of this Agreement or the discharge by the Concessionaire of its duties hereunder.
- (c) Nothing in this Article 17.1 shall be construed to grant the Designated ULB or Persons claiming through or under it any right or licence with respect to such Proprietary Material, save and except as otherwise expressly herein.

#### 17.2 Confidentiality

- (a) The Designated ULB shall not at any time divulge or disclose or suffer or permit its servants or agents to divulge or disclose, transfer, communicate to any Person or use in any manner for any purpose unconnected with the Project any Proprietary Material or other information, material, documents, records or data, concerning the Project, Project, the Concessionaire and the Designated ULB (including any information concerning the contents of this Agreement) except to its directors, officials, employees, Contractors, consultants, agents or representatives on a need to know basis or as may be required by any law, rule, regulation or any judicial process.
- (b) The Designated ULB shall use such Proprietary Material and information only for the purposes of this Agreement or as otherwise expressly permitted by the Concessionaire in writing.
- (c) The Concessionaire shall ensure that all its directors, employees, Subcontractors, consultants, agents or representatives execute, deliver and comply with customary confidentiality and non-disclosure agreements reasonably required by the Designated ULB, which have been duly approved by the Designated ULB, with respect to the Project.
- (d) The aforesaid provisions shall not apply to the following information:

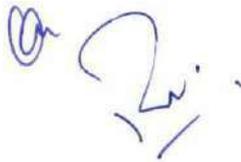


- i. obtained from a Third Party who is free to divulge the same and which was not obtained under any obligation of confidentiality; or
- ii. already in the public domain otherwise than by breach of this Agreement;
- iii. disclosed due to a court order or under any Act of GoI/GoH

**17.3 Survival**

The Concessionaire and the Designated ULB accepts and confirms that the provisions of this Article 17 shall survive the expiration or any earlier termination of this Agreement.

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## ARTICLE 18

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### 18 REPRESENTATIONS AND WARRANTIES

#### 18.1 Representations and Warranties of the Parties

Each Party represents and warrants to the others 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 authorize 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 fully enforceable against it in accordance with the terms hereof;
- (f) It is subject to civil and commercial laws of India with respect to this Agreement and it hereby expressly and irrevocably waives any immunity in any jurisdiction in respect thereof; and
- (g) It shall have an obligation to disclose to the other Party as and when any of its representations and warranties ceases to be true and valid.

#### 18.2 Representations and Warranties of the Concessionaire

The Concessionaire represents and warrants to the Designated ULB that:

- (a) the Concessionaire shall not venture into or continue any business which is in direct or indirect competition with the Project/Project. In the event the Concessionaire engages in such activities, the same shall constitute a fundamental breach of this Agreement by the Concessionaire;
- (b) 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;
- (c) 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 the Concessionaire Event of Default or which individually or in the aggregate may result in Material Adverse Effects;

- (d) 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;
- (e) 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;
- (f) no representation or warranty by the Concessionaire contained herein or in any other document furnished by it to the Designated ULB or to any Government Authority in relation to Applicable Approvals 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;
- (g) its shareholding pattern is in compliance with the requirements of this Agreement;
- (h) have the financial standing and resources to fund the required Equity and to raise the debt necessary for undertaking and implementing the Project in accordance with this Agreement;
- (i) it is subject to the laws of India, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising thereunder including any obligation, liability or responsibility hereunder;
- (j) all its rights and interests in the Project shall pass to and vest in the Designated ULB on the Transfer Date free and clear of all liens, claims and Encumbrances.

### 18.3 Representations and Warranties of Designated ULB

The Designated ULB represents and warrants to the Concessionaire that:

- (a) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary to execute this Agreement, exercise the rights and perform the obligations specified under this Agreement on behalf of all Participating ULBs.
- (b) it has taken all necessary actions under the Applicable Laws to authorise the execution, delivery and performance of this Agreement.
- (c) it has the financial standing and capacity to perform its obligations under this Agreement.
- (d) this Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof.
- (e) all information provided by the Designated ULB in the bid documents in connection with the Project is to the best of its knowledge and true and accurate in all material respects.

#### 18.4 Disclosure

In the event that any occurrence or circumstance comes to the attention of either Party that renders any of its aforesaid representations or warranties untrue or incorrect, such Party shall immediately notify the other Party of the same. Such notification shall not have the effect of remedying any breach of the representation or warranty that has been found to be untrue or incorrect nor shall it adversely affect or waive any right, remedy or obligation of either Party under this Agreement.

#### 18.5 Disclaimer

- (a) 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, the legal framework and the technical and financial aspects of the Project, the Technical Specifications, all the information and documents provided by the Designated ULB or any Government Authority, the market and demand conditions, information relating to Participating ULBs and the cost, risks, consequences and liabilities involved in implementing the Project, and has determined to the Concessionaire's satisfaction the nature and extent of such difficulties, risks and hazards as are likely to arise or may be faced by the Concessionaire in the course of performance of its obligations hereunder.
- (b) The Concessionaire further acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth in Article 18.5(a) above and hereby confirms that the Designated ULB, any Government Authority and their consultants and advisors shall not be liable for the same in any manner whatsoever to the Concessionaire or Persons claiming through or under the Concessionaire.
- (c) The Concessionaire accepts that it is solely responsible for the verification of any design, data, documents or information provided by the Designated ULB, any Government Authority or their consultants and advisors to the Concessionaire and that it shall accept and act thereon at its own cost and risk.
- (d) The Concessionaire shall be solely responsible for the contents, adequacy and correctness of the design, data, drawings and detailed engineering prepared or procured by the Concessionaire for implementing the Project.

#### 18.6 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.



## ARTICLE 19

### 19 MISCELLANEOUS

#### 19.1 Assignment and Charges

- (a) The Concessionaire shall not assign in favour of any person this Agreement or the rights, benefits and obligations hereunder save and except with prior consent of Designated ULB and the Department.
- (b) Restraint set forth in Articles (a) 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) no charge/mortgage/lien/hypothecation or encumbrance of any kind whatsoever can be created or construed as allowed to be created over the Project Assets [including land and assets /equipment's provided] by ULBs]; provided however notwithstanding such restriction, the Concessionaire shall be eligible to Hypothecate the moveable equipment's procured out of its own investment and Project revenues except Insurance Proceeds;
  - (iii) assignment of the Concessionaire's rights and benefits under this Agreement to or in favour of the Lenders as security for financial assistance provided by them.
- (c) The Concessionaire shall not create nor permit to subsist any further Encumbrance over the Site(s).
- (d) It is further clarified that irrespective of security hereinabove permitted, Concessionaire is irrevocably obligated to procure release of such security and hand over to ULB, upon expiry or earlier termination of Concession Agreement, the Project Assets along with Land and ULB assets free of all encumbrances whatsoever; and obligation of ULB for payment of Termination Payment under the Concession Agreement shall be subject to due and complete fulfilment of the aforesaid obligation by Concessionaire.

#### 19.2 Interest and Right of Set Off

Any sum which becomes payable under any of the provisions of this Agreement by one Party to the other Party shall, if the same be not paid within the time allowed for payment thereof, shall be deemed to be a debt owed by the Party responsible for payment thereof to the Party entitled to receive the same. Such sum shall until payment thereof carry interest at prevailing PLR of State Bank of India 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 19.2 shall neither be deemed nor construed to authorise any delay in payment

of any amount due by a Party nor be deemed or construed to be a waiver of the underlying breach of payment obligations.

### **19.3 Governing Law and Jurisdiction**

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

### **19.4 Waiver**

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:

- (a) 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;
- (b) shall not be effective unless it is in writing and executed by a duly authorised representative of such Party; and
- (c) shall not affect the validity or enforceability of this Agreement in any manner.

Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation hereunder nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver/breach of any terms, conditions or provisions of this Agreement.

### **19.5 Survival**

Termination of this Agreement shall not relieve the Concessionaire or the Designated ULB of any obligations already incurred hereunder which expressly or by implication survives Termination hereof, and except as otherwise provided in any provision of this Agreement expressly limiting the liability of any Party, shall not relieve any Party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.

### **19.6 Amendments**

This Agreement and the Annexures 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 all the Parties hereto and evidenced in writing.

### **19.7 Notices**

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

To the Concessionaire

To the Designated ULB

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 -----

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**19.8 Severability**

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

**19.9 No Partnership**

Nothing contained in this Agreement shall be construed or interpreted to create an association, joint venture or partnership between the Parties. Neither Party shall have any authority to bind the other in any manner whatsoever.

**19.10 Language**

All notices required to be given under this Agreement and all communications, documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language and true translation into English language if other than English is used at the costs and expenses of the Party sending such communication, notice, documentation and proceedings.

**19.11 Exclusion of Implied Warranties etc.**

This Agreement expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties and any representation by any Party not contained in a binding legal agreement executed by the Parties.

**19.12 Counterparts**

This Agreement may be executed in three(3) counterparts, each of which when executed and delivered shall constitute an original of this Agreement but shall together constitute one and only the Agreement.

### 19.13 Liability for Review

Except to the extent expressly provided in this Agreement:

- (a) no review, comment, certification, verification or approval by the Designated ULB and/ or Participating ULBs or an Independent Expert or any Government Authority of any Project Agreement, design, detailed engineering, or document, accounts, invoice etc. submitted by the Concessionaire nor any observation, testing, certification, validation or inspection of the construction, operation or maintenance of the Project nor the failure to review, approve, comment, observe, test or inspect hereunder shall relieve or absolve the Concessionaire from its obligations, duties and liabilities under this Agreement, the Applicable Laws and Applicable Approvals; and
- (b) the Designated ULB and/ or Participating ULBs, its advisors or the Government Authorities shall not be liable to the Concessionaire by reason of any review, comment, approval observation, testing, certification, verification, validation or inspection referred in sub-article (a) above.

### 19.14 Unforeseen Event

Any event or condition that has not been explicitly covered under the provisions of this Agreement shall be resolved after discussion and mutual agreement between the Parties.

### 19.15 Liability and Indemnification

- (a) The Concessionaire shall indemnify, defend and hold harmless (the “**Indemnifying Party**”) the Designated ULB and/ or Participating ULBs (the “**Indemnified Parties**”) during the Term from and against all liabilities, damages, losses, expenses, claims, suits, proceedings, judgements, settlements, actions, costs of any nature whatsoever, whether directly or indirectly arising, for personal injury, for damage to or loss of any property and any Third Party liability, including reasonable attorneys’ fees, actually incurred or suffered by the Indemnified Parties, arising out of or in any way connected with (i) any breach, negligence, default, omission, violation, infringement etc., as the case may be, by the Indemnifying Party or Persons claiming through or under it or due to such Party’s representations and warranties herein; covenants, agreements or obligations contained herein or PPA, or the terms and conditions hereof or the PPA; any intellectual property right of any Person; (ii) failure of the Indemnifying Party or Persons claiming through or under it to comply with Applicable Laws or the Applicable Approvals or to pay taxes or make contractual or other payments due and payable to any Person; (iii) the employment, sickness, injury or death of any Person employed directly or indirectly by the Indemnifying Party or Persons claiming through or under it ; or (iv) as provided elsewhere herein.
- (b) The Concessionaire shall be responsible for executing, performing and completing the construction works in accordance with the provisions of this Agreement at its risk and consequence and shall be responsible for any liability whatsoever arising under, in connection with or in relation to the execution of the construction works by the Concessionaire or Persons claiming through or under it and shall indemnify,

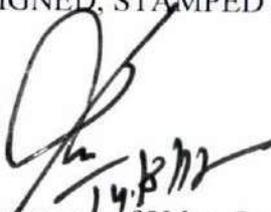
keep indemnified and hold harmless the Designated ULB and/ or Participating ULBs and its advisors in this behalf.

- (c) The Designated ULB and/ or Participating ULBs shall not be liable to the Concessionaire for any indirect, consequential, incidental, punitive or exemplary damages, loss of profit, consequential financial or economic loss or any disruption in the flow of MSW into the Project for any reason whatsoever.
- (d) The Concessionaire shall keep the Designated ULB and/ or Participating ULBs indemnified during the Term against any claims, damages, liabilities, costs, penalties etc. (i) from or by any Government Authority, including the CPCB or the HSPCB, and Third Parties for damages to the environment or any acts, omissions, defaults or negligence of the Concessionaire that damages the environment; and (ii) resulting from accidents at work, occupational diseases and contingencies that may arise at or around the Site(s) or in the employment of labour and personnel at the Project. The Concessionaire shall remain liable for its acts or omissions in implementing the Project in accordance with the Technical Specifications and the Applicable Laws even after the Termination or expiration of this Agreement by efflux of time or otherwise.
- (e) Except as expressly provided in this Agreement, the Concessionaire shall carry out and perform its rights and obligations under this Agreement and the Project Agreements at its own cost and risk. It shall be fully responsible for and shall bear the financial risks in relation to the Project and all its rights and obligations under or pursuant to this Agreement and the Project Agreements till the Transfer Date.
- (f) The provisions of this Article 19 shall survive the expiration or prior termination of this Agreement.

IN THE WITNESS whereof the Parties have placed their respective hands and seals hereto on the day, month and year first herein above mentioned

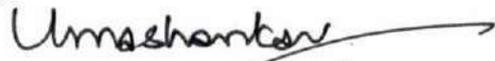
SIGNED, STAMPED AND DELIVERED ON 14.08.2017 BY

For



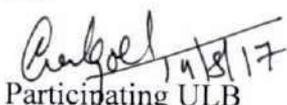
Department of Urban Local Bodies  
Name: Shekhar Vidyarthi  
Designation: Director, ULB

For



Designated ULB 14/8/17  
Name: V. Umashankar  
Designation: Commissioner, MCG  
Municipal Corporation  
Gurgaon

For



Participating ULB  
Name: Sonal Goel  
Designation: Commissioner, MCF

Commissioner  
Municipal Corporation  
Faridabad.

For Ecogreen Energy Gurgaon Faridabad Private Limited



Concessioner  
Name: Ankit Aggarwal  
Designation: Director

Director



For



Director

Confirming Party

Name: Rakesh Kumar Aggarwal

Designation: Director

**IN PRESENCE OF WITNESSES**

Sign:



Name:

Y.S. GUPTA

Designation

Addl. M. C, MCG

Sign:



Name:

Ramn Bhandari

Designation

SB MCR

Sign:



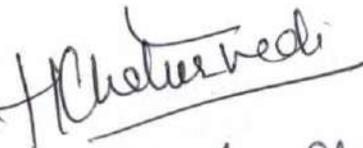
Name:

GAURAV ANTIL

Designation

Joint Commissioner, MCG

Sign:



Name:

Himanshu Chaturvedi

Designation

AVP E&Y CLP



## ANNEXURE 1: PROJECT DETAILS

### List of participating ULBs

1. Municipal Corporation Faridabad
2. Municipal Corporation Gurugram

### List of Site(s)

Processing facility: 27 acres of land at Bandhwari, Gurugram

### Service Level Benchmarks

Following are the benchmarks set by MoUD (Handbook on Service Level Benchmarks). The Concessionaire will need to achieve the same in the proposed timeline:

S.No.	Indicator	Unit	Definition	Bench mark Value	Proposed Timeline												
1	Household level coverage of SWM services through door-to-door collection of waste	%	Percentage of households and establishments that are covered by a daily door-step collection system.	100%	From the date of signing of Concession Agreement:  <table border="1"> <thead> <tr> <th>Phase</th> <th>Timeline</th> <th>Target</th> </tr> </thead> <tbody> <tr> <td>Phase 1</td> <td>6 months</td> <td>50%</td> </tr> <tr> <td>Phase 2</td> <td>9 months</td> <td>75%</td> </tr> <tr> <td>Phase 3</td> <td>12 months</td> <td>100%</td> </tr> </tbody> </table>	Phase	Timeline	Target	Phase 1	6 months	50%	Phase 2	9 months	75%	Phase 3	12 months	100%
Phase	Timeline	Target															
Phase 1	6 months	50%															
Phase 2	9 months	75%															
Phase 3	12 months	100%															
2	Extent of segregation of waste	%	Segregation should at least be at the level of separation of wet and dry waste at the source, that is, at the household or establishment level.  It is important that waste segregated at the source is not again mixed, but transported through the entire chain in a segregated manner. It is therefore important that this indicator is based on Measurement of waste arriving in a	100%	6 months from the date of signing of the Concession Agreement												

			segregated manner at the treatment/disposal site, rather than being measured at the collection point.		
3	Collection efficiency	%	The total waste collected by the ULB and authorised service providers versus the total waste generated within the ULB, excluding recycling or processing at the generation point. (Typically, some amount of waste generated is either recycled or reused by the citizens themselves. This quantity is excluded from the total quantity generated, as reliable estimates will not be available for these.)	100%	6 months from the signing of the Concession Agreement
4	Extent of recovery of waste collected	%	This is an indication of the quantum of waste collected, which is either recycled or processed. This is expressed in terms of percentage of waste collected	80%	From date of commissioning of the Processing Facility:  Phase    Timeline    Target Phase    6 months    70% 1 Phase    9 months    90% 2 Phase    12            100% 3            months
5	Extent of scientific disposal of waste at landfill sites	%	The amount of waste that is disposed in landfills that have been designed, built, operated and maintained as per standards laid down by Central government. This extent of compliance should be expressed as a percentage of the total quantum of waste disposed at landfill sites, including open dump	100%	Six months from the date of setup of the Sanitary Landfill

			sites		
6	Efficiency in redressal of customer complaint	%	The total number of SWM-related complaints redressed within 24 hours of receipt of the complaint, as a percentage of the total number of SWM-related complaints received in the given time period.	80%	From the date of signing of Concession Agreement:  Phase 1 Phase 2
					Timeline Target 6 months 75% 9 months 99%

### Penalties & Damages

S.No.	Default	Monitoring Mechanism	Cure Period	Penalty
Primary Collection				
1	door to door MSW collection is not provided to minimum percentage of Waste Generators / Households as per target specified in Services Level Benchmark from the appointed date	user complaint /verification by PMU	No collection of Waste for 2 consecutive Days	Rs. 5/Day/ Household
			No collection of Waste for 5 consecutive Days	Rs. 10 /Day/ Household
Secondary Storage & transportation				
3	Non-clearance of bins/ dhalao for consecutive 2 days	Spot inspection conducted by Designated ULB/ PMU/ user complaint	One day	Rs 200 per instance
	Transportation of MSW in non-covered vehicles	Spot inspection conducted by Designated ULB/ PMU/ user complaint	One day	Rs 250 per instance
5	Non-operation of transfer station for one day	Spot inspection conducted by Designated ULB/ PMU	One day	Rs 5000 per day
Waste processing				
	Weighbridge is non-operational at transfer Station/ Processing facility/ landfill due to breakdown for a	Daily check by PMU	From a list of three weighbridges, located near the project / processing site provided by	Rs 5000 per day after 4 days

	consecutive period of 4 days		Designated ULB from where the concessionaire can weigh the MSW at its own cost	
6	Failure to achieve COD within 30 days of the Scheduled Construction Completion Date	Inspection by PMU/ Designated ULB/ Progress Report	30 days from Scheduled Construction Completion Date	0.1% of the Performance Security per day of delay beyond 30 days
Sanitary Landfill				
9	Inert/ Residual waste greater than 20% sent to landfill	Weighment slips/ Daily reports/ Inspection by PMU	-	for every ton of increase, an amount equivalent to 2.5 times of average monthly per ton OBI payment made on Processing & Disposal head over immediately preceding three months. In the event OBI is zero, penalty shall be imposed at the rate of Rs 1000/ ton.
Complaint redressal				
10	Improper working of call centre: Down time exceeds 3 hours per day	Inspection by PMU	3 hours	Rs 2500 per hour after 3 hours
	Improper working of call centre: Down time exceeds 3 hours per day for more than five days in a month	Inspection by PMU	3 hours	Rs 1,00,000 per month
IEC activities				
11	Non-display of logo of appropriate dimensions	Spot inspection conducted by Designated ULB/ PMU		Rs 200 per instance
12	Non-issue of advertisement	Copy of advertisement to be provided to PMU/		Rs 1,00,000

Notwithstanding anything to the contrary contained herein, in the event in any quarter the aggregate liquidated damages levied by the Designated ULB on account of non-performance exceeds INR 7,00,000/- (INR seven lakhs), then the same shall be construed as Concessionaire Event of Default, which shall make this Agreement liable for termination. No collection of waste for 7 consecutive days shall also be construed as Concessionaire Event of Default.

**ANNEXURE 2: FINANCIAL PROPOSAL**

(as submitted by Selected Bidder)

The image shows three handwritten signatures. The first signature on the left is in black ink and is highly stylized. The second signature in the middle is in blue ink and consists of a small circular mark above a larger, loopy signature. The third signature on the right is also in blue ink and is a simple, sharp mark.

**ANNEXURE 3: FORMAT FOR DAILY WEIGHT SHEET**

**Weighbridge details**

Location

Capacity

**Date**

**Time in**

**Time out**

**Truck no.**

**Tier weight (tons)**

**Full weight (tons)**

**Waste quantity (Full  
weight – tier weight)**

*[Handwritten signatures and initials in blue ink]*

**ANNEXURE 4: OPERATIONAL EXCELLENCE CERTIFICATE**

**Format as decided by PMU**



**ANNEXURE 5: FORMAT OF THE PERFORMANCE BANK GUARANTEE [ON APPROPRIATE STAMP PAPER]**

Bank Guarantee No. [ \_ ]

**THIS DEED OF GUARANTEE** is executed on this [insert date] day of [insert month and year] at ----Gurugram by [INSERT NAME OF BANK] having its head/registered office at [insert address], (hereinafter referred to as the "**Guarantor**", which expression shall unless repugnant to the subject or context thereof include its successors, assigns and permitted substitutes);

**IN FAVOUR OF:**

\_\_\_\_\_ with its principal office at [insert address], (hereinafter referred to as "Designated ULB" or "Beneficiary", which expression shall unless repugnant to the context or meaning thereof include its successors and permitted assigns).

**WHEREAS:**

- (A) \_\_\_\_\_ (the "**Concessionaire**") and the \_\_\_\_\_ (the "**Designated ULB**") have entered into a Concession Agreement dated ..... (the "**Agreement**") whereby the Designated ULB has agreed to the Concessionaire undertaking the \_\_\_\_\_ (hereinafter the "**Project**"), subject to and in accordance with the provisions of the Agreement.
- (B) The Agreement requires the Concessionaire to furnish a Performance Security to the Designated ULB in a sum of Rs. \*\*\*\*\* cr. (Rupees \*\*\*\*\* crore) (the "**Guarantee Amount**") as security for due and faithful performance of its obligations, under and in accordance with the Agreement, during its term i.e. the Concession Period (as defined in the Agreement).
- (C) We, .....through our Branch at ..... (the "**Bank**") have agreed to furnish this Bank Guarantee by way of Performance Security.

**NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:**



1. The Bank hereby unconditionally and irrevocably guarantees the due and faithful performance of the Concessionaire's obligations during the term of the Agreement under and in accordance with the provisions of the Agreement, and agrees and undertakes to pay to the Designated ULB, upon its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Concessionaire, such sum or sums upto an aggregate sum of the Guarantee Amount as the Designated ULB shall claim, without the Designated ULB being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.
2. A letter from the Designated ULB, under the hand of an Officer not below the rank of Chief Executive Officer in the Designated ULB that the Concessionaire has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that the Designated ULB shall be the sole judge as to whether the Concessionaire is in default in due and faithful performance of its obligations any time during the term of the Agreement and its decision that the Concessionaire is in default shall be final, and binding on the Bank, notwithstanding any differences between the Designated ULB and the Concessionaire, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Concessionaire for any reason whatsoever.
3. In order to give effect to this Guarantee, the Designated ULB shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the Concessionaire and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.
4. It shall not be necessary, and the Bank hereby waives any necessity, for the Designated ULB to proceed against the Concessionaire before presenting to the Bank its demand under this Guarantee.
5. The Designated ULB shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Agreement or to extend the time or period for the compliance with, fulfilment and/or performance of all or any of the obligations of the Concessionaire contained in the Agreement or to postpone for any time, and from time to time, any of the rights and powers exercisable by the Designated ULB against the Concessionaire, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Agreement and/or the securities available to the Designated ULB, and the Bank shall not be released from its liability and obligation under these presents by any exercise by the Designated ULB of the liberty with reference to the matters aforesaid or by reason of time being given to the Concessionaire or any other forbearance, indulgence, act or omission on the part of the Designated ULB or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.
6. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Designated ULB in respect of or relat-

ing to the Agreement or for the fulfilment, compliance and/or performance of all or any of the obligations of the Concessionaire under the Agreement.

7. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force until the expiry of the term of the Agreement in accordance with the provisions thereof or unless a demand or claim in writing is made by the Designated ULB on the Bank under this Guarantee, no later than 6 (six) months from the date of expiry of this Guarantee, all rights of the Designated ULB under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.
8. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of the Designated ULB in writing, and declares and warrants that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.
9. Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred Branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Designated ULB that the envelope was so posted shall be conclusive.
10. This Guarantee shall come into force with immediate effect and shall remain in force and effect during the term of the Agreement or until it is released earlier by the Designated ULB pursuant to the provisions of the Agreement.

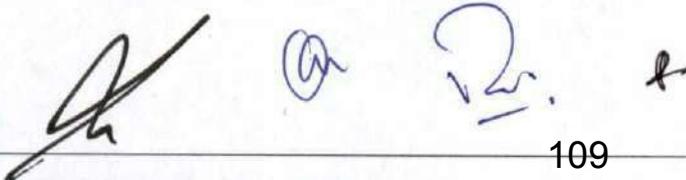
Signed and sealed this ..... day of ....., 20..... at .....

SIGNED, SEALED AND DELIVERED

For and on behalf of  
the BANK by:

(Signature)  
(Name)  
(Designation)  
(Code Number)  
(Address)  
NOTES:

- (i) The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.
- (ii) The address, telephone number and other details of the Head Office of the Bank as well as of issuing Branch should be mentioned on the covering letter of issuing Branch.



**ANNEXURE 6: POWER PURCHASE AGREEMENT**

A stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the bottom.Handwritten initials 'CA' in blue ink, enclosed in a small circle.A handwritten signature in blue ink, appearing to be 'Rij' with a dot above the 'i'.A small handwritten mark in black ink, resembling a stylized 'S' or a similar symbol.

## ANNEXURE 7: SCOPE OF WORK OF PMU

### 1. Role of the PMU

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

- (a) independently review, monitor and where required by the Agreement, to approve activities associated with the design, construction, operation and maintenance of the Project;
- (b) report to the Parties on the various physical, technical and financial aspects of the Project based on inspections, PMU site visits and Tests;
- (c) assist the Parties in arriving at an amicable settlement of disputes, should the need arise; and
- (d) review matters related to safety and environment management measures adopted by the Concessionaire for the Project.

### 2. Structure & Scope of Services

(a) PMU shall be headed by an Independent Expert having the following qualifications:

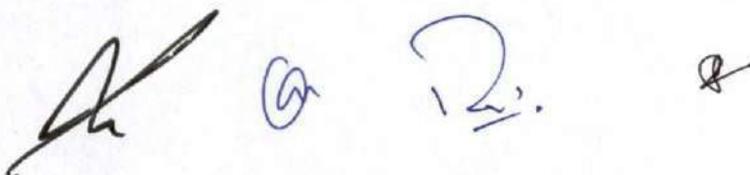
- i. A person having at least 15 years of experience in the Solid Waste management sector from private sector with educational background of Environmental Engineering/ Environmental Sciences/ Public Health/ Civil Engineering
- ii. An officer of the grade of Executive Engineer from government services
- iii. Salary / Wages of such Independent Expert will be borne by Designated ULB.

(b) PMU shall also comprise of nominated members of the Participating ULBs. Such members should be officers of rank of executive officer or above.

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

#### 2.1 Design and Planning

- (a) Ensure that all activities of the Project fully comply with all Applicable Laws and, in particular, MSW Rules governing the requirements of Municipal Solid Waste disposal.
- (b) Review of the Implementation Plan submitted by the Concessionaire :



## 2.2 Construction Inspection and General Services

- 2.2.1 The PMU would monitor, in accordance with Good Industry Practice, the progress in implementation of the Project. For this purpose the PMU shall undertake, inter alia, the following activities and where appropriate make suitable suggestions:
- (a) Ensure compliance by the Concessionaire with the provisions of this Agreement and applicable laws;
  - (b) Act on the Designated ULBs' behalf as the Designated ULBs' representative regarding all contact with the Concessionaire unless expressly indicated otherwise;
  - (c) Review of all Tests
  - (d) Interpret the requirements of the contract and make decisions regarding performance of the Concessionaire. The PMU shall inform and advise Designated ULB, in a timely manner all matters relating to the execution, progress, and completeness of the Project;
  - (e) Reject work which fails to comply with the specifications and requirements of the Agreement. Whenever considered necessary or advisable to ensure correction of defective work, the PMU may require inspection or testing of such work, whether or not such work be then fabricated, installed, or completed;
- 2.2.2 The PMU shall attend regular meetings ("Project Review Meetings" or "PRMs") with the Designated ULB and the Concessionaire, to be held from time to time. The PMU shall take notes at the meetings and provide a copy of the PRM minutes to each person who attended the meeting.
- 2.2.3 The PMU shall approve Fortnightly Progress Reports and bills and invoices raised by the Concessionaire



## ANNEXURE 8: SUBSTITUTION AGREEMENT

THIS SUBSTITUTION AGREEMENT is entered into on this the \*\*\*day of \*\*\*20\*\*.

### AMONGST

1. \_\_\_\_\_ (hereinafter referred to as the "Designated ULB" which expression shall unless repugnant to the context or meaning thereof include its administrators, successors and assigns);
2. [\*\*\*\*\*Limited], a company incorporated under the provisions of the Companies Act, 2013 and having its registered office at \*\*\*\*, (hereinafter referred to as the "Concessionaire" which expression shall unless repugnant to the context or meaning thereof include its successors and permitted assigns and substitutes);
3. \*\*\*\*[NAME AND PARTICULARS OF Lenders' Representative] and having its registered office at \*\*\*\*, acting for and on behalf of the Senior Lenders as their duly authorized agent with regard to matters arising out of or relation to this Agreement (hereinafter referred to as the "Lenders' Representative", which expression shall unless repugnant to the context or meaning thereof include its successors and substitutes);

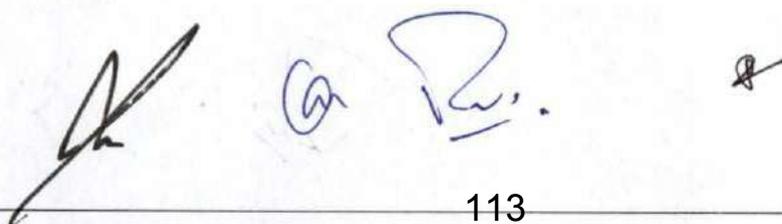
### WHEREAS:

- (A) The Designated ULB has entered into a Concession Agreement dated \*\*\*with the Concessionaire (the "Concession Agreement") on design, build, finance, operate and transfer basis (DBFOT) (hereinafter referred to as the "Project"), and a copy of which is annexed hereto and marked as Annex-A to form part of this Agreement.
- (B) Senior Lenders have agreed to finance the Project in accordance with the terms and conditions set forth in the Financing Agreements.
- (C) Senior Lenders have requested the Designated ULB to enter into this Substitution Agreement for securing their interests through assignment, transfer and substitution of the Concession to a Substitute Entity in accordance with the provisions of this Agreement and the Concession Agreement.
- (D) In order to enable implementation of the Project including its planning, designing, engineering, financing, construction, operation and maintenance, the Designated ULB has agreed and undertaken to transfer and assign the Concession to a Substitute Entity in accordance with the terms and conditions set forth in this Agreement and the Concession Agreement.

NOW IT IS HEREBY AGREED as follows:

## 1 DEFINITIONS AND INTERPRETATION

### 1.1 Definitions



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

**“Agreement”** means this Substitution agreement and any amendment thereto made in accordance with the provisions contained in this Agreement;

**“Financial Default”** means occurrence of a material breach of the terms and conditions of the Financing Agreements or a continuous default in Debt Service by the Concessionaire for a minimum period of 3 (three) months;

**“Lenders’ Representative”** means the person referred to as the Lenders’ Representative in the foregoing Recitals;

**“Nominated Company”** means a company, incorporated under the provisions of the Companies Act, 2013, selected by the Lenders’ Representative, on behalf of Senior Lenders, and proposed to the Designated ULB for assignment/transfer of the Concession as provided in this Agreement;

**“Notice of Financial Default”** shall have the meaning assigned thereto in Clause 3.2.1; and

**“Parties”** Means the parties to this agreement collectively and “Party” shall mean any of the Parties to this Agreement individually.

## **1.2 Interpretation**

1.2.1 References to Lenders' Representative shall, unless repugnant to the context or meaning thereof, mean references to the Lenders' Representative, acting for and on behalf of Senior Lenders.

1.2.2 References to Clauses are, unless stated otherwise, references to Clauses of this Agreement.

1.2.3 The words and expressions beginning with capital letters and defined in this Agreement shall have the meaning ascribed thereto herein, and the words and expressions used in this Agreement and not defined herein but defined in the Concession Agreement shall, unless repugnant to the context, have the meaning assigned thereto in the Concession Agreement.

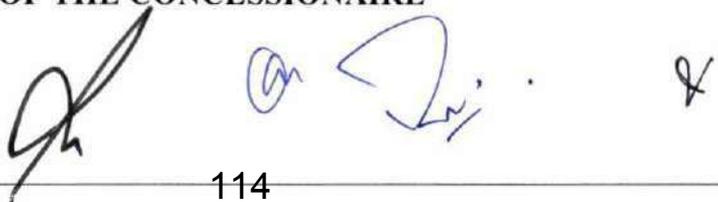
1.2.4 The rules of interpretation stated in Clauses 1.2, 1.3 and 1.4 of the Concession Agreement shall apply, *mutatis mutandis*, to this Agreement.

## **2 ASSIGNMENT**

### **2.1 Assignment of rights and title**

The Concessionaire hereby assigns the rights, title and interest in the Concession to, and in favour of, the Lenders' Representative pursuant to and in accordance with the provisions of this Agreement and the Concession Agreement by way of security in respect of financing by the Senior Lenders under the Financing Agreements.

## **3 SUBSTITUTION OF THE CONCESSIONAIRE**



### **3.1 Rights of substitution**

- 3.1.1 Pursuant to the rights, title and interest assigned under Clause 2.1, the Lenders' Representative shall be entitled to substitute the Concessionaire by a Substitute Entity under and in accordance with the provisions of this Agreement and the Concession Agreement.
- 3.1.2 The Designated ULB hereby agrees to substitute the Concessionaire by endorsement on the Concession Agreement in favour of the Substitute Entity selected by the Lenders' Representative in accordance with this Agreement. (For the avoidance of doubt, the Senior Lenders or the Lenders' Representative shall not be entitled to operate and maintain the Project as Concessionaire either individually or collectively).

### **3.2 Substitution upon occurrence of Financial Default**

- 3.2.1 Upon occurrence of a Financial Default, the Lenders' Representative may issue a notice to the Concessionaire (the "**Notice of Financial Default**") along with particulars thereof, and send a copy to the Designated ULB for its information and record. A Notice of Financial Default under this Clause 3 shall be conclusive evidence of such Financial Default and it shall be final and binding upon the Concessionaire for the purposes of this Agreement.
- 3.2.2 Upon issue of a Notice of Financial Default hereunder, the Lenders' Representative may, without prejudice to any of its rights or remedies under this Agreement or the Financing Agreements, substitute the Concessionaire by a Substitute Entity in accordance with the provisions of this Agreement.
- 3.2.3 At any time after the Lenders' Representative has issued a Notice of Financial Default, it may by notice require the Designated ULB to suspend all the rights of the Concessionaire and undertake the operation and maintenance of the Project in accordance with the provisions of the Concession Agreement, and upon receipt of such notice, the Designated ULB shall undertake Suspension under and in accordance with the provisions of the Concession Agreement. The aforesaid Suspension shall be revoked upon substitution of the Concessionaire by a Substitute Entity, and in the event such substitution is not completed within 180 (one hundred and eighty) days from the date of such Suspension, the Designated ULB may terminate the Concession Agreement forthwith by issuing a Termination Notice in accordance with the provisions of the Concession Agreement; provided that upon written request from the Lenders' Representative and the Concessionaire, the Designated ULB may extend the aforesaid period of 180 (one hundred and eighty) days by a period not exceeding 90 (ninety) days.

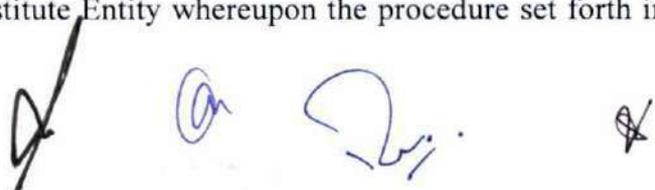
### **3.3 Substitution upon occurrence of Concessionaire Default**

- 3.3.1 Upon occurrence of a Concessionaire Default, the Designated ULB shall by a notice inform the Lenders' Representative of its intention to issue a Termination Notice and grant 15 (fifteen) days time to the Lenders' Representative to make a representation, stating the intention to substitute the Concessionaire by a Substitute Entity.
- 3.3.2 In the event that the Lenders' Representative makes a representation to the Designated ULB within the period of 15 (fifteen) days specified in Clause 3.3.1, stating

that it intends to substitute the Concessionaire by a Substitute Entity, the Lenders' Representative shall be entitled to undertake and complete the substitution of the Concessionaire by a Substitute Entity in accordance with the provisions of this Agreement within a period of 180 (one hundred and eighty) days from the date of such representation, and the Designated ULB shall either withhold Termination or undertake Suspension for the aforesaid period of 180 (one hundred and eighty) days; provided that upon written request from the Lenders' Representative and the Concessionaire, the Designated ULB shall extend the aforesaid period of 180 (one hundred and eighty) days by a period not exceeding 90 (ninety) days.

### **3.4 Procedure for substitution**

- 3.4.1 The Designated ULB and the Concessionaire hereby agree that on or after the date of Notice of Financial Default or the date of representation to the Designated ULB under Clause 3.3.2, as the case may be, the Lenders' Representative may, without prejudice to any of the other rights or remedies of the Senior Lenders, invite, negotiate and procure offers, either by private negotiations or public auction or tenders for the take over and transfer of the Project including the Concession to the Substitute Entity upon such Substitute Entity's assumption of the liabilities and obligations of the Concessionaire towards the Designated ULB under the Concession Agreement and towards the Senior Lenders under the Financing Agreements.
- 3.4.2 To be eligible for substitution in place of the Concessionaire, the Substitute Entity shall be required to fulfill the eligibility criteria that were laid down by the Designated ULB for short listing the bidders for award of the Concession; provided that the Lenders' Representative may represent to the Designated ULB that all or any of such criteria may be waived in the interest of the Project, and if the Designated ULB determines that such waiver shall not have any material adverse effect on the Project, it may waive all or any of such eligibility criteria.
- 3.4.3 Upon selection of a Substitute Entity, the Lenders' Representative shall request the Designated ULB to:
- (a) accede to transfer to the Substitute Entity the right to construct, operate and maintain the Project in accordance with the provisions of the Concession Agreement;
  - (b) endorse and transfer the Concession to the Substitute Entity, on the same terms and conditions, for the residual Concession Period; and
  - (c) enter into a Substitution Agreement with the Lenders' Representative and the Substitute Entity on the same terms as are contained in this Agreement.
- 3.4.4 If the Designated ULB has any objection to the transfer of Concession in favour of the Substitute Entity in accordance with this Agreement, it shall within 15 (fifteen) days from the date of proposal made by the Lenders' Representative, give a reasoned order after hearing the Lenders' Representative. If no such objection is raised by the Designated ULB, the Substitute Entity shall be deemed to have been accepted. The Designated ULB thereupon shall transfer and endorse the Concession within 7 (seven) days of its acceptance/deemed acceptance of the Substitute Entity; provided that in the event of such objection by the Designated ULB, the Lenders' Representative may propose another Substitute Entity whereupon the procedure set forth in this Clause 3.4



shall be followed for substitution of such Substitute Entity in place of the Concessionaire.

### **3.5 Selection to be binding**

The decision of the Lenders' Representative and the Designated ULB in selection of the Substitute Entity shall be final and binding on the Concessionaire. The Concessionaire irrevocably agrees and waives any right to challenge the actions of the Lenders' Representative or the Senior Lenders or the Designated ULB taken pursuant to this Agreement including the transfer/assignment of the Concession in favor of the Substitute Entity. The Concessionaire agrees and confirms that it shall not have any right to seek revaluation of assets of the Project or the Concessionaire's shares. It is hereby acknowledged by the Parties that the rights of the Lenders' Representative are irrevocable and shall not be contested in any proceedings before any court or Designated ULB and the Concessionaire shall have no right or remedy to prevent, obstruct or restrain the Designated ULB or the Lenders' Representative from effecting or causing the transfer by substitution and endorsement of the Concession as requested by the Lenders' Representative.

## **4 PROJECT AGREEMENTS**

### **4.1 Substitution of Substitute Entity in Project Agreements**

The Concessionaire shall ensure and procure that each Project Agreement contains provisions that entitle the Substitute Entity to step into such Project Agreement, in its discretion, in place and substitution of the Concessionaire in the event of such Substitute Entity's assumption of the liabilities and obligations of the Concessionaire under the Concession Agreement.

## **5 TERMINATION OF CONCESSION AGREEMENT**

### **5.1 Termination upon occurrence of Financial Default**

At any time after issue of a Notice of Financial Default, the Lenders' Representative may by a notice in writing require the Designated ULB to terminate the Concession Agreement forthwith, and upon receipt of such notice, the Designated ULB shall undertake Termination under and in accordance with the provisions of Article 12 of the Concession Agreement.

### **5.2 Termination when no Substitute Entity is selected**

In the event that no Substitute Entity acceptable to the Designated ULB is selected and recommended by the Lenders' Representative within the period of 180 (one hundred and eighty) days or any extension thereof as set forth in Clause 3.3.2, the Designated ULB may terminate the Concession Agreement forthwith in accordance with the provisions thereof.

### **5.3 Realisation of Debt Due**



The Designated ULB and the Concessionaire hereby acknowledge and agree that, without prejudice to their any other right or remedy, the Lenders' Representative is entitled to receive from the Concessionaire, without any further reference to or consent of the Concessionaire, the Debt Due upon Termination of the Concession Agreement.

## **6 DURATION OF THE AGREEMENT**

### **6.1 Duration of the Agreement**

This Agreement shall come into force from the date hereof and shall expire at the earliest to occur of the following events:

- (a) Termination of the Agreement; or
- (b) no sum remains to be advanced, or is outstanding to the Senior Lenders, under the Financing Agreements.

## **7 INDEMNITY**

### **7.1 General indemnity**

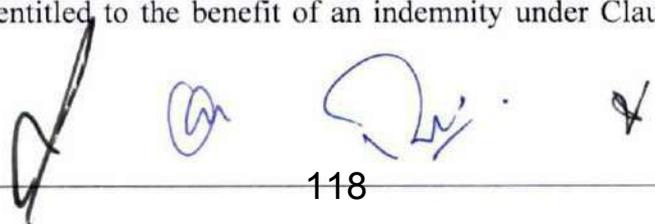
7.1.1 The Concessionaire will indemnify, defend and hold the Designated ULB and the Lenders' Representative harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense of whatever kind and nature arising out of any breach by the Concessionaire of any of its obligations under this Agreement or on account of failure of the Concessionaire to comply with Applicable Laws and Applicable Permits.

7.1.2 The Designated ULB will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Designated ULB to fulfil any of its obligations under this Agreement, materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement or this Agreement, other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Designated ULB, its officers, servants and agents.

7.1.3 The Lenders' Representative will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Lenders' Representative to fulfil its obligations under this Agreement, materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement, other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Lenders' Representative, its officers, servants and agents.

### **7.2 Notice and contest of claims**

In the event that any Party hereto receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under Clause 7.1 or in respect of



which it is entitled to reimbursement (the "**Indemnified Party**"), it shall notify the other Party responsible for indemnifying such claim hereunder (the "**Indemnifying Party**") within 15 (fifteen) days of receipt of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, such approval not to be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim, it may conduct the proceedings in the name of the Indemnified Party and shall bear all costs involved in contesting the same. The Indemnified Party shall provide all cooperation and assistance in contesting any claim and shall sign all such writings and documents as the Indemnifying Party may reasonably require.

## **8 DISPUTE RESOLUTION**

### **8.1 Dispute resolution**

Any dispute, difference or claim arising out of or in connection with this Agreement, which is not resolved amicably, shall be decided finally by reference to arbitration to a Board of Arbitrators comprising one nominee each of the Authority, Concessionaire and the Lenders' Representative. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the "Rules") or such other rules as may be mutually agreed by the Parties, and shall be subject to provisions of the Arbitration and Conciliation Act, 1996.

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

## **9 MISCELLANEOUS PROVISIONS**

### **9.1 Governing law and jurisdiction**

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

### **9.2 Waiver of sovereign immunity**

The Designated ULB unconditionally and irrevocably:

- (a) agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;
- (b) agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Designated ULB with respect to its assets;

- (c) waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and
- (d) consents generally in respect of the enforcement of any judgement or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgement that may be made or given in connection therewith).

### **9.3 Priority of agreements**

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

### **9.4 Alteration of terms**

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

### **9.5 Waiver**

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

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

9.5.2 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 thereunder nor time or other indulgence granted by a Party to another Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

### **9.6 No third party beneficiaries**

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

### **9.7 Survival**

9.7.1 Termination of this Agreement:

- (a) shall not relieve the Parties of any obligations hereunder which expressly or by implication survive termination hereof; and

(b)except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such termination or arising out of such termination.

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

## 9.8 Severability

If for any reason whatever any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to dispute resolution under Clause 8 of this Agreement or otherwise.

## 9.9 Successors and assigns

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

## 9.10 Notices

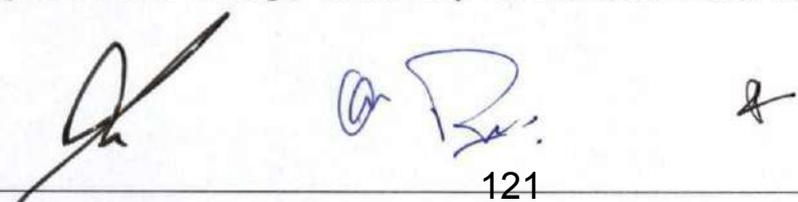
All notices or other communications to be given or made under this Agreement shall be in writing, shall either be delivered personally or sent by courier or registered post with an additional copy to be sent by facsimile. The address for service of each Party and its facsimile number are set out under its name on the signing pages hereto. A notice shall be effective upon actual receipt thereof, save that where it is received after 5.00 (five) p.m. on any day, or on a day that is a public holiday, the notice shall be deemed to be received on the first working day following the date of actual receipt. It is hereby agreed and acknowledged that any Party may by notice change the address to which such notices and communications to it are to be delivered or mailed. Such change shall be effective when all the Parties have notice of it.

## 9.11 Language

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

## 9.12 Authorised representatives

Each of the Parties shall by notice in writing designate their respective authorised representatives through whom only all communications shall be made. A Party



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

**9.13 Original Document**

This Agreement may be executed in three counterparts, each of which where-executed and delivered shall constitute an original of this Agreement.

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

SIGNED, SEALED AND DELIVERED

SIGNED, SEALED AND DELIVERED

For and on behalf of  
CONCESSIONAIRE by:

For and on behalf of  
DESIGNATED ULB OF [\*\*\*] by:

(Signature)

(Name)

(Designation)

(Address)

(Fax No.)

(Signature)

(Name)

(Designation)

(Address)

(Fax No.)

SIGNED, SEALED AND DELIVERED

For and on behalf of  
SENIOR LENDERS by the Lenders' Representative:

(Signature)

(Name)

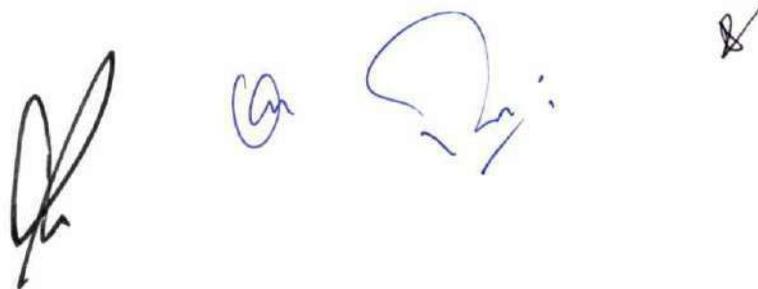
(Designation)

(Address)

(Fax)

In the presence of:

- 1.
- 2.



## ANNEXURE 9: USER CHARGES

### HARYANA GOVERNMENT URBAN LOCAL BODIES DEPARTMENT

#### Notification

Dated the 24. 10. 2011

No.14/153/2011-4C 1:-In the State Government acting upon the powers conferred under provisions of the Haryana Municipal Act, 1973 and Haryana Municipal Corporation Act, 1994, hereby notify the user charges for solid waste management in Urban areas of Haryana as under with immediate effect:-

Monthly user Charges for Door to Door Solid Waste Collection		
Sr. No.	Property Description	Rs.Per Month
<b><u>RESIDENTIAL</u></b>		
1.	Bpl Houses, Notified Slums, Malin Bastis & EWS flats	5*
2.	Residential Houses including hostels upto 100 Sq. mtrs. (plot area)	20
3.	Residential Houses including hostels upto 100 Sq. mtrs but upto 200 Sq. mtrs (plot area)	40
4.	Residential Houses including hostels more than 200 Sq. mtrs but upto 400 Sq. mtrs (plot area)	50
5.	Residential Houses including hostels more than 400 Sq. mtrs (plot area)	100
6.	Apartments, flats having covered area upto 2000 Sq. ft. except EWS flats	50 Per flat
7.	Apartments, flats having covered area more than 2000 Sq. ft.	100 Per flat
<b><u>COMMERCIAL</u></b>		
8.	Individual Shops and private offices upto 200 Sq. feet covered area including service stations, restaurants, dhabas, fishery shops, Shops in grain market and vegetable market ect.	25
9.	Individual Shops and private offices more than 200 Sq. feet covered area including service stations, restaurants, dhabas, fishery shops, Shops in grain market and vegetable market ect.	100
10.	Nursing Homes, Clinics/Hospitals/Aushdhalays without indoor facilities, Hospitals upto 50 beds	1500
11.	Hospitals more than 50 beds but upto 100 beds	3000
12.	Hospitals more than 100 beds	5000
13.	Shopping Complexes including Malls, Cinema Halls and notified Slaughter houses	Rs.0.50 per Sq. ft of Covered area
14.	Factories, Mills	Rs.0.50 per Sq. mtr of Plot area
15.	Banks, Auditoriums, Guest Houses, Hotels(upto 10 rooms)	500
16.	Marriage Halls, Banquet Halls, Hotels (above 10 rooms), Commercial Party Lawns	4000
17.	Clubs with restaurants facilities having membership upto 500 nos.	500
18.	Clubs with restaurants facilities having membership more than 500 nos.	1000

19.	Petrol Pumps, Gas Stations.	1000
<b>INSTITUTIONAL</b>		
20.	Central and State Govt. and Public Sector Offices/ Complexes, Welfare Organizations/Societies.	150
21.	All educational institutes of any type having plot area upto 2 acres	500
22.	All educational institutes of any type having plot area more than 2 acres but upto 5 acres	1000
23.	All educational institutes of any type having plot area more than 5 acres	2000
24.	All dharamshalas, religious places, sports clubs	These are exempted

In addition to above, the other rates shall be as under:-

2. Removal of Maiba of Construction material during new construction/repair/renovation Rs. 300/-per trolley.

\*NOTE:- In case of units mentioned under Sr. No. 1, the Committees/Council/Corporation will deposit this amount for these sections of society in user charges fund and will not collect from the owners of these houses.

**Other Terms and Conditions:**

1. The user charges suggested above are only indicative and concerned Municipal Authorities may levy the user charges at its own within the provision of the Haryana Municipal Act, 1973 and Haryana Municipal Corporation Act, 1994 and revise the same periodically.
2. The users, who opt to pay user charges in advance for a period of at least one year, will be eligible for a discount of 10%.
3. The non payment of user fee will be recovered within various provisions for the recovery of fee contained in Haryana Municipal Act, 1973 and Haryana Municipal Corporation Act, 1994 as the case may be.
4. The Municipal Authorities may levy and collect the user charges at its own or may authorize any private party engaged to handle solid waste and its processing through open tenders for this purpose. The Commissioner, Municipal Corporations/Executive Officers, Municipal Councils, Secretary, Municipal Committees are authorized to issue such instructions.
5. The users will have to deliver the solid waste at designated places fixed by the Municipality and in the manner as guided by Municipalities.
6. The solid waste under this notification will only include domestic solid waste and will not include any hazardous solid waste or medical hazardous waste or industrial

3.

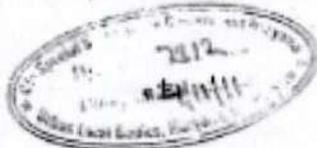
Waste as defined under Environment (Protection) Act, 1986 as amended from time to time

7. In case of any dispute, the appeals shall be heard and disposed off by the appellant authority as per the provisions of the Haryana Municipal Act, 1973 and Haryana Municipal Corporation Act, 1994.

S.S.DHILLON  
Financial Commissioner & Principal Secretary to  
Govt. Haryana, Urban Local Bodies Deptt.

Endst. No.14/153/2011-4C-I Dated 24-10-2011

A copy is forwarded to the Controller, Printing and Stationery Department Haryana, Chandigarh with the request that above notification (both Hindi & English) may please be published in the Haryana Govt. Gazette (Extra Ordinary). He is requested to supply 100 copies of the said notification to this office for record.



*[Signature]*  
Under Secretary  
for Financial Commissioner & Principal Secretary to  
Govt. Haryana, Urban Local Bodies Deptt.

Endst. No.14/153/2011-4C-I Dated 24-10-2011

A copy is forwarded to following for information & necessary action:-

- 1) Director, Urban Local Bodies, Haryana Chandigarh.
- 2) All the Divisional Commissioners in the State.
- 3) All the Deputy Commissioners in the State.
- 4) The Commissioners, Municipal Corporation, Faridabad, Gurgaon, Rohtak, Hisar, Panipat, Karnal, Ambala, Yamuna Nagar and Panchkula.
- 5) Executive Officers/Secretaries, Municipal Councils/Committees in the State.

*[Signature]*  
Under Secretary  
for Financial Commissioner & Principal Secretary to  
Govt. Haryana, Urban Local Bodies Deptt.

2-11-2011  
C/Ex  
24/10/11  
7A/2  
SII  
RKA

*[Handwritten signatures and initials]*

**ANNEXURE 10: ESCROW AGREEMENT**

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

**AMONGST**

- 1 ..... **LIMITED**, a company incorporated under the provisions of the Companies Act, 2013 and having its registered office at ..... (hereinafter referred to as the “**Concessionaire**” which expression shall, unless repugnant to the context or meaning thereof, include its successors, permitted assigns and substitutes);
- 2 ..... (insert name and particulars of Lenders’ Representative) and having its registered office at ..... acting for and on behalf of the Senior Lenders as their duly authorised agent with regard to matters arising out of or in relation to this Agreement (hereinafter referred to as the “**Lenders’ Representative**” which expression shall, unless repugnant to the context or meaning thereof, include its successors and substitutes);
- 3 ..... (insert name and particulars of the Escrow Bank) and having its registered office at ..... (hereinafter referred to as the “**Escrow Bank**” which expression shall, unless repugnant to the context or meaning thereof, include its successors and substitutes); and
- 4. \_\_\_\_\_ (hereinafter referred to as the “**Designated ULB**” which expression shall unless repugnant to the context or meaning thereof include its administrators, successors and assigns);

**WHEREAS:**

- (A) The Department and Designated ULB have entered into a Concession Agreement dated ..... with the Concessionaire (the “**Concession Agreement**”) for undertaking the ..... Project on design, build, finance, operate and transfer (the “**DBFOT**”) basis, and a copy of which is annexed hereto and marked as Annex-A to form part of this Agreement Senior Lenders have agreed to finance the Project in accordance with the terms and conditions set forth in the Financing Agreements.
- (B) The Concession Agreement requires the Concessionaire to establish an Escrow Account, inter alia, on the terms and conditions stated therein.

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

**1 DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**



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

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

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

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

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

**“Escrow Default”** shall have the meaning ascribed thereto in Article 6.1;

**“Lenders’ Representative”** means the person referred to as the Lenders’ Representative in the foregoing Recitals;

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

**“Payment Date”** means, in relation to any payment specified in Article 4.1, the date(s) specified for such payment; and

**“Sub-Accounts”** means the respective sub-accounts of the Escrow Account, into which the monies specified in Article 4.1 would be credited every month and paid out if due, and if not due in a month then appropriated proportionately in such month and retained in the respective sub-accounts and paid out therefrom on the Payment Date(s).

## 1.2 Interpretation

1.2.1 References to Lenders’ Representative shall, unless repugnant to the context or meaning thereof, mean references to the Lenders’ Representative, acting for and on behalf of Senior Lenders.

1.2.2 The words and expressions beginning with capital letters and defined in this Agreement shall have the meaning ascribed thereto herein, and the words and expressions used in this Agreement and not defined herein but defined in the Concession Agreement shall, unless repugnant to the context, have the meaning ascribed thereto in the Concession Agreement.

1.2.3 References to Articles are, unless stated otherwise, references to Articles of this Agreement.



1.2.4 The rules of interpretation stated in Articles 1.2, 1.3 and 1.4 of the Concession Agreement shall apply, mutatis mutandis, to this Agreement.

## **2 ESCROW ACCOUNT**

### **2.1 Escrow Bank to act as trustee**

2.1.1 The Concessionaire hereby appoints the Escrow Bank to act as trustee for the Department, Designated ULB, the Lenders' Representative and the Concessionaire in connection herewith and authorises the Escrow Bank to exercise such rights, powers, authorities and discretion as are specifically delegated to the Escrow Bank by the terms hereof together with all such rights, powers, authorities and discretion as are reasonably incidental hereto, and the Escrow Bank accepts such appointment pursuant to the terms hereof.

2.1.2 The Concessionaire hereby declares that all rights, title and interest in and to the Escrow Account shall be vested in the Escrow Bank and held in trust for the Department, Designated ULB, the Lenders' Representative and the Concessionaire, and applied in accordance with the terms of this Agreement. No person other than the Department, Designated ULB, the Lenders' Representative and the Concessionaire shall have any rights hereunder as the beneficiaries of, or as third party beneficiaries under this Agreement.

### **2.2 Acceptance of Escrow Bank**

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

### **2.3 Establishment and operation of Escrow Account**

2.3.1 Within 30 (thirty) days from the date of this Agreement, and in any case prior to the Appointed Date, the Concessionaire shall open and establish the Escrow Account with the ..... (name of Branch) Branch of the Escrow Bank. The Escrow Account shall be denominated in Rupees.

2.3.2 The Escrow Bank shall maintain the Escrow Account in accordance with the terms of this Agreement and its usual practices and applicable regulations, and pay the maximum rate of interest payable to similar customers on the balance in the said account from time to time.

2.3.3 The Escrow Bank and the Concessionaire shall, after consultation with the Lenders' Representative, agree on the detailed mandates, terms and conditions, and operating procedures for the Escrow Account, but in the event of any conflict or inconsistency between this Agreement and such mandates, terms and conditions, or procedures, this Agreement shall prevail.

## 2.4 Escrow Bank's fee

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

## 2.5 Rights of the Parties

Save and except as otherwise provided in the Concession Agreement, the rights of the Designated ULB, Department, the Lenders' Representative and the Concessionaire in the monies held in the Escrow Account are set forth in their entirety in this Agreement and the Designated ULB, Department, the Lenders' Representative and the Concessionaire shall have no other rights against or to the monies in the Escrow Account.

## 2.6 Substitution of the Concessionaire

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

## 3 DEPOSITS INTO ESCROW ACCOUNT

### 3.1 Deposits by the Concessionaire

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

- a) all funds constituting equity and the debt disbursed by Senior Lenders in terms of the Financing Agreements;
- b) all revenues from or in respect of the Project including tariff received under Power Purchase Agreement, the OBI and Additional Amount received from Designated ULB as per Article 9.3 of Concession Agreement, and proceeds of insurance claims;
- c) all payments made by the Designated ULB on account of the SBM Grant and Tipping Fee; and
- d) User Charges recovered from Waste Generators.

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

### 3.2 Deposits by the Designated ULB



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

- (a) SBM Grant, Payments (under Article 9 of Concession Agreement) and other monies disbursed by the Designated ULB to the Concessionaire; and
- (b) Termination Payments:

The Designated ULB shall at all times and in any month of the Concession, ensure that in the Reserve Sub-Account (“**Reserve Fund**”) under the Escrow Account, an amount equivalent to immediately next two months fee (OBI + Tipping Fee) payable to Concessionaire in accordance with terms hereof, is deposited and maintained. The Parties agree that so long as the Concessionaire performs its obligations hereunder and Designated ULB does not notify the Escrow Bank in respect of any non-performance or breach of obligation by Concessionaire directing Escrow bank to stop any appropriation from Reserve Fund; in case of any delay by Designated ULB in payment of due and undisputed amount to Concessionaire subject to and in accordance with terms hereof; the Concessionaire shall be entitled to tap the Reserve Fund to withdraw the amount due, which would be deposited and applied as per the application order agreed herein. In case of such tapping, the Designated ULB shall forthwith top up and maintain the required reserve in the Reserve Fund.

### **3.3 Deposits by Senior Lenders**

The Lenders’ Representative agrees, confirms and undertakes that the Senior Lenders shall deposit into and/or credit the Escrow Account with all disbursements made by them in relation to or in respect of the Project;

### **3.4 Interest on deposits**

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

## **4 WITHDRAWALS FROM ESCROW ACCOUNT**

### **4.1 Withdrawals during Concession Period**

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

- (a) all taxes due and payable by the Concessionaire for and in respect of the Project;



- (b) all payments relating to construction of the Project, subject to and in accordance with the conditions, if any, set forth in the Financing Agreements;
- (c) operation and maintenance expenses, subject to the ceiling, if any, set forth in the Financing Agreements;
- (d) operation and maintenance expenses and other costs and expenses incurred by the Designated ULB in accordance with the provisions of this Agreement, and certified by the Designated ULB as due and payable to it;
- (e) All payments and Damages certified by the Designated ULB as due and payable to it by the Concessionaire;
- (g) monthly proportionate provision of Debt Service due in an Accounting Year;
- (j) any reserve requirements set forth in the Financing Agreements; and
- (k) balance, if any, in accordance with the instructions of the Concessionaire.

The Concessionaire shall not in any manner modify the order of payment specified in Article 4.1.1, except with the prior written approval of the Designated ULB.

4.1.2 No later than 60 (sixty) days prior to the commencement of each Accounting Year, the Concessionaire shall provide to the Escrow Bank, with prior written approval of the Lenders' Representative, details of the amounts likely to be required for each of the payment obligations set forth in this Article 4.1; provided that such amounts may be subsequently modified, with prior written approval of the Lenders' Representative, if fresh information received during the course of the year makes such modification necessary.

#### **4.2 Withdrawals upon Termination**

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

- (a) all taxes due and payable by the Concessionaire for and in respect of the Project;
- (b) 90% (ninety per cent) of Debt Due;
- (c) all payments and Damages certified by the Designated ULB as due and payable to it by the Concessionaire;
- (d) retention and payments relating to the liability for defects and deficiencies;
- (e) operation and maintenance expenses
- (f) balance, if any, in accordance with the instructions of the Concessionaire:

Handwritten signatures and initials in blue ink, including a large signature on the left and several smaller initials or marks to the right.

Provided that no appropriations shall be made under Sub-Article (j) of this Article 4.2 until a vesting certificate has been issued by the Designated ULB.

#### **4.3 Application of insufficient funds**

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

#### **4.4 Application of insurance proceeds**

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

#### **4.5 Withdrawals during Suspension**

Notwithstanding anything to the contrary contained in this Agreement, the Designated ULB may exercise all or any of the rights of the Concessionaire during the period of Suspension under Article 11A of the Concession Agreement. Any instructions given by the Designated ULB to the Escrow Bank during such period shall be complied with as if such instructions were given by the Concessionaire under this Agreement and all actions of the Designated ULB hereunder shall be deemed to have been taken for and on behalf of the Concessionaire.

### **5 OBLIGATIONS OF THE ESCROW BANK**

#### **5.1 Segregation of funds**

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

#### **5.2 Notification of balances**

7 (seven) business days prior to each Payment Date (and for this purpose the Escrow Bank shall be entitled to rely on an affirmation by the Concessionaire and/or the Lenders' Representative as to the relevant Payment Dates), the Escrow Bank shall notify the Lenders' Representative of the balances in the Escrow Account and Sub-Accounts as at the close of business on the immediately preceding business day.

#### **5.3 Communications and notices**

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



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

#### **5.4 No set off**

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

#### **5.5 Regulatory approvals**

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

### **6 ESCROW DEFAULT**

#### **6.1 Escrow Default**

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

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



Sub-Account in which such transfer should have been made, within a Cure Period of 5 (five) business days; or

- (c) the Concessionaire commits or causes any other breach of the provisions of this Agreement and fails to cure the same within a Cure Period of 5 (five) business days.

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

## **7 TERMINATION OF ESCROW AGREEMENT**

### **7.1 Duration of the Escrow Agreement**

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

### **7.2 Substitution of Escrow Bank**

The Concessionaire may, by not less than 45 (forty five) days prior notice to the Escrow Bank, the Designated ULB, Department and the Lenders' Representative, terminate this Agreement and appoint a new Escrow Bank, provided that the new Escrow Bank is acceptable to the Lenders' Representative and arrangements are made satisfactory to the Lenders' Representative for transfer of amounts deposited in the Escrow Account to a new Escrow Account established with the successor Escrow Bank. The termination of this Agreement shall take effect only upon coming into force of an Escrow Agreement with the substitute Escrow Bank.

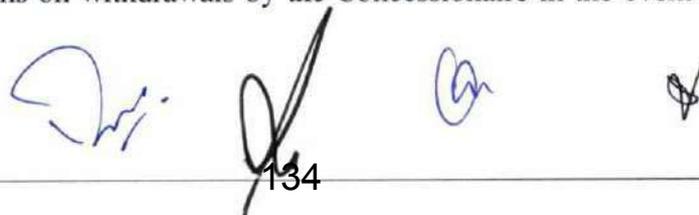
### **7.3 Closure of Escrow Account**

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

## **8 SUPPLEMENTARY ESCROW AGREEMENT**

### **8.1 Supplementary escrow agreement**

The Lenders' Representative and the Concessionaire shall be entitled to enter into a supplementary escrow agreement with the Escrow Bank providing, inter alia, for detailed procedures and documentation for withdrawals from Sub-Accounts pursuant to Article 4.1.1 and for matters not covered under this Agreement such as the rights and obligations of Senior Lenders and lenders of Subordinated Debt, investment of surplus funds, restrictions on withdrawals by the Concessionaire in the event of breach of this



Agreement or upon occurrence of an Escrow Default, procedures relating to operation of the Escrow Account and withdrawal therefrom, reporting requirements and any matters incidental thereto; provided that such supplementary escrow agreement shall not contain any provision which is inconsistent with this Agreement and in the event of any conflict or inconsistency between provisions of this Agreement and such supplementary escrow agreement, the provisions of this Agreement shall prevail.

## 9 INDEMNITY

### 9.1 General indemnity

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

9.1.3 The Escrow Bank will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Escrow Bank to fulfil its obligations under this Agreement materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Escrow Bank, its officers, servants and agents.

### 9.2 Notice and contest of claims

In the event that any Party hereto receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under Article 9.1 or in respect of which it is entitled to reimbursement (the "**Indemnified Party**"), it shall notify the other Party responsible for indemnifying such claim hereunder (the "**Indemnifying Party**") within 15 (fifteen) days of receipt of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim, it may conduct the proceedings in the name of the Indemnified Party and shall bear all costs involved in contesting the same. The Indemnified Party shall provide all cooperation and assistance in contesting any claim and shall sign all such writings and documents as the Indemnifying Party may reasonably require.

## 10 DISPUTE RESOLUTION

### 10.1 Dispute resolution

10.1.1 Any dispute, difference or claim arising out of or in connection with this Agreement, which is not resolved amicably, shall be finally decided by reference to arbitration to a Board of Arbitrators comprising one nominee of each Party to the dispute, and where the number of such nominees is an even number, the nominees shall elect another person to such Board. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the

“Rules”), or such other rules as may be mutually agreed by the Parties, and shall be subject to the provisions of the Arbitration Act.

10.1.2 The Arbitrators shall issue a reasoned award and such award shall be final and binding on the Parties. The place of arbitration shall be Panchkula, Haryana and the language of arbitration shall be English.

## **11 MISCELLANEOUS PROVISIONS**

### **11.1 Governing law and jurisdiction**

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

### **11.2 Waiver of sovereign immunity**

The Designated ULB unconditionally and irrevocably:

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

### **11.3 Priority of agreements**

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

### **11.4 Alteration of terms**

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

### **11.5 Waiver**



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

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

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

### 11.6 No third party beneficiaries

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

### 11.7 Survival

11.7.1 Termination of this Agreement:

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

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

### 11.8 Severability

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



**11.9 Successors and assigns**

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

**11.10 Notices**

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

**11.11 Language**

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

**11.12 Authorised representatives**

Each of the Parties shall, by notice in writing, designate their respective authorised representatives through whom only all communications shall be made. A Party hereto shall be entitled to remove and/or substitute or make fresh appointment of such authorised representative by similar notice.

**11.13 Original Document**

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

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

THE COMMON SEAL OF CONCESSIONAIRE has been affixed pursuant to the resolution passed by the Board of Directors of the Concessionaire at its meeting held on the ..... day of 20..... hereunto affixed in the presence of ....., Director, who has signed these presents in token thereof and ....., Company Secretary / Authorised Officer who has countersigned the same in token thereof<sup>4</sup>:

<sup>4</sup> To be affixed in accordance with the articles of association of the Concessionaire and the resolution passed by its Board of Directors.



SIGNED, SEALED AND DELIVERED

For and on behalf of ESCROW BANK by:

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

SIGNED, SEALED AND DELIVERED

For and on behalf of DESIGNATED ULBby:

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

In the presence of:

1.

2.

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

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

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

SIGNED, SEALED AND DELIVERED

For and on behalf of SENIOR LENDERS by the Lenders' Representative:

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

## ANNEXURE 11: LAND LEASE AGREEMENT

### Project Site(s) Lease Deed for Transfer Stations, Processing & Disposal

This LEASE AGREEMENT made on the \_\_\_\_\_ day of \_\_\_\_\_ in the year Two Thousand and \_\_\_\_\_

#### BETWEEN

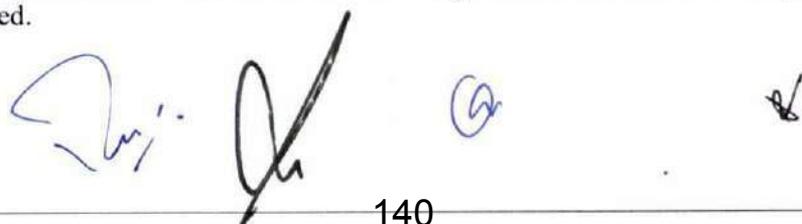
Municipal Corporation Gurugram, a statutory body constituted under the Haryana Municipal Act \_\_\_\_\_, of year \_\_\_\_\_, and having its office at \_\_\_\_\_, (hereinafter referred to as "the Lessor" which expression shall unless repugnant to the context thereof, include its successors & assigns)

#### AND

M/s \_\_\_\_\_, a special purpose vehicle incorporated under the provisions of Companies Act, 2013 or \_\_\_\_\_ Concessionaire, and having its registered office at \_\_\_\_\_ (hereinafter referred to as "Lessee" which expression shall unless it be repugnant to the subject or context be deemed to include its successors and permitted assigns).

#### WHEREAS

- A. The Municipal Corporations of Gurugram and Faridabad are desirous of improving its municipal solid waste (MSW) management and disposal capabilities in order to enable the due discharge of their functions under the Solid Waste Management Rules, 2016 and its amendments framed by the Government of India under the Environment (Protection) Act, 1986 (Act 29 of 1986) and including any statutory amendments / modifications thereto or re-enactments thereof, for the time being in force from time to time] and for that purpose has proposed to develop an Integrated MSW Management Project for the Faridabad-Gurugram Cluster. To carry out MSW Management activities in the Faridabad-Gurugram Cluster and to develop Transfer Station, Processing and Disposal Facilities as a part of Integrated MSW Management project for the Faridabad-Gurugram Cluster by the Lessee, Municipal Corporation of Gurugram (Concessions Authority) has entered into a Concession Agreement dated \_\_\_\_\_, ("Concessionaire"), under which it has authorized the Concessionaire to implement the Project.
- B. The Municipal Corporation of Gurugram in order to enable the due implementation of the Project for the Faridabad-Gurugram Cluster and to discharge its obligations under the Concession Agreement signed with the Municipal Corporations of Gurugram and Faridabad, is hereby providing the Lessee (the Concessionaire under the Concession Agreement), by way of the present Lease Agreement ("this Agreement"), the earmarked premises (more particularly delineated in Schedule A hereto and shown in the Site map attached thereto) to setup Transfer Station (Collection & Transportation), Processing and Disposal Facilities for the purposes of implementing the ISWM Project for Faridabad-Gurugram Cluster and constructing, operating and maintaining the Project site(s) as a part of the Project on the earmarked premises, on the terms and conditions and subject to the covenants and stipulations hereinafter contained.

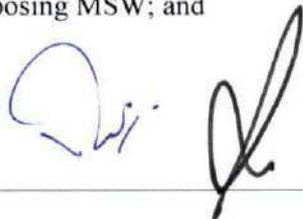


**NOW THIS INDENTURE OF LEASE WITNESSETH AS FOLLOWS:**

1. The Lessor hereby leases the earmarked premises to the Lessee for a period commencing from the date of execution of this Lease Agreement and co-terminus with Concession Period ("**Term**"). This Agreement is to be read, for any interpretation, together with the provisions of the Concession Agreement.
2. The terms that are used but not defined herein shall have the same meaning as given to them in the Concession Agreement.
3. In consideration of the Lessee undertaking to implement the Project in accordance with the provisions of the Concession Agreement and undertaking to pay the lease payment stipulated in Clause 4 below; the Lessor hereby demises to the Lessee, all the land (together with any physical structures existing thereon) which is described, delineated and shown in the **Schedule A** hereto (the "**earmarked premises**"), to hold the said earmarked premises, without interruption or interference together with the full and free right and liberty of way and passage and other rights in relation thereto, for as long as the Concession Agreement does not lapse due to expiry of its term or is not terminated earlier in accordance with the provisions thereof. The term of this Agreement shall be co-terminus with the Concession Agreement. The Lessor hereby agrees and authorizes the construction, operation and maintenance of the Project site(s) on the earmarked premises in accordance with the terms of the Concession Agreement.
4. In consideration of the transfer of the earmarked premises under this Agreement, the Lessor shall, effective from the date of handover of the possession of the earmarked premises to the Lessee, receive a rent of Rupee one per square meter per annum. The first instalment of rent in respect of a period of three (3) years shall be payable at the time of signing of this Agreement by way of a demand draft in favour of " \_\_\_\_\_ " payable at \_\_\_\_\_. Thereafter the rent in respect of each subsequent block of three years shall be payable by the Lessee in advance on the same date after every three years. The Lessor undertakes and assures the Lessee that the lease payment for the earmarked premises shall remain fixed for the entire period that this Agreement remains valid and binding.
5. The earmarked premises are being vested with the Lessee, under this Agreement, free from any Encumbrances (other than the existing physical structures thereon which has been inspected by the Lessee and agreed to be taken over in accordance with the terms of This Agreement and the Concession Agreement), whether legal or physical in nature. At any time during the term of this Agreement if the Lessee discovers any Encumbrances upon or under the earmarked premises which materially adversely affect its rights in relation to the earmarked premises /the Project, it shall notify the Lessor, which shall, within thirty (30) days from the receipt of the notice, either remove or cause to be removed such encumbrances at its own cost. In the event that the Lessor fails to remove such encumbrances within thirty (30) days from the notice thereof, the Lessee may remove or cause to be removed such encumbrance and the costs and expenses or consequential liabilities incurred in respect thereof shall be reimbursed to the Lessee by the Lessor.
6. The earmarked premises are being vested with the Lessee, under this Agreement only for the purposes of the Project, including for the purposes of developing, establishing, designing, constructing, operating, and maintaining the Project site(s), which the Lessor is desirous of

being constructed, operated and maintained on the earmarked premises for the purposes of enabling the Project activities in accordance with the Concession Agreement.

7. The Lessor hereby authorizes the Lessee, to construct, erect, own, operate and maintain any superstructure, facility or any movable or immovable structures constituting the Project site(s) on the earmarked premises and for that purpose also remove, renovate, use or demolish any structures that may be existing on the earmarked premises as of the date of this Agreement. The Lessor hereby agrees that the construction, operation and maintenance of the Project site (s) at the earmarked premises and the collection, storage, transportation, processing and disposal of MSW at the earmarked premises is being undertaken pursuant to the Concession Agreement granted by it and for the purposes of enabling the Lessee to discharge its functions of managing, processing and disposing MSW of the entire Cluster.
8. The Lessee shall have the right to, after taking prior permission of the Lessor, vest with the Lenders the power to take over the control, possession and all rights and interests in relation to the earmarked premises by appointing a person, the substitute entity, to replace the Lessee and undertake the construction, operation and maintenance of the Processing Facilities, in accordance with the provisions of the Concession Agreement, upon the occurrence of an event of default by the Lessee, as the case may be, under any of the financing agreements. The Lessor shall then novate this Agreement in favour of the substitute entity, which shall constitute an agreement between the substitute entity and the Lessor on the terms and conditions of this Agreement as existing at the time of such novation.
9. The Lessee agrees that it is not authorized to create any Encumbrance over the Project site(s) constructed on the earmarked premises.
10. The Lessor hereby covenants and assures the Lessee that:
  - (a) all the land comprising the Site is permitted and duly authorized and earmarked for purposes of establishment, construction, operation and maintenance of the Project site (s) as a part of the Project;
  - (b) the site is free from any encroachment or encumbrances whatsoever and is not subject to any acquisition or other legal proceedings by any authority, body or government nor is any claim of any third party subsisting in respect thereof or relating thereto;
  - (c) Lessor is the owner of the lands constituting the earmarked premises and it shall, in that capacity, defend or satisfy all actions or claims against the use of the earmarked premises for the Project;
  - (d) it shall not interfere with or impede in any manner or otherwise limit, restrict or impose any conditions or restrictions on the complete, free and full enjoyment and use of the earmarked premises and all rights in relation thereto, including the creation of security interest in favour of the Lenders in accordance with the provisions of the Concession Agreement after obtaining the prior consent of the Lessor;
  - (e) it shall not interfere in or impede in any manner or otherwise limit, restrict or impose conditions in relation: (i) to the construction, operation and maintenance of the Project site (s) (ii) the implementation of the Project by the Lessee and (iii) the possession, control and use, by the Lessee of the earmarked premises and the Project Site(s);
  - (f) it shall enter into appropriate further documentation or additional writings as the Lessee or the Lenders may reasonably require to give effect to the provisions of this Agreement and the financing agreements;
  - (g) there is no litigation, claim, demand or any proceedings (whether administrative, legal or quasi-judicial) pending before any authority in respect of the earmarked premises or its use for the purposes of managing, collecting, transporting, processing and disposing MSW; and



- (h) Lessee shall have complete, lawful and uninterrupted, possession, control and use of the earmarked premises
11. The Lessee hereby covenants with the Lessor as follows:
- (a) that it shall implement the ISWM Project as a part of MSW management for Faridabad-Gurugram Cluster in accordance with the Concession Agreement;
  - (b) that it shall observe and perform all terms, covenants, conditions and stipulations of this Agreement; and
  - (c) that it shall not mortgage or create any third party rights in the earmarked premises except to the extent permitted herein and the Concession Agreement.
12. Lessor has requisite right and authority to lease the earmarked premises to Lessee for the Term of this Agreement for the purposes of the Project on the terms and conditions of this Agreement and further that Lessee shall have full, free and uninterrupted peaceful Vacant Possession, enjoyment/ occupation and use of the earmarked premises throughout the Term, without any obstruction interference or disturbance or claim whatsoever from the Lessor or from any person claiming through under or in trust for Lessor or from any third person whomsoever. Lessor shall keep Lessee fully indemnified and harmless against any claims or demands from any Person claiming right, title or interest to or in the earmarked premises or any part thereof or challenging the validity of the usage of the earmarked premises for the Project or challenging the validity of this Agreement, as also against any actions, proceedings, damages, losses and expenses caused to Lessee as a result or in consequence of any such claims or demands as aforesaid.
13. Otherwise as expressly provided in this Agreement no assignment of this Agreement or any rights or duties hereunder shall be made in whole or in part by any Party without the written consent of the other Party and in the event of any assignment the assignee shall assume the duties and liabilities of the assignor.
14. Otherwise as expressly provided in this Agreement no mortgage of leasehold interest shall be created of the land/site(s) under this Agreement in whole or part for obtaining term loan to finance the Project without the written consent of Lessor.
15. The Lessor hereby assures and represents to the Lessee that the vesting of the earmarked premises under this Agreement shall be irrevocable for as long as the Concession Agreement remains in force and the Lessor shall not terminate or seek to terminate this Agreement except upon the expiry or early termination of the Concession Agreement. The Parties hereby agree that on the expiry or termination of the Concession Agreement the Concessionaire shall hand back to the Lessor or its nominated agency free of cost, the vacant and peaceful possession of the earmarked premises in accordance with the provisions of the Concession Agreement.
16. Any disputes and/or differences arising between the Parties, in relation to or under this Agreement will be resolved through arbitration in accordance with the relevant provision of the Concession Agreement pertaining to the dispute resolution clause. The venue of arbitration shall be Panchkula, Haryana
17. The Lessor hereby recognizes that this is a commercial act being undertaken by the Lessee and that it hereby unconditionally and irrevocably waives any right of immunity, sovereign or otherwise from legal proceedings that may be initiated to enforce any provisions of this Agreement.



IN WITNESS WHEREOF the Parties have affixed therein and sealed to this Lease Agreement the day and year first hereinabove written:

SIGN SIGNED, SEALED AND DELIVERED IN THE NAME AND ON BEHALF OF THE LESSOR THROUGH:	
SIGNED, SEALED AND DELIV- ERED BY LESSEE THROUGH ITS AU- THORISED SIGNATORY IN PRESENCE OF:	



10/10/2021  
 11/10/2021  
 12/10/2021  
 13/10/2021  
 14/10/2021  
 15/10/2021  
 16/10/2021  
 17/10/2021  
 18/10/2021  
 19/10/2021  
 20/10/2021  
 21/10/2021  
 22/10/2021  
 23/10/2021  
 24/10/2021  
 25/10/2021  
 26/10/2021  
 27/10/2021  
 28/10/2021  
 29/10/2021  
 30/10/2021

**M/S DAYA CHARAN AND COMPANY**  
**BANDHWARI DUMPSITE SITE MCG**  
**LEGACY WASTE PROCESS MEASUREMENT & BIOREMEDIATION RECORD BOOK FOR THE MONTH OF OCT 2021**

Sr. No	DATE	BATCH/HEAP NO.	WIDTH (MTR)	HEIGHT (MTR)	LENGTH (MTR)	GROSS WEIGHT (TONNE)	BIO FILLER (LTR)	TEMPERATURE	COOLING/LAS	SIGN: MCG/RE/ AUTHORIZED PERSON	SIGN: DEC SUPERVISOR/ AUTHORIZED PERSON	REMARKS
1	6/10/2021		2.6	14.9	3.5	108.47	50	37°		<i>[Signature]</i>	<i>[Signature]</i>	
1	13/10/2021		2.5	14.9	3.5	104.30	50	47°		<i>[Signature]</i>	<i>[Signature]</i>	
	19/10/21		2.7	14.9	3.5	100.13	40	59°		<i>[Signature]</i>	<i>[Signature]</i>	
	25/10/21		2.3	14.0	3.5	95.96	40	36°		<i>[Signature]</i>	<i>[Signature]</i>	
2	6/10/2021		2.9	14.6	3.1	105.00	40	38°		<i>[Signature]</i>	<i>[Signature]</i>	
2	13/10/2021		2.8	14.6	3.1	101.98	40	48°		<i>[Signature]</i>	<i>[Signature]</i>	
	19/10/2021		2.7	14.6	3.1	97.76	40	58°		<i>[Signature]</i>	<i>[Signature]</i>	
	25/10/2021		2.6	14.6	3.1	94.14	40	37°		<i>[Signature]</i>	<i>[Signature]</i>	
3	6/10/2021		3.1	13.4	2.1	69.79	35	39°		<i>[Signature]</i>	<i>[Signature]</i>	
3	13/10/2021		3	13.4	2.1	67.54	35	48°		<i>[Signature]</i>	<i>[Signature]</i>	
	19/10/2021		2.9	13.4	2.1	65.28	35	52°		<i>[Signature]</i>	<i>[Signature]</i>	
	25/10/2021		2.8	13.4	2.1	62.03	35	38°		<i>[Signature]</i>	<i>[Signature]</i>	
4	6/10/2021		3.4	13.7	2.3	85.71	30	36°		<i>[Signature]</i>	<i>[Signature]</i>	
4	13/10/2021		3.3	13.7	2.3	83.19	30	46°		<i>[Signature]</i>	<i>[Signature]</i>	
	19/10/2021		3.2	13.7	2.3	80.67	30	57°		<i>[Signature]</i>	<i>[Signature]</i>	
	25/10/2021		3.1	13.7	2.3	78.14	30	35°		<i>[Signature]</i>	<i>[Signature]</i>	
5	6/10/2021		3.1	13.8	2.1	71.87	40	35°		<i>[Signature]</i>	<i>[Signature]</i>	
5	13/10/2021		3	13.8	2.1	69.55	40	47°		<i>[Signature]</i>	<i>[Signature]</i>	

Temperature Measurement



Fire Tender deployed at Bandhwari site



Bio-culture spray on windrows



**Ecogreen Energy Pvt. Ltd.**  
**Bandhwari Dumpsite & Waste Processing Plant**  
 Village: Bandhwari, Gurugram-Faridabad Road

**Visitor Pass** Date:

Name of the Visitor (आंगतुक का नाम)	प्रदीप	Date:	12-8-21
Address of Visitor (आंगतुक का पता)	मिनापुरा		
Mobile Number (मोबाइल नंबर)	9810756815		
With whom to meet (किससे मिलना है)	D. C. C.		
In Time (अन्दर आने का समय)	15:30		
Out Time (बाहर जाने का समय)	16:05		
Signature of Ecogreen Staff <i>Kuldeep Singh</i>		Signature of Visitor	

**Ecogreen Energy Pvt. Ltd.**  
**Bandhwari Dumpsite & Waste Processing Plant**  
 Village: Bandhwari, Gurugram-Faridabad Road

**Visitor Pass** Date:

Name of the Visitor (आंगतुक का नाम)	पल्लव	Date:	19-8-21
Address of Visitor (आंगतुक का पता)	F.B.D		
Mobile Number (मोबाइल नंबर)	8383937039		
With whom to meet (किससे मिलना है)	D.C.C.		
In Time (अन्दर आने का समय)	11:00		
Out Time (बाहर जाने का समय)			
Signature of Ecogreen Staff <i>Kuldeep Singh</i>		Signature of Visitor	

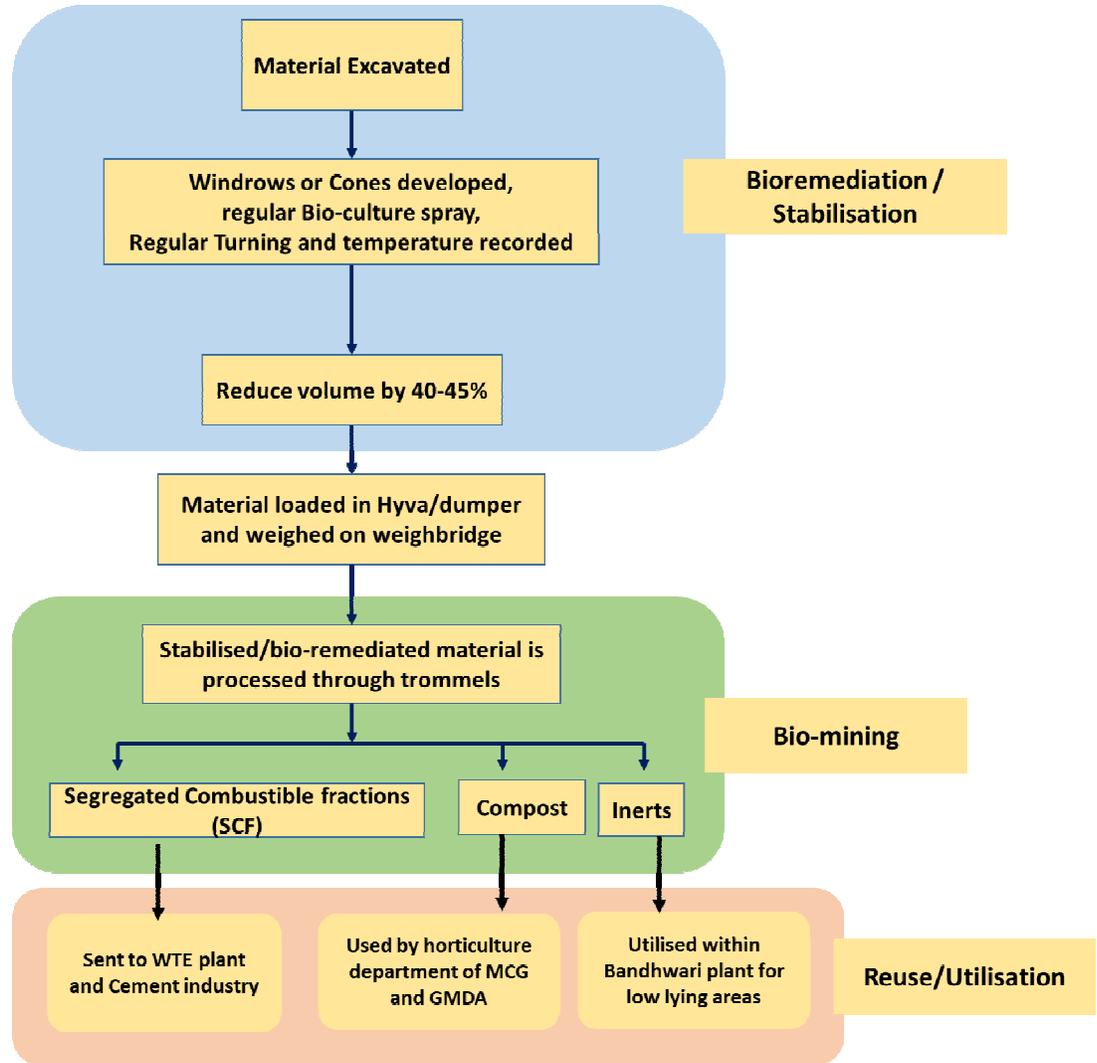
Trommel photos



Photo of Windrows



Process flow of Bioremediation and Bio-mining



## Annexure VII

Monthwise Biomining Details at Bandhwari Plant								
Month	Total Waste Bioremediated - legacy	Total Waste Stabilised - fresh	Average bioremediation per day	Total Waste segregated by Trommels (in Ton )	Total RDF segregated (in Ton)	Total Compost segregated (in Ton)	Total Inert segregated (in Ton)	Total C&D and other material
Nov-19	11075.0	5942.0	567	664.5	279.09	112.965	265.8	7
Dec-19	7020.0	4510.0	384	2244	942.48	381.48	897.6	22.5
Jan-20	6505.0	5398.0	397	1781	748.02	302.77	712.4	17.81
Feb-20	5400.0	4150.0	318	2147	901.74	364.99	858.8	21.5
Mar-20	6898.0		230	1983	832.86	337.11	793.2	19.9
Apr-20	9632.0		321	3789	1591.38	644.13	1515.6	37.8
May-20	6589.0		220	3227.5	1355.55	548.675	1291	32.33
June-20	8075.0		269	3000	1260	510	1200	30
July-20	858.0		29	515	216.3	87.55	206	5.2
Aug-20	243.0		8	125	52.5	21.25	50	1.25
Sep-20	4274.7		142	2184.792	900.87	395.3	888.57	0
Oct-20	4627.0		154	8682.87	3399.281	1210.624	4000	72
Nov - 20	13113.4		437	16002	6354.45	3193.43	6454.39	0
Dec-20	19904.3		663	27110.2	10783.97	6239.91	9978.21	108.2
Jan-21	21978.9	47.0	734	17572.5	6951	3955.37	6608.17	57.96
Feb-21	35640.0	105.5	1192	29879.75	11888.44	7534.105	10351.305	105.9
Mar-21	50063.0	135.1		51188	20475.2	10237.6	19451.44	767.82
April-21	196448.0	77.9		84969	33987.6	16993.8	32288.22	1274.535
May-21	244040.0	56.0		61736	24694.4	12347.2	23459.68	926.04
Jun-21	274967.0			73408	29363.2	14681.6	27895.04	1101.12
Jul-21	70762.0			18905	7562	3781	7183.9	283.575
Aug-21	1906.0			0	0	0	0	0
Sept-21	0.0			0	0	0	0	0
till 15 Oct-21	8164.1			0	0	0	0	0
<b>Total</b>	<b>1008183.4</b>	<b>20139.0</b>		<b>411114</b>	<b>164540.331</b>	<b>83880.859</b>	<b>152421</b>	<b>8821.4</b>

Bio-Mining Logbook

**M/S PARVEEN KUMAR CONTRACTOR**  
BANDHWARI DUMPSITE SITE MCG  
LEGACY WASTE PROCESS MEASUREMENT & BIOMINING RECORD BOOK FOR THE MONTH OF July 2021

SR. NO.	DATE	BATCH HEAP NO.	TRUCK NO.	TARE WEIGHT	GROSS WEIGHT	NET WEIGHT	DATE OF FEEDING IN TROMMEL MACHINE	TROMMEL MACHINE RUNNING HOURS	OUTPUT SCREENING MATERIAL WEIGHT				SIGN. MCG-JE/ AUTHORISED PERSON	SIGN. <sup>PVC</sup> SUPERVISOR/ AUTHORISED PERSON	REMARKS	
									COMPOST	RDF	INERT/ REJECTED	C&D				
1	17/7/21		HR38T9897	12570	24230	11660										
2	"		HR38T9897	12540	21675	980										From plant
3	"		HR38S3097	11315	23785	12470										"
4	"		HR38S3097	11300	24095	12995										"
5	"		HR38T9897	12400	21455	9055										"
6	"		HR38S3097	11295	24115	12820										"
7	"		HR38T9897	12300	22190	9890										"
8	"		HR38S3097	11335	22950	1115										"
9	"		HR38T9897	12335	21110	8775										"
10	"		HR38S3097	11315	23555	12240										"
11	"		HR38T9897	12375	21420	9045										"
12	"		HR38S3097	11225	22785	11550										"
13	"		HR38T9897	12400	23000	10600										"
14	"		HR38S3097	11285	23580	11295										"
15	"		HR38S3097	11300	23300	12000										"
16	"		HR38S3097	11000	24135	12135										"
17	"		HR38T9897	12135	21260	9225										"
18	"		HR38T9897	12000	19465	7465										"
19	"		HR38S3097	11415	21135	9720										"
20	"		HR38T9897	12105	19820	7715										"

**M/S PARVEEN KUMAR CONTRACTOR**  
BANDHWARI DUMPSITE SITE MCG  
LEGACY WASTE PROCESS MEASUREMENT & BIOMINING RECORD BOOK FOR THE MONTH OF July 2021

SR. NO.	DATE	BATCH HEAP NO.	TRUCK NO.	TARE WEIGHT	GROSS WEIGHT	NET WEIGHT	DATE OF FEEDING IN TROMMEL MACHINE	TROMMEL MACHINE RUNNING HOURS	OUTPUT SCREENING MATERIAL WEIGHT				SIGN. MCG-JE/ AUTHORISED PERSON	SIGN. <sup>PVC</sup> SUPERVISOR/ AUTHORISED PERSON	REMARKS	
									COMPOST	RDF	INERT/ REJECTED	C&D				
1	21/07/21		HR38T9897	12610	23650	11040										From plant
2	"		HR38S3097	11250	21540	10290										"
3	"		HR38T9897	11585	25950	13865										"
4	"		HR38T9897	11565	24755	15190										"
5	"		HR38S3097	11250	21700	10450										"
6	"		HR38T9897	11535	20800	9265										"
7	"		HR38S3097	11300	20600	9300										"
8	"		HR38T9897	11400	24615	13215										"
9	"		HR38S3097	11315	22605	11290										"
10	"		HR38T9897	11385	21400	10015										"
11	"		HR38S3097	11320	18710	7590										"
12	"		HR38T9897	11600	19110	8110										"
13	"		HR38S3097	11300	21450	10150										"
14	"		HR38T9897	11245	19990	8745										"
15	"		HR38S3097	11395	18750	7355										"
16	"		HR38T9897	11315	21655	10340										"
17	"		HR38S3097	11295	22375	11080										"
18	"		HR38T9897	11215	21435	10220										"
19	"		HR38S3097	11400	20700	8600										"
20	"		HR38T9897	11385	22645	11260										"

M/S PARVEEN KUMAR CONTRACTOR

BANDHWARI DUMPSITE SITE MCG  
LEGACY WASTE PROCESS MEASUREMENT & BIOMINING RECORD BOOK FOR THE MONTH OF July 2021

SR. NO.	DATE	BATCH HEAP NO.	TRUCK NO.	TARE WEIGHT	GROSS WEIGHT	NET WEIGHT	DATE OF FEEDING IN TROMMEL MACHINE	TROMMEL MACHINE RUNNING HOURS	OUTPUT SCREENING MATERIAL WEIGHT				SIGN MCG/JE/ AUTHORISED PERSON	SIGN MCG/ SUPERVISOR/ AUTHORISED PERSON	REMARKS		
									COMPOST	RDF	INERT/ REJECTED	C&D					
1	3/07/21		HR38S 3092	11400	25605	14205										PK	From Vakk
2	4		HR38T 9892	12305	23410	11105											
3	4		HR38T 9892	12265	25315	13050											
4	4		HR38T 9892	12100	24810	12710											
5	4		HR38T 9892	12105	23995	11890											
6	4		HR38S 3092	11010	24515	13505											
7	4		HR38S 3092	11120	25765	14645											
8	4		HR38S 3092	11235	22910	11675											
9	4		HR38T 9892	12165	23720	11555											
10	4		HR38S 3092	11005	24910	13905											
11	4		HR38T 9892	12210	25465	13255											
12	4		HR38S 3092	12195	24350	12155											
13	4		HR38T 9892	11105	22410	11305											
14	4		HR38S 3092	12165	23525	11360											
15	4		HR38T 9892	11405	21915	10510											
16	4		HR38S 3092	12175	24710	12535											
17	4		HR38T 9892	11420	20740	9320											
18	6		HR38S 3092	12235	22690	10455											
19	4		HR38T 9892	11365	22685	11320											
20	4		HR38S 3092	11245	25410	14165											

Annexure VIII

03-09-2021

Sr.No	Vehicle No	NetWeight
311	HR38AB0059	34550
312	HR38X9516	28925
313	HR46D2223	26165
314	HR38AA0178	37690
315	HR55U9673	34730
316	HR55AE7787	43525
317	HR38X0159	45525
318	HR55AD7087	37995
319	HR55AF4287	44495
320	HR38P7816	31930
321	HR61D1720	21265
322	HR46E7873	43110

Tammy  
07/09/21

BE-SSM

SUNDER SINGH  
EXECUTIVE ENGINEER-V  
MUNICIPAL CORPORATION  
GURUGRAM

Roue  
Assistant Engineer  
Municipal Corporation  
Gurugram  
Assistant Engineer  
Municipal Corporation  
Gurugram

# Municipal Corporation Gurugram SWM Bandhwari Plant

Near Gurugram-Faridabad Toll Tax, Gurugram, Haryana

D.C.C

## DELIVERY CHALLAN

Challan No. <b>1895</b>	
Date: <b>3/09/21</b>	
Consignor Name Municipal Corporation Gurugram Site Address: SFT Bandhwari, Gurugram, Haryana	Consignee Name Name: JBM Environment Management Pvt. Ltd Address: Near HVPNL Tajpur Substation, Tajpur, Maurthal Road, Murthal Village, Sonapat, Haryana -131027
GSTIN:- 06AACJ0529L1ZM	

Transporter Name & Address: **Green Con Cepte**

Trailer/Vehicle No.: <b>HR38AB0059</b>	GR.NO.	BY OWN VEHICLE
Driver Name: <b>AABID</b>		
	<b>705SL63924</b>	
S.No.	Description of Material	Qty
1	MUNICIPAL SOLID WASTE (RDF)	49650
	SAMPLE FOR TESTING	1500
	<b>Total</b>	<b>34550</b>

In Words: - 4 22/9/21

Certified that the particulars given above are true and correct. 3/9/21

For J.B.M Environment Management Pvt. Ltd.

*Person*  
Authorised Signatory

**OUTWARD**

Municipal Corporation Gurugram

Entry No. **11**

Date: **03/09/21**

Time: **11:05:00**

*Person*  
Signature

**G.S.T. EXEMPTION**

Notification No. 2/2017-Central Tax  
(Rate)S.No. 110. Tariff Item No. 3825  
Sub. Head. - Municipal Waste



# हरिओम धर्म काँटा

नखडौला रोड, निरार रामपुरा चौक, एन एच - 8, गुरुग्राम

Service  
**24**  
Hours

**Approved by Weight & Measures Dept. Of Haryana**

Sl. No.

1906

Date :

Vehicle No.

HR-384B-0059

Vehicle :

Material :

Supplier :

TRALLA

Remark :

RDF

Gross wt. (Kgs.) :

49650

Time :

03/09/2010

Tare wt. (Kgs.) :

15100

Time :

03/09/2010

Nett wt (Kgs.) :

34550

Charges (Rs.) :

200

(Operator Sing.)

## हरिओम धर्म काँटा

 **CAPACITY : 100 TONS**

**TERMS & CONDITIONS** 18:11

1. RECORD WILL NOT BE AVAILABLE AFTER ONE MONTH
2. VEHICLE NO. & MATERIAL IS WRITTEN ACCORDING TO DRIVER
3. ONCE THE VEHICLE LEAVE THE PLATFORM WE ARE NOT RESPONSIBLE
4. ALL DISPUTES SUBJECT TO GURGAON JURISDICTION
5. MATERIAL AS DECLARED BY THE DRIVER

1-131027

Work order issued to M/s Green Concrete Construction for disposal of RDF;

OFFICE OF EXECUTIVE ENGINEER-SBM MUNICIPAL CORPORATION GURUGRAM

**MCG**

From  
Executive Engineer-SBM,  
Municipal Corporation,  
Gurugram.

To  
M/s Green Concrete Constructions  
H.No 37, Neelkhant Encelave  
Near Vatika Chowk, Badshapur  
Gurugram 122001

Memo no. EE-SBM/2021/MCG/20389 Dt. 27-07-21

**Subject:-** Disposal of the RDF from the MSW plant Bandhwari to WtE plant installed by JBM at Murthal, Sonapat.

Under the authority of Ld. Commissioner, Municipal Corporation, Gurugram, acceptance of your rates under which interalia contains the following terms & conditions are hereby conveyed as follow:

Rates: -

Sr No	Description	Unit	Rate
1	Disposal of the RDF from the MSW plant Bandhwari to WtE plant installed by JBM at Murthal, Sonapat.	MT	1180/-(Inclusive of all taxes )

**Conditions:**

1. Contractor shall ensure compliance to guidelines as well as orders issued by Hon'ble NGT & CPCB during the execution of work.
2. The payment will be made as per actual weightment made at Weigh bridge of Bandwari plant or weigh bridge approved by Engineer in charge, the costing of the weighing charges will be borne by agency and nothing extra will be paid on this account.
3. No, extra payment will be made to the agency for Toll tax or any other taxes.
4. The quoted rates shall be inclusive of all applicable taxes.
5. Agency shall lift at least 5000 MT of material, within one month of allotment of work.
6. Contractors shall ensure that the concerned department whose services shall be affected during execution of works be duly informed before starting the work.
7. Agency shall visit the site at which RDF is to be stored before start of work .
8. You are requested to please contact Assistant Engineer-SBM, for start the work immediately.
9. As per ex-post facto approval vide DG no. MCG/SBM/sbnv/2021-22/00011 on note 04 work order is valid from Dt 06/07/21 (Date of start of work) .

Officer Colony No-III, Civil Lines, Gurugram -122001 (Haryana)  
Website-www.mcg.gov.in Email |D-ee7@mcg.gov.in Toll Free No.-18001801817

Page 1

OFFICE OF EXECUTIVE ENGINEER-SBM MUNICIPAL CORPORATION GURUGRAM



10. The work order will be valid till the rate will not be revised.
11. TDS and Labourcess be paid by the agency -

*[Signature]*  
Executive Engineer-SBM  
Municipal Corporation,  
Gurugram.

Memo No. EE-SBM/MCG/2020/20393

Dated: 27-07-21

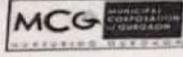
A copy of the above is forwarded to the following for information & necessary action: -

1. LD Commissioner, Municipal Corporation Gurugram.
2. Additional Commissioner-IV, Municipal Corporation Gurugram.
3. Assistant Engineer-SBM, Municipal Corporation Gurugram.

*[Signature]*  
Executive Engineer-SBM  
Municipal Corporation,  
Gurugram

## Work order issued to M/s Tanwar Enterprises for disposal of RDF

OFFICE OF EXECUTIVE ENGINEER-SBM MUNICIPAL CORPORATION GURUGRAM



From  
Executive Engineer-SBM,  
Municipal Corporation,  
Gurugram.

To  
M/s Tanwar Enterprises  
H.No 18,Phase-2, Noida Budha Nagar,  
GautamBudda Nagar,UP-201301

Memo no. EE-SBM/2021/MCG/20397

Dt. 27/7/21

**Subject:- Disposal of the RDF from the MSW plant Bandhwari to WtE plant installed by JBM at Murthal, Sonipat.**

Under the authority of Ld. Commissioner, Municipal Corporation, Gurugram, acceptance of your rates under which interalia contains the following terms & conditions are hereby conveyed as follow:

Rates: -

Sr No	Description	Unit	Rate
1	Disposal of the RDF from the MSW plant Bandhwari to WtE plant installed by JBM at Murthal, Sonipat.	MT	1180/- (Inclusive of all taxes )

**Conditions:**

1. Contractor shall ensure compliance to guidelines as well as orders issued by Hon'ble NGT & CPCB during the execution of work.
2. The payment will be made as per actual weightment made at Weigh bridge of Bandwari plant or weigh bridge approved by Engineer in charge, the costing of the weighing charges will be borne by agency and nothing extra will be paid on this account.
3. No, extra payment will be made to the agency for Toll tax or any other taxes.
4. The quoted rates shall be inclusive of all applicable taxes.
5. Agency shall lift at least 5000 MT of material, within one month of allotment of work.
6. Contractors shall ensure that the concerned department whose services shall be affected during execution of works be duly informed before starting the work.
7. Agency shall visit the site at which RDF is to be stored before start of work .
8. You are requested to please contact Assistant Engineer-SBM, for start the work immediately.
9. As per ex-post facto approval vide DG no. MCG/SBM/sbm/2021-22/00011 on note 04 work order is valid from Dt 06/07/21 (Date of start of work) .

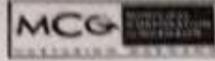
Officer Colony No-III, Civil Lines, Gurugram -122001 (Haryana)

Website-www.mcg.gov.in

Email ID-ee7@mcg.gov.in

Toll Free No.-18001801817

Page 5



10. The work order will be valid till the rate will not be revised.
11. TDS and Labourcess be paid by the agency .

  
Executive Engineer-SBM  
Municipal Corporation,  
Gurugram.

Memo No. EE-SBM/MCG/2020/20400

Dated: 27/7/21

A copy of the above is forwarded to the following for information & necessary action: -

1. LD Commissioner, Municipal Corporation Gurugram.
2. Additional Commissioner-IV, Municipal Corporation Gurugram.
3. Assistant Engineer-SBM, Municipal Corporation Gurugram.

  
Executive Engineer-SBM  
Municipal Corporation,  
Gurugram

Agreement for Disposal of RDF with M/s J. K. Cement



AW 749981

**MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding (hereinafter referred to as the "Agreement"), is made and entered into at **Nimbahera** on this 1<sup>st</sup> day of **April, 2021**

By and between **First Party M/s J.K. Cement Limited & Second party Gurgaon Municipal Corporation**

**M/s JK Cement Limited**, a company incorporated under the Companies Act, 1956 and having its registered office at Kamla Tower, Kanpur- 208001 (hereinafter referred to as the "**First Party**"), which expression shall, unless repugnant context, mean and include its successors and assigns) of the One Part & considered as **Brand Owner(PIBOs)** for implementation of EPR plan for Plastic Waste Management (PWM) at its plants located at Nimbahera, Distt. Chittorgarh-312620 Rajasthan State.

And

**Gurgaon Municipal Corporation**, through the chairman/commissioner, an autonomous body working for public welfare and cleanliness of the city. (hereinafter referred to as the "**Second Party**", which expression shall, unless repugnant to the context, mean and include its successors and assigns) of the Other Part.



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EXECUTIVE ENGINEER-VII  
MUNICIPAL CORPORATION  
GURUGRAM

Both First Party and Second Party shall be collectively addressed / referred to as "the Parties" and individually as "Party" herein after in this Agreement.

WHEREAS, *First Party* is an entity engaged in the business of manufacturing and sale of different types and grades of cement. *First Party* has represented that it has the capability, expertise and experience in using its cement manufacturing process for the purpose of disposal of waste material in an environmentally-friendly manner, while simultaneously producing cement of desired quality in a single combined operation through the cement kilns at its cement plants all over India ("Co-processing").

First Party is a cement manufacturing company, selling their products on PAN INDIA basis. To fulfil the EPR obligations under the Plastic Waste Management Rule, 2016, First Party is entering into agreement with Second party for segregation, collection, pre-processing and transportation of RDF/SCF by the Second party as per the Plastic Waste Management Rule, 2016. The supplied RDF/SCF by the Second party to the First Party will be co-processed in their cement kilns located at –

1. JK Cement works Mangrol Village: Mangrol, Tehsil: Nimbahera, Distt. Chittorgarh-312620 Rajasthan State.
2. JK Cement works Nimbahera, Tehsil: Nimbahera, Distt. Chittorgarh-312617 Rajasthan State.

and First Party will claim the plastic credit to fulfil their EPR obligations.

This agreement between First Party and Second Party to meet the EPR obligations of First Party under the Plastic Waste Management Rule, 2016.

RDF/SCF is a fuel produced from various types of waste such as municipal solid waste (SCF), industrial waste or commercial waste. RDF consists largely of combustible components of such waste, as non-recyclable plastics (not including PVC), paper cardboard, labels, and other corrugated materials. These fractions are separated by different processing steps, such as screening, air classification, ballistic separation, separation of ferrous and non-ferrous materials, glass, stones and other foreign materials and shredding into a uniform grain size, or also pelletized in order to produce a homogeneous material which can be used as substitute for fossil fuels in Cement Kiln.

AND WHEREAS, *Second Party* has approached *First Party* for evaluating the feasibility of Safe disposal of RDF acceptable as per PWM Rules 2016 collected at their site - Integrated Solid Waste Management Project, Bandhwari Village, Near GF Toll Plaza, Gurugram – Faridabad Road, Gurugram, in an environment-friendly and based on the evaluation report, the *First party* has



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offered to send the said material at its plants in Nimbahera, Chittorgarh Cement unit for Co-processing in Cement Kiln.

Qty. of RDF/SCF to be Co-processed – 25000 MT Per Annum.

AND WHEREAS, *First Party* and *Second Party* have agreed that *Second Party* shall provide services for sending RDF for Co-processing in Cement Kiln as per PWM Rules 2016, in their plants (hereinafter referred to as "**Services**"), subject to *First Party* obtaining all statutory clearances, consents, no objection certificate, writings and confirmations as may be applicable from various authorities and Government Agencies for the said purpose.

NOW, THEREFORE, for and in consideration of the forgoing premises and of the mutual covenant herein after stipulated, the Parties hereto, one with the other, do hereby agrees as follows:

#### 1.0 EXECUTION OF SERVICES

##### 1.1 SCOPE

*Second Party* shall be responsible for collection, storage, segregation of RDF/SCF at its authorized site suitable to cement industry for disposal into Cement Kiln.

##### 1.2 SERVICE CHARGES

In consideration of First Party providing the Co-processing services, Second Party shall pay to First Party, Service Charges at the rate of Rs. 0/- (Rupees Zero) per Ton of RDF/SCF on receipt basis i.e. *First Party*, shall receive the RDF/SCF at its Co-processing plant free of cost.

##### 1.3 LOADING & TRANSPORTATION

Loading of RDF/SCF on trucks at its authorized site along with of said waste will be under scope of *Second party*.

##### 1.4 PAYMENT TERMS

Second party shall reimburse the transportation cost of Rs. 500 (Rupees Five Hundred Only) per MT, excluding taxes & duties as applicable, to first party for the waste Material on receipt basis. The First Party shall raise invoice against transport cost reimbursement to second party on fortnightly basis. Wherein, second party will be required to make payment within 15 days of invoice receipt.

In case there is any dispute regarding billing, second party shall not withhold the payment. After making full payment against such invoices, the Second Part shall lodge the claims to the First Part giving full particulars within a period of TEN (10) DAYS from the date of



  
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GURUGRAM

Page 3 | 9

making the payment, and such claims if found correct, the First Party shall give adjustment for the same in the next bill and vice versa.

In case of any delay in payment, second party shall pay interest on all delayed payments @18% p.a. Delayed payment means any payment not received within the stipulated due date of any invoice raised by first party.

In case of dispute in testing parameters, joint testing may be carried out by The First Party and The Second Party. The test results of first party QC lab will be treated as firm and final.

### 1.5 QUALITY FOR WASTE MATERIAL

- a. *Second Party* agreed to comply & supply RDF/SCF with quality parameters as set out in Annexure-A, generated at its authorized site to JK Cement Limited Cement Plants located in Nimbahera, Rajasthan.
- b. *First Party* shall lift all the consignment of RDF/SCF from Bandhwari-Faridabad site to the *First Party's* Plants by road transportation at its own risk.
- c. *Second Party* shall guide the transporter on the measures to be taken in case of emergency during transportation and ensure the compliance of 'Guidelines on Transportation for Municipal Waste Material & RDF as set out in Annexure-B attached.
- d. *Second Party* shall, arrange to get every consignment of RDF/SCF weighed on its own and provide necessary document (having weight reference) to the approved transporter while dispatching the consignment to the Cement Plant. The quantity of RDF/SCF determined at electronic weighbridge installed at the Cement Plant will be considered as Final receipts.

### 2.0 CERTIFICATE OF CO-PROCESSING

*Second Party* shall at the beginning of each month, during the term of this agreement, issue to the *First Party* Certificate of Co-processing for the Waste Material sent for Co-processing during the previous month. *Second Party* has to grant EPR credit to *First Party* for fulfilling the EPR obligations.

*Second Party* shall inform to respective state pollution control board and CPCB for the agreement executed between both parties.

### 3.0 CONFIDENTIALITY OF INFORMATION

All information given by one Party to the other, pursuant to this Agreement in tangible form, which is specifically marked as confidential as well as all intangible information which is specifically conveyed as confidential in writing within 7 days of disclosure of such



*bow*

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MUNICIPAL CORPORATION  
GURUGRAM

information, shall be deemed to be "Confidential Information" for the purpose of this Agreement.

#### 4.0 TERM

The Agreement shall be valid for a term of five (05) years from the date of execution of the Agreement unless terminated earlier as per the terms of this Agreement.

#### 5.0 TERMINATION OF AGREEMENT

5.1 Each Party may terminate this Agreement in the following events:

- a) In case of breach of the terms and conditions of the Agreement by either of the Parties, the other Party, may give a written notice of Thirty (30) days to such defaulting Party, demanding it to remedy such breach. If the defaulting Party fails to remedy the breach within the notice-period then the other Party shall have the right to terminate this Agreement with immediate effect.
- b) If either Party goes into liquidation or is ordered to be wound up by any court of law, the other Party shall have the right to terminate this agreement with immediate effect.
- c) Any Party hereto may terminate this Agreement in case of Business exigencies, which shall be confirmed in a written document, executed by parties.

5.2 Even otherwise either Party shall be entitled to terminate this Agreement by giving Sixty (60) days prior written notice to the other party without specifying any reasons for the same.

#### 6.0 AMENDMENT

Any amendment and / or variation to the Agreement shall be mutually agreed by the Parties in writing and executed by or on behalf of each of the Parties hereto.

#### 7.0 SEVERABILITY

If at any time during the term of the Agreement, all or any of the clauses of the Agreement is or becomes illegal, invalid or unenforceable in any respect or declared null and void or illegal under the applicable laws, the same shall not affect or impair the legality, validity or enforceability of any other provisions of the Agreement.

#### 8.0 JURISDICTION

This Agreement shall be governed by Indian Laws and wherever judicial intervention is possible, Courts at ~~Nimbahera, Rajasthan~~ Gurugram Haryana shall have exclusive jurisdiction in respect of matters relating to this Agreement.

#### 9.0 DISPUTE SETTLEMENT

In the event of any dispute or difference arising out of or in connection with this Agreement, the same shall be settled amicably by negotiations between the Parties failing which, such dispute or difference shall be resolved by arbitration in accordance with the provisions of Arbitration and Conciliation Act, 1996, as amended and in force as on the date of execution



  
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MUNICIPAL CORPORATION  
GURUGRAM

of this Agreement. The language of Arbitration shall be English and the place of Arbitration shall be at Nimbahera, Rajasthan. The award shall be final and binding upon the Parties.

#### 10.0 RELATIONSHIP OF PARTIES

Nothing contained in the Agreement shall be construed as the engagement of *Second Party* as an agent or partner of *First Party*. The relationship between the Parties shall be principal to principal, it being clearly understood that it is a "contract for services" and not a "contract of services" and does not create and shall not be deemed to create any partnership, joint venture or a principal agent relationship between the Parties.

#### 11.0 ENTIRE AGREEMENT

The Agreement along with its annexure embodies the entire understanding between the Parties hereto and supersedes all previous correspondence, agreements and understanding, if any. This agreement shall be executed simultaneously in Two (2) counterpart originals, but shall, nevertheless together co one and the same instrument.

#### 12.0 TRANSFER OF RIGHTS

The First Part may at any time transfer or assign its rights and obligation under the Agreement to any other company/associate company or business entity.

The First party must intimate in advance in writing, to the second party about transfer and assignment of its rights and obligations under this Agreement to any other corporation or company.

#### 13.0 FORCE MAJEURE

In case of any force majeure, either shall not be saddled with any liability contingent otherwise.

The term Force Majeure in this Agreement means act of God, war, revolt, riot, fire, tempest, flood, earthquake, lightening, pandemic, epidemic, direct or indirect consequences of war (declared / undeclared), sabotage, hostilities, national emergencies, civil disturbances, commotion, embargo or any law of promulgation, regulation or ordinance whether Central or State or Municipal, breakage, bursting or freezing of Trucks/tankers, break down in plant, State or National level transporters strike etc. Upon occurrence of such cause and on its termination, the parties rendered unable as aforesaid shall notify other party within Twenty-Four (24) Hours of the beginning and the ending, giving full particulars and satisfactory evidence thereof. Any action of labour employed by the First Part shall not be considered as Force Majeure.

IN WITNESS WHEREOF this Agreement is executed in two counterparts on the day and year first above written. Each Party hereto shall preserve one counterpart of the Agreement.



  
SUNDER SINGH  
EXECUTIVE ENGINEER-VII  
MUNICIPAL CORPORATION  
GURUGRAM

SIGNED AND DELIVERED for and on behalf of

M/S JK Cement Limited, by the hand of its authorized signatory,

in the presence of.

1. [Signature]  
Signature

BASANTI GUPTA  
\_\_\_\_\_  
(Name of Authorized Signatory)

2. [Signature]  
Signature of Witness,

Manoj Vyas (Manager AFR)  
\_\_\_\_\_  
(Name of Witness)

Date of Signing of Agreement: \_\_\_\_\_

SIGNED AND DELIVERED for and on behalf of

M/s Gurgaon Municipal Corporation, by the hand of its authorized signatory,

in the presence of.

1. [Signature]  
Signature  
SUNDER SINGH  
EXECUTIVE ENGINEER-VII  
MUNICIPAL CORPORATION  
GURUGRAM

\_\_\_\_\_  
(Name of Authorized Signatory)

2. [Signature]  
Signature of Witness,

RAKESH JON  
\_\_\_\_\_  
(Name of Witness)

Date of Signing of Agreement: 27.05.21 At. GURUGRAM

## ANNEXURE -A

### 1. Waste Material Specifications to be complied with-

Components	RDF/SCF
Plastic content	45% min
% Moisture (As recd.)	25 max
GCV (Kcal/Kg) on ARB	3000 Min.
% Sulphur	<0.01
% CL	1.5 max
Ash %	25 Max.

#### Note:

- RDF/SCF to be incinerated shall not be chemically treated with any Chlorinated disinfectants.
- RDF/SCF shall not contain CPVC and chlorinated plastics.
- RDF/SCF should be properly loaded & covered with tarpaulin.
- RDF/SCF should be consistent in terms of quality and similar to the samples send for testing to our lab.
- The above specified values other than moisture content can vary with in the  $\pm 5\%$  range
- Waste Material dispatched by Second Party shall not contain following items that are in the banned items-
  - a) Radioactive waste
  - b) Asbestos-containing waste
  - c) Explosives and ammunition / weapons
  - d) Anatomical medical waste
  - e) Electronic fraction of electrical and electronic waste (e-waste)
  - f) Whole batteries as a targeted material stream
  - g) Waste of unknown or unpredictable composition, including unsorted municipal waste etc.



*Sunder Singh*  
27/12/21  
SUNDER SINGH  
EXECUTIVE ENGINEER-VII  
MUNICIPAL CORPORATION  
GURUGRAM

## ANNEXURE – B

### Guidelines for Second party for Transportation of Waste Material

Second Party shall check following points with the vehicle received at their site for transportation purpose.

1. Transport Vehicle used for transporting the Waste Material should have valid authorization for transportation.
2. Transporter /driver shall be licensed for collection and transportation of the Waste Material
3. Properly sealed and the Waste Material should only be loaded into the Transport vehicle and there should not be labeled containers/bags of any indications of potential hazards (e.g elevated temperature, barrel expansion, smoke, spillage, leaks);
4. Transport vehicle should be clean, fit for use and all safety equipment should be operational and easily accessible.
5. Transport vehicle used for transportation of waste material shall be marked with an emergency information panel and should be easily identifiable (number plate)
6. Only the compatible waste materials should be transported together
7. Transporter / driver shall carry all relevant documents and shall be guided on the proper movement of the same.
8. Logistics should be clearly defined for minimizing OH & safety risks.
9. All relevant legal requirements for transportation should be fulfilled
10. Suitable specific emergency response procedures / crisis management plan and equipment should be in place and driver and cleaner should be trained accordingly.
11. RDF/SCF should be properly loaded & covered with tarpaulin.



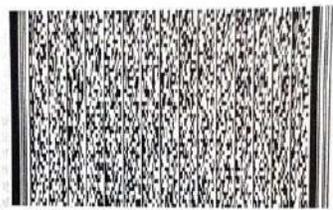
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*Handwritten signature*  
27/5/21

## Agreement for Disposal of RDF with M/s Ultratech Cement Ltd.



Registration and Stamp Department  
Madhya Pradesh





Certificate of Stamp Duty

E-Stamp Details	
E-Stamp Code	01012704082021013409
Total E-Stamp Amount	500
Govt. Stamp Duty (Rs.)	500
Janpad Duty (Rs.)	0
Exempted Amount(Rs.)	0
Municipality Duty (Rs.)	0
Upkar Amount (Rs.)	0

E-Stamp Type	
Issue Date & Time	NON-JUDICIAL 04/08/2021 17:45:15
Service Provider or Issuer Details	parikshit singh chauhan/SP012743907201500138
SP/SRO/DRO/HO Details	परीक्षित सिंह चौहान , चौहान कम्प्यूटर्स & फोटोकॉपी तहसील कार्यालय के सामने जवाहर मार्ग जावद मो.न.-9425441447 JAWAD NEEMUCH

Deed Details	
Deed Type	Agreement or Memorandum of an agreement
Deed Instrument	If not otherwise provided for- Five hundred rupees.
Purpose	AGREEMENT

First Party Details	
Organization Name	ULTRATECH CEMENT LIMITED
Address	VIKRAM CEMENT WORKS KHOR NEEMUCH Madhya Pradesh INDIA
Number of Persons	1

Second Party Details	
Organization Name	MUNICIPAL COUNCIL GURGRAM
Address	GURGRAM HARYANA NEEMUCH Madhya Pradesh INDIA
Number of Persons	1

**MEMORANDUM OF UNDERSTANDING**

AGREEMENT

This Memorandum of Understanding (hereinafter referred to as the "Agreement"), is made and entered into at **Khor** on this 03<sup>rd</sup> day of July, 2021

**By and between First Party M/s Ultratech Cement Limited Unit: Vikram Cement Works, Khor and (all Ultratech Cement Limited Units and its subsidiaries) & Second Party M/s Gurgaon Municipal Council**

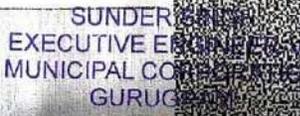
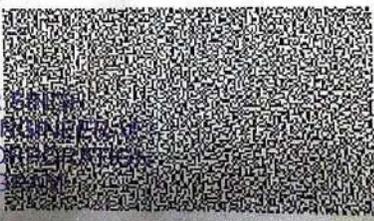
**M/s Ultratech Cement Limited Unit: Vikram Cement Works, Khor, and (all Ultratech Cement Limited Units and its subsidiaries)** a company incorporated under the Companies Act, 1956 and having registered office at B Wing, Ahura Centre, 2<sup>nd</sup> Floor, Mahakali Caves Road, Andheri (E), Mumbai-400093 (hereinafter referred to as the "**First Party**", which expression shal, unless repugnant context, mean and include its successors and assigns) of the One Part & considered as **Brand Owner (PIBOs)** for implementation of EPR plan for Plastic Wate Management (PWM) at its plant located at Khor, Distt. Neemuch-458470 Madhya Pradesh State and other units located at various locations in India.

Digitally signed by Parikshit Singh Chauhan  
Date: 2021.08.04 17:46:05 IST





परीक्षित सिंह चौहान  
सर्विस प्रोवाइडर, जावद  
मो न 9425441447

AND

**M/s Gurgaon Municipal Council**, through the chairman/commissioner, an autonomous body working for public welfare and cleanliness of the city (hereinafter referred to as the "**Second Party**", which expression shall, unless repugnant to the context, mean and include its successors and assigns) of the Other part.

Both First Party and Second Party shall be collectively addressed / referred to as "**the parties**" and individually as "**Party**" hereinafter in this Agreement.

WHEREAS, First Party is an entity engaged in the business of manufacturing and sale of different types and grades of cement. First Party has represented that it has the capability, expertise and experience in using its cement manufacturing process for the purpose of disposal of waste material in an environmentally-friendly manner, while simultaneously producing cement of desired quality in a single combined operation through the cement kilns at its cement plants all over India ("Co-processing").

First Party is a cement manufacturing company, selling their products on PAN INDIA basis. To fulfil the EPR obligations under the Plastic Waste Management Rule, 2016, First Party is entering into agreement with Second party for segregation, collection, pre-processing and transportation of RDF/SCF by the Second Party as per the Plastic Waste Management Rule, 2016. The supplied RDF/SCF by the Second Party to the First Party will be co-processed in their cement kilns located at

1. Ultratech Cement Limited Unit: Vikram Cement Works, Khor, Tehsil Jawad Distt. Neemuch - 458470 Madhya Pradesh
2. Various Locations across India

and First Party will claim the plastic credit to fulfil their EPR obligation.

This agreement between First Party & Second Party to meet the EPR obligations of First Party under the Plastic Waste Management Rule, 2016.

RDF/SCF is a fuel produced from various types of waste such as municipal solid waste (SCF), industrial waste or commercial waste. RDF consist largely of combustible components of such waste, as non-recyclable plastic (not including PVC), paper cardboard, labels and other corrugated materials. These fractions are separated by different processing steps, such as screening, air classification, ballistic separation, separation of ferrous and non-ferrous materials, glass, stones and other foreign materials and shredding into a uniform grain size, or also pelletized in order to produce a homogeneous material which can be used as substitute for fossil fuels in Cement Kilns.

AND WHEREAS, Second Party has approached First Party for evaluating the feasibility of safe disposal of RDF acceptable as per PWM Rules 2016 collected at their site – Integrated Solid Waste Management Project, Bandhwari Village, Near GF Toll Plaza Gurugram – Faridabad Road, Gurugram, in an environment-friendly and based on the evaluation report, the First Party has offered to send the said material at its plant in Vikram Cement Works, Khor Distt. Neemuch unit for co-processing in Cement Kiln.

Quantity of RDF/SCF to be Co-processed – **40000 MT per Annum**.

AND WHEREAS, First Party and Second Party have agreed that Second Party shall provide services for sending RDF for Co-processing in Cement Kiln as per PWM Rules 2106, in their plant (hereinafter referred as "**Services**"), subject to First Party obtaining all statutory clearances, consents, no objection certificate, writings and confirmations as may be applicable from various authorities and Government Agencies for the said purpose.

NOW, THEREFORE, for and in consideration of the forgoing premises and of the mutual covenant herein and stipulated, the Parties hereto, one with the other, do hereby agrees as follows:



  
SANDEEP SINGH  
EXECUTIVE ENGINEER-V  
MUNICIPAL CORPORATION  
GURUGRAM

## 1.0 EXECUTION OF SERVICES

### 1.1 SCOPE

Second Party shall be responsible for collection, storage, segregation of RDF/SCF at its authorised site suitable to cement industry for disposal into Cement Kiln.

### 1.2 SERVICE CHARGES

In consideration of First Party providing the CO-processing services, Second Party shall pay to First Party, Service Charges at the rate of Rs.0/- (Rupees Zero)) per Ton of RDF/SCF on receipt basis i.e. First Party, shall receive the RDF/SCF at its Co-processing plant free of cost.

### 1.3 LOADING & TRANSPORTATION

Loading of RDF/SCF on trucks at its authorised site along with of said waste will be under scope of Second Party.

### 1.4 PAYMENT TERMS

Second party shall reimburse the transportation cost of Rs.726 (Rupees Seven Hundred Twenty-Six Only) per MT, excluding taxes & duties as applicable, to first party for the waste Material on receipt basis. The First Party shall raise invoice against transport cost reimbursement to Second party on fortnightly basis. Wherein, second party will be required to make payment within 15 days of invoice receipt.

In case there is any dispute regarding billing, second party shall no withhold the payment. After making full payment against such invoices, the Second Party shall lodge the claims to the First Party giving full particulars within a period of TEN (10) DAYS from the date of making payment, and such claims if found correct, the First Party shall give adjustment for the same in the next bill and vice versa.

In case of any delay in payment, second party shall pay interest on all the delayed payments @18% p.a. Delayed payment means any payment not received within the stipulated due date of any invoice raised by First Party.

In case of dispute in testing parameters, joint testing may be carried out by the First Party and the Second Party. The test result of First Party QC lab will be treat as firm & final.

### 1.5 QUALITY FOR WASTE MATERIAL

- a. Second Party agreed to comply & supply RDF/SCF with quality parameter as set out in Annexure-A, generated at its authorised site to Vikram Cement Works cement plant located in Khor, Madhya Pradesh.
- b. First Party shall lift all the consignment of RDF/SCF from Bandhwari-Faridabad site to the First Party's plant by road transportation at its own risk.
- c. Second Party shall guide the transporter on the measure to be taken in case of emergency during transportation and ensure the compliance of 'Guidelines on Transportation for Municipal Waste Material & RDF as set out in Annexure-B attached.
- d. Second Party shall, arrange to get every consignment of RDF/SCF weighed on its own and provide necessary document to the Cement Plant. The quantity of RDF/SCF determined at electronic weighbridge installed at the Cement Plant will be considered as Final receipts.



## 2.0 CERTIFICATE OF CO-PROCESSING

16/9/21  
SUNDER SINGH  
EXECUTIVE ENGINEER-V  
MUNICIPAL CORPORATION  
GURUGRAM

Second Party shall at the beginning of each month, during the term of this agreement, issue to the First Party certificate of CO-processing for the Waste Material sent for Co-processing during the previous month. Second Party has to grant EPR credit to First Party for fulfilling the EPR obligations.

Both the parties shall be at its liability to inform to respective state pollution control board and CPCB for the agreement executed between both parties.

### **3.0 CONFIDENTIALITY OF INFORMATION**

All information given by one Party to the other, pursuant to this agreement in tangible form, which is specifically marked as confidential as well as all intangible information which is specifically conveyed as confidential in writing within 7 days of disclosure of such information, shall be deemed to be "Confidential Information" for the purpose of this Agreement.

### **4.0 TERM**

The Agreement shall be valid for a term of Five (05) years from the date of execution of the Agreement unless terminated earlier as per the terms of Agreement.

### **5.0 TERMINATION OF AGREEMENT**

**5.1** Each Party may terminate this agreement in the following events:

- a) In case of breach of the terms and conditions of the Agreement by either of the Parties, the other Party may give a written notice of Thirty (30) days to such defaulting Party, demanding it to remedy such breach. If the defaulting Party fails to remedy the breach within the notice-period, then the other Party shall have the right to terminate this Agreement with immediate effect.
- b) If either Party goes into liquidation or is ordered to be wound up by any court of law, the other Party shall have the right to terminate this agreement with immediate effect.
- c) Any Party hereto may terminate this Agreement in case of Business exigencies, which shall be confirmed in a written document, executed by parties.

**5.2** Even otherwise either Party shall be entitled to terminate this Agreement by giving

Sixty (60) days prior written notice to the other party without specifying any reasons for the same.

### **6.0 AMENDMENT**

Any amendment and / or variation to the agreement shall be mutually agreed by the Parties in writing and executed by or on behalf of each of the Parties hereto.

### **7.0 SEVERABILITY**

If at any time during the term of the Agreement, all or any of the clauses of the Agreement is or becomes illegal, invalid or unenforceable in any respect or declared null and void or illegal under the applicable laws, the same shall not affect or impair the legality, validity or enforceability of any other provisions of the Agreement.



NOTARY

## 8.0 JURISDICTION

This Agreement shall be governed by Indian Laws and wherever judicial intervention is possible, Courts at Gurugram, Haryana shall have exclusive jurisdiction in respect of matters relating to this Agreement.

## 9.0 DISPUTE SETTLEMENT

In the event of any dispute or difference arising out of or in connection with this Agreement, the same shall be settled amicably by negotiations between the Parties failing which, such dispute or differences shall be resolved by arbitration in accordance with the provisions of Arbitration and Conciliation Act, 1996, as amended and in force as on the date of execution of this Agreement. The language of Arbitration shall be English and the place of Arbitration shall be at Gurugram, Haryana. The award shall be final and binding upon the Parties.

## 10.0 RELATIONSHIP OF PARTIES

Nothing contained in the Agreement shall be constructed as the engagement of Second Party as an agent or partner of First Party. The relationship between the Parties shall be principal to principal, it being clearly understood that it is a "contract for services" and not a "contract of service" and does not create and shall not be deemed to create any partnership, joint venture or a principal agent relationship between the Parties.

## 11.0 ENTIRE AGREEMENT

The Agreement along with its annexure embodies the entire understanding between the Parties hereto and supersedes all previous correspondence, agreements and understanding, if any. This agreement shall be executed simultaneously in Two (2) counterpart originals, but shall, nevertheless together co one and the same instrument.

## 12.0 TRANSFER OF RIGHTS

The First Party may at any time transfer or assign its rights and obligation under the Agreement to any other company/associates company or business entity. The First party must intimate in advance in writing, to the Second Party about transfer and assignment of its rights and obligations under this Agreement to any other Council or company.

## 13.0 FORCE MAJEURE

In case of any force majeure, either shall not be saddled with any liability contingent otherwise.

The term Force Majeure in this agreement means act of God, war, revolt, riot, fire, tempest, flood earthquake, lightening, pandemic, epidemic direct or indirect consequences of war (declared / undeclared), sabotage, hostilities, national emergencies, civil disturbances, commotion, embargo or any law of promulgation, regulation or ordinance whether Central or State or Municipal, breakage, bursting or freezing of trucks/tankers, breakdown in plant, state or National level transporters strike etc. Upon occurrence of such cause and on its termination, the parties rendered unable as aforesaid shall notify other party with in Twenty-Four (24) Hours of the beginning and the ending, giving full particulars and satisfactory evidence thereof. Any action of labour employed by the First Party shall not be considered as Force Majeure.



SUNDER SINGH  
EXECUTIVE ENGINEER-V  
MUNICIPAL CORPORATION  
GURUGRAM

**IN WITNESS WHEREOF** this Agreement is executed in two Counterparts on the day and year first written. Each party hereto shall preserve one counterpart of the Agreement.

SIGNED AND DELIVERED for and on behalf of

M/s Ultratech Cement Limited, Unit; Vikram Cement Works, Khor, by the hand of its authorised signatory in the presence of

1. M. Krishna Mohan

Signature



Madugula Mohan Krishna

(Name of Authorised Signatory)

2. [Signature]

Signature of Witness

AMIT KUMAR

(Name of Witness)

Date of Signing of Agreement: \_\_\_\_\_

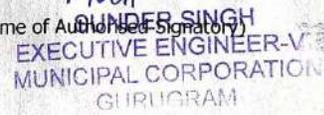
SIGNED AND DELIVERED for and on behalf of

M/s Gurgaon Municipal Council, by the hand of its authorised signatory in the presence of

1. \_\_\_\_\_

Signature

(Name of Authorised Signatory)



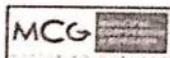
2. \_\_\_\_\_

Signature of Witness

(Name of Witness)

Date of Signing of Agreement: \_\_\_\_\_

## Work Order issued to M/s Samunder Singh For disposal of Compost &amp; Inert



OFFICE OF THE EXECUTIVE ENGINEER-SBM MUNICIPAL CORPORATION GURUGRAM

From

Executive Engineer-VII,  
Municipal Corporation,  
Gurugram.

To

Samunder Singh Contractor  
M-9991010544  
Village - Bhadhani

Memo No. EE-VII/MCG/2020/15494

Dated: 15-6-21

Subject: Shifting of the Compost/Soil enricher and Inert produced after Bio Mining from the Bandhwari Land fill Site. Tender no. [2021\_HRY\_166474\_1] Digi no. - 00073.

Estimate amount-40/-Lacs  
DNIT amount. Rs.- 40/- Lacs  
Restricted amount Rs.-49.45 /-Lacs

Under the authority of Joint Commissioner-SBM, Municipal Corporation, Gurugram, acceptance of your lowest tender under which interalia contains the following terms &amp; conditions are hereby conveyed as follow:

Rates:-

Sr N	Description	Qty	Unit	Rate	Total
1	Shifting of the Compost/Soil enricher and Inert produced after Bio Mining from the Bandhwari Land fill Site	21978	MT	225	4945057/-

Conditions:

1. Compliance to restricted conditions as, per approved DNIT.
2. Contractor shall ensure compliance to guidelines as well as orders issued by Hon'ble NGT & CPCB during the execution of work.
3. The payment will be made as per actual weighment made at Weigh bridge of Bandwari plant or weigh bridge approved by Engineer in charge, the costing of the weighing charges will be borne by successful bidder and nothing extra will be paid on this account.
4. No, extra payment will be made to the successful bidder for Toll tax or any other taxes.
5. The quoted rates shall be inclusive of all applicable taxes.
6. Agency shall lift at least 6000MT of material, within one month of allotment of work.
7. Contractors shall ensure that the concerned department whose services shall be affected during execution of works be duly informed before starting the work.
8. Agency shall visit the site at which compost is to be stored before start of work as per term and conditions of the DNIT.
9. (1) Date of Commencement- 15.06.21  
(2) Date of Completion- 14.10.21 (04 Month)

  
15/6/21

Officer Colony No-III, Civil Lines, Gurugram -122001 (Haryana)

Website-www.mcg.gov.in Email ID-ee.sbm@mcg.gov.in Toll Free No.-18001801817 Page 1

**Work Order issued to M/s Tanwar Enterprises For disposal of Compost & Inert**



To

TANWAR ENTERPRISES  
H.NO- 18, PHASE-2, NOIDA BHUDHA GAUTAM  
BUDDHA NAGAR, U.P-201301  
E-MAIL:-KRISHANTANWAR4848A2GMAIL.COM  
PH:888888548

Memo No. EE-SBM/MCG/2021/ 1013

Dated: 12/01/2021

Subject:

Shifting of the Fractions comes out after Blomining of the legacy waste at Bandhwari, MSW plant to MCG land at Village Baliyawas, Under Municipal corporation Gurugram.

Cost: Rs. 23.05/-lacs

Restricted Amount: HSR+NS Item=20.00 Lacs

Digi No.:- MCG/SBM/sbm/2020-21/00060

Under the authority of Ld. Commissioner, Municipal Corporation Gurugram, acceptance of your lowest tender under which inter-alia contains the following terms & conditions are hereby conveyed.

Rates:

NS Item:

Sr. No.	Description	unit	Rate
	N.S. Item		
1	Loading carriage and unloading of the Compost and inert up to 7.5 Km lead including toll taxes as well as GST	Per MT	200/-

Conditions:

- The cost shall be restricted to **Rs. 20.00 Lacs**. The time for the completion of above work as agreed **one Month** from the date of commencement, which will be reckoned w.e.f 12.01.2021 you are requested to please contact Sh. Rakesh Joon AE-SBM for start the work immediately.
- The document containing the details of terms & conditions of the contract which stand conclude with this communication are under preparation in this office. You are also requested to attend this office to sign the same within 02 days from the date of receipt of this letter. Please note that no payment shall be made unless the documents mentioned above are signed by you.
- Contractor shall ensure compliance to guidelines as well as orders issued by Hon'ble NGT & CPCB during the execution of work.

Municipal Corporation, Gurugram - 122004 (Haryana)  
Website: www.mcg.gov.in E-mail: ee4@mcg.gov.in Toll Free No. 18001801817

4. Contractors shall ensure that the concerned department whose services shall be affected during execution of works be duly informed before starting the work.
5. Payment will be made on actual weight of material, after ensuring that shifted material be stored properly.

1208/1018

8101

*Hono*  
Executive Engineer-SBM  
Municipal Corporation  
Gurugram.

Endst No.:-EE-SBM/MCG/2021/ 1014

Dated: 12/01/2021

A copy is forwarded to the following for the information and necessary action please:-

1. Mayor, Municipal Corporation, Gurugram
2. Senior Mayor/Deputy Mayor, Municipal Corporation, Gurugram
3. Commissioner, Municipal Corporation, Gurugram
4. Joint Commissioner(SBM), Municipal Corporation, Gurugram
5. Chief Account Officer, Municipal Corporation, Gurugram
6. Deputy Director Audit, Municipal Corporation, Gurugram
7. Sh. Rakesh joon, AE-SBM, Municipal Corporation, Gurugram

*Hono*  
Executive Engineer-SBM  
Municipal Corporation  
Gurugram

**Annexure X**

The action plan provided by MCG for processing waste at Bandhwari landfill site is depicted below:

Sr. No.	Month	No. of Working Days	Quantity of Waste Process per Day	Waste to be Processed in Month	Remarks
			(MT)		
1.	April,2021	25	5000	125000	Average Working Days in Month are Considered 25. The working days in Months of Monsoon Season and extreme cold condition are reduced.
2.	May,2021	25	5000	125000	
3.	June,2021	25	6000	150000	
4.	July,2021	20	8000	160000	
5.	August,2021	15	8000	120000	
6.	September,2021	20	9000	180000	
7.	October,2021	20	10000	200000	
8.	November,2021	25	10000	250000	
9.	December,2021	20	10000	200000	
10	January,2022	20	10000	200000	
11	February, 2022	25	10000	250000	
12	March,2022	25	10000	250000	
13	April,2022	25	10000	250000	
14	May,2022	25	10000	250000	
15	June,2022	25	12000	300000	
16	July,2022	25	12000	300000	
Total				3310000	

## Analysis Report of Leachate sample



Laboratory Of The  
Haryana State Pollution Control Board  
Vikas Sadan Ist Floor Gurgaon

Tel-2332596

FORM J (See Rule 20)

Report No.: 1024-1025  
Dated 27<sup>th</sup> October, 2021

I, hereby, Certify that I **Ramniwas Sharma** as Board Analyst, duly appointed under sub section (2) of section 53 of water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) received on the **18<sup>th</sup> day of October, 2021** from **Ms. Akansha Tanwar, AEE** a sample of liquid Trade effluent of **M/s Ecogreen Energy Gurugram Faridabad Pvt. Ltd, Village-Bandhwari, Gurugram** collected on **18.10.2021** from Inlet and Outlet of DTRO1 for analysis. The Sample was in a condition fit for analysis reported below:-

I further certify that I have analysed the afore-mentioned sample from **18/10/2021** to **27/10/2021** and declare the result of analysis to be as follow:-

Sr. No.	Parameters	Result		Method of Testing
		Inlet of DTRO1	Outlet of DTRO1	
1.	Colour	Blackish	Almost Colourless	As per relevant parts of IS:2488(Part-V) and Standard Methods for the Examination of water and waste water APHA(22 <sup>nd</sup> edition)
2.	Odour	Bad	Almost Odourless	
3.	pH value	5.9	7.7	
4.	Suspended Solids mg/l	306	51	
5.	B.O.D. for 3 days at 27°C mg/l	720	18	
6.	C.O.D mg /l	2100	104	
7.	Oil & Grease mg/l	19.0	ND	
8.	Conductivity us/cm	5820	5740	
9.	Total Dissolved Solid mg/l	2830	3150	
10.	Phosphate as P mg/l	3.8	1.2	
11.	Zinc as Zn mg/l	1.2	ND	
12.	Nickel as Ni mg/l	ND	ND	
13.	Iron as Fe mg/l	1.9	ND	
14.	Total Chromium as Cr mg/l	ND	ND	
15.	Lead as Pb mg/l	ND	ND	
16.	Cyanide as CN mg/l	ND	ND	
17.	Chlorides as Cl mg/l	670	170	
18.	Fluoride as F mg/l	1.9	ND	
19.	Phenolic Compound as C <sub>6</sub> H <sub>5</sub> OH mg/l	ND	ND	
20.	TKN (Total Kjeldhal Nitrogen) mg/l	126.8	19.2	
21.	Ammonical Nitrogen mg/l	72.2	8.8	

Container had its seals found intact in order; slip on the container had the signature of the representative of the industry/unit and the board representative.

Signed this on 27<sup>th</sup> October, 2021  
Laboratory of the  
Haryana State Pollution Control Board  
Vikas Sadan, Gurgaon  
To

*Ramniwas Sharma*  
Board Analyst

The Member Secretary  
Haryana State Pollution Control Board  
C-11, Sec. 6, Panchkula (Haryana)

## GURGAON WTE PROJECT OVERALL SCHEDULE

ID	Task Name	Duration	Start	Finish
1	Gurgaon WTE Project Overall Schedule	745 days	T0	T0+ 745 days
2	Milestone			
3	Stop dumping Bandhwari Plant	0 days	T0	T0
4	Reclamation of required land after sifting of MSW & emptying of Leachate Ponds	0 days	T0	T0
5	Backfilling leachate pond completed	60 days	T0 + 60 days	T0 + 60 days
6	Piling Work Finish	150 days	T0 + 150 days	T0 + 150 days
7	Boiler Foundation Handover	210 days	T0 + 210 days	T0 + 210 days
8	Detailed design finish	210 days	T0 + 210 days	T0 + 210 days
9	ETA - Boiler & TG	290 days	T0 + 290 days	T0 + 290 days
10	RDF Commissioning	475 days	T0 + 475 days	T0 + 475 days
11	MC of Boiler	655 days	T0 + 650 days	T0 + 650 days
12	Commercial Operation Date - COD	745 days	T0 + 745 days	T0 + 745 days
13	Engineering	210 days		T0+210 days
14	Detail Engineering	210 days		
15	Approvals of vendors GA drawings, PID's & layouts	42 days		
16	Civil design for RDF processing plant	49 days		
17	Civil design for power plant	81 days		
18	Piling Drawings	35 days		
19	Layout optimisation & updation	49 days		
20	Detail design of RDF plant	42 days		
21	Detail design of boiler	70 days		
22	Detail design of TG set	56 days		
23	Detail design of BOP	72 days		
24	Misc. detail design	72 days		
25	Procurement	390 days		T0 + 390 days
26	Service Contracts			
27	EPC Contractor Mobilization	T0 + 30 days		
28	Material Contracts	312 days		
29	Procurement activities of RDF processing equipments	130 days		
30	Batch # 1 Delivery to Site	114 days		
39	Batch # 2 Delivery to Site	85 days		
40	Procurement activities of WTE power plant	210 days		
41	Batch # 1 Main Equipment Delivery to Site	109 days		
42	Batch # 2 Auxiliary Facilities Delivery to Site	161 days		
43	Batch # 3 Delivery to Site	120 days		
44	Construction	655 days		T0 + 655 days
45	Temporary Work	100 days		
47	Backfilling leachate pond	60 days		
48	Temporary facility construction	30 days		
49	Construction Water & Power & Land leveling	31 days		
50	Fence, Ditch & Emergency Basin etc.	41 days		
51	Boiler Section	497 days		
52	Piling Works	45 days		
53	Foundation Construction	119 days		
54	Civil/Structure Works	152 days		
55	MEP Works	236 days		
56	RDF	287 days		
57	Piling Works	20 days		
58	Foundation Construction	75 days		
59	Civil/Structure Works	76 days		
60	MEP Works	120 days		
61	Flue gas cleaning system	340 days		
62	Piling Works	20 days		
63	Foundation Construction	60 days		

**GURGAON WTE PROJECT OVERALL SCHEDULE**

ID	Task Name	Duration	Start	Finish
64	Civil/Structure Works	110 days		
65	MEP Works	150 days		
<b>66</b>	<b>Turbine and Generator Section</b>	<b>330 days</b>		
67	Piling Works	13 days		
68	Foundation Construction	60 days		
69	Civil/Structure Works	90 days		
70	MEP Works	120 days		
<b>71</b>	<b>Waste unloading and storage facilities</b>	<b>360 days</b>		
72	Piling Works	20 days		
73	Foundation Construction	75 days		
74	Civil/Structure Works	90 days		
75	MEP Works	90 days		
76	Other Works	63 days		
<b>77</b>	<b>BOP</b>	<b>639 days</b>		<b>T0 + 639 days</b>
78	Construction of leachate treatment station	46 days		
79	Dormitory building	120 days		
80	Dining hall	90 days		
81	Administration building	150 days		
82	Chemical water station construction	190 days		
83	Construction of comprehensive water pump room	180 days		
84	Cooling tower	190 days		
85	Power Distribution	180 days		
86	Booster station	140 days		
87	Air pressure station & Ignition oil depot	90 days		
88	Road, landscape greening and other construction	105 days		
89	Water, electricity, compressed air, gas connection	116 days		
<b>90</b>	<b>Precommissioning &amp; Commissioning</b>	<b>357 days</b>		
<b>91</b>	<b>RDF Plant</b>	<b>40 days</b>		
92	Trial run & commissioning activities	30 days		
93	Commercial Operation	10 days		
<b>94</b>	<b>Boiler Plant</b>	<b>183 days</b>		
95	Boiler dry-out and boiling out	35 days		
96	Piping flushing and blowing	14 days		
97	Punch list	43 days		
98	Mechanical Complete	0 days		
99	Combined Commissioning	41 days		
100	Start-up of plant	20 days		
101	Commercial Operation	30 days		

## Consent to Establish


**HARYANA STATE POLLUTION CONTROL  
BOARD**

Gurgaon North Vikas Sada, 1st Floor, Near DC Court,  
Gurgaon Ph. 0124-2332775

Website: www.hspcb.gov.in E-Mail - hspcb.pkl@sifymail.com

Telephone No.: 0172-2577870-73



No. HSPCB/Consent/ : 320220919GUNOCTE7048419

Dated:14/12/2019

To.

M/s : Ecogreen Energy Gurgaon Faridabad Private Limited  
46//5/2, 6, 15, 16, 17/1, 24/1, 24/2, 25, 47//8, 9, 10, 11, 12, 13, 18, 19, 20, 21,22, 23, 48//1, 2,  
9, 10, 11, 49//3/3, 4, 5, 6, 7, 8/1, 13/2, 14, 15, Bandhwari Village, Gurgaon  
GURGAON  
122001

**Sub. : Grant of consent to Establish to M/s Ecogreen Energy Gurgaon  
Faridabad Private Limited**

Please refer to your application no. 7048419 received on dated 2019-12-09 in regional office Gurgaon North.

With reference to your above application for consent to establish, M/s Ecogreen Energy Gurgaon Faridabad Private Limited is here by granted consent as per following specification/Terms and conditions.

<b>Consent Under</b>	AIR/WATER
<b>Period of consent</b>	14/12/2019 - 31/10/2026
<b>Industry Type</b>	Common treatment and disposal facilities(CETP, TSDF, E- waste recycling, CBMWTF, effluent conveyance project, incinerator, solvent/acid recovery plant, MSW sanitary land fill site)
<b>Category</b>	RED
Investment(In Lakh)	38945.0
Total Land Area (Sq. meter)	76799.984
Total Builtup Area (Sq. meter)	15700.0
<b>Quantity of effluent</b>	
1. Trade	150.0 KL/Day
2. Domestic	0.0 KL/Day
Number of outlets	1.0
<b>Mode of discharge</b>	
1. Domestic	0
2. Trade	Reuse/Recycle
<b>Permissible Domestic Effluent Parameters</b>	
1. NA	
<b>Permissible Trade Effluent Parameters</b>	
1. BOD	30 mg/l

2. COD	250 mg/l
3. TSS	100 mg/l
4. O&G	10 mg/l
5. Ammonical nitrogen (as N)	50 mg/l
6. Total Kjeldahl nitrogen (as N)	100 mg/l
7. Arsenic (as As)	0.2 mg/l
8. Mercury (as Hg)	0.01 mg/l
9. Lead (as Pb)	0.1 mg/l
10. Cadium (as Cd)	2.0 mg/l
11. Total Chromium (as Cr)	2 mg/l
12. Copper (as Cu)	3 mg/l
13. Zinc (as Zn)	5.0 mg/l
14. Nickel (as Ni)	3.0 mg/l
15. Cyanide (as CN)	0.2 mg/l
16. Chloride (as Cl)	1000 mg/l
17. Fluoride (as F)	2.0 mg/l
18. Phenolic compounds (as C <sub>6</sub> H <sub>5</sub> OH)	1 mg/l
Number of stacks	3
<b>Height of stack</b>	
1. Incinerator Exhaust Stack	25 Meter
2. Stack to DG set	1.5 Meter
3. Furnace	25 Meter
<b>Permissible Emission parameters</b>	
1. Particulates	50 mg/Nm <sup>3</sup>
2. HCl	50 mg/Nm <sup>3</sup>
3. SO <sub>2</sub>	200 mg/Nm <sup>3</sup>
4. CO	100 mg/Nm <sup>3</sup>
5. Total Organic Carbon	20 mg/Nm <sup>3</sup>
6. HF	4 mg/Nm <sup>3</sup>
7. NO <sub>x</sub> (NO and NO <sub>2</sub> expressed as NO <sub>2</sub> )	400 mg/Nm <sup>3</sup>
8. Total dioxins and furans	0.1 ng TEQ/Nm <sup>3</sup>
9. Cd + Th + their compounds	0.05 mg/Nm <sup>3</sup>
10. Hg and its compounds	0.05 mg/Nm <sup>3</sup>
11. Sb + As + Pb + Cr + Co + Cu + Mn + Ni + V + their compounds	0.5 mg/Nm <sup>3</sup>
<b>Capacity of boiler</b>	
1. Boiler	76 Ton/hr
<b>Type of Furnace</b>	

1. Furnace	76 TPH
<b>Type of Fuel</b>	
1. Diesel	3.2 KL/day
2. Municipal Solid Waste	750 Ton/day

*Regional Officer, Gurgaon North*  
*Haryana State Pollution Control Board.*

**Terms and conditions**

1. The industry has declared that the quantity of effluent shall be 150 KL/Day i.e 150KL/Day for Trade Effluent, 0 KL/Day for Cooling, 0 KL/Day for Domestic and the same should not exceed .
2. The above 'Consent to Establish' is valid for 60 months from the date of its issue to be extended for another one year at the discretion of the Board or till the time the unit starts its trial production whichever is earlier. The unit will have to set up the plant and obtain consent during this period.
3. The officer/official of the Board shall have the right to access and inspection of the industry in connection with the various processes and the treatment facilities being provided simultaneously with the construction of building/machinery. The effluent should conform the effluent standards as applicable
4. That necessary arrangement shall be made by the industry for the control of Air Pollution before commissioning the plant. The emitted pollutants will meet the emission and other standards as laid/will be prescribed by the Board from time to time.
5. The applicant will obtain consent under section 25/26 of the Water (Prevention & Control of Pollution) Act, 1974 and under section 21/22 of the Air (Prevention & Control of Pollution) Act,1981 as amended to-date-even before starting trial production
6. The above Consent to Establish is further subject to the conditions that the unit complies with all the laws/rules/decisions and competent directions of the Board/Government and its functionaries in all respects before commissioning of the operation and during its actual working strictly.
7. No in-process or post-process objectionable emission or the effluent will be allowed, if the scheme furnished by the unit turns out to be defective in any actual experience
8. The Electricity Department will give only temporary connection and permanent connection to the unit will be given after verifying the consent granted by the Board, both under Water Act and Air Act.
9. Unit will raise the stack height of DG Set/Boiler as per Board's norms.
10. Unit will maintain proper logbook of Water meter/sub meter before/after commissioning.
11. That in the case of an industry or any other process the activity is located in an area approved and that in case the activity is sited in an residential or institutional or commercial or agricultural area, the necessary permission for siting such industry and process in an residential or institutional or commercial or agricultural area or controlled area under Town and Country Planning laws CLU or Municipal laws has to be obtained from the competent Authority in law permitting this deviation and be submitted in original with the request for consent to operate.
12. That there is no discharge directly or indirectly from the unit or the process into any interstate river or Yamuna River or River Ghaggar.

13. That the industry or the unit concerned is not sited within any prohibited distances according to the Environmental Laws and Rules, Notification, Orders and Policies of Central Pollution control Board and Haryana State Pollution Control Board.
14. That if the unit is discharging its sewage or trade effluent into the public sewer meant to receive trade effluent from industries etc. then the permission of the Competent Authority owing and operating such public sewer giving permission letter to his unit shall be submitted at time of consent to operate.
15. That if at any time, there is adverse report from any adjoining neighbor or any other aggrieved party or Municipal Committee or Zila Parishad or any other public body against the unit's pollution; the Consent to Establish so granted shall be revoked.
16. That all the financial dues required under the rules and policies of the Board have been deposited in full by the unit for this Consent to Establish.
17. In case of change of name from previous Consent to Establish granted, fresh Consent to Establish fee shall be levied.
18. Industry should adopt water conservation measures to ensure minimum consumption of water in their Process. Ground water based proposals of new industries should get clearance from Central Ground Water Authority for scientific development of previous resource.
19. That the unit will take all other clearances from concerned agencies, whenever required.
20. That the unit will not change its process without the prior permission of the Board.
21. That the Consent to Establish so granted will be invalid, if the unit falls in Aravali Area or non conforming area.
22. That the unit will comply with the Hazardous Waste Management Rules and will also make the non-leachate pit for storage of Hazardous waste and will undertake not to dispose off the same except for pit in their own premises or with the authorized disposal authority.
23. That the unit will submit an undertaking that it will comply with all the specific and general conditions as imposed in the above Consent to Establish within 30 days failing which Consent to Establish will be revoked.
24. That unit will obtain EIA from MoEF, if required at any stage.
25. In case of unit does not comply with the above conditions within the stipulated period, Consent to Establish will be revoked.
26. That unit will obtain consent to operate from the board before the start of product activity.

**Specific Conditions**

**Other Conditions :**

1. The CTE is valid only for such land within this project which is under possession of project proponent for 7.680 hectare (18.97769 Acres) for which clearance under Aravali notification was granted by the Govt. of Haryana, Department of Environment vide Memo. No. DEH/AN-151/1468 dated 28.07.2008 and in pursuant to the Environmental Clearance. The project proponent will obtain prior Environment clearance under Aravali notification 07.05.1992 before any activity in the area falls under the ambit of this notification. This CTE is only from Pollution Angle, it is prejudice to the action to be taken in respect of past violations and it will not imply the other applicable approval from the concerned authorities. The Project Proponent will not claim any benefit/relaxation from any authority for any violation on the basis of this CTE 2. Project Proponent will comply all conditions of Aravali clearance dated 28.07.2008, Environmental clearance dated 01.11.2019, commitment made in the public hearing dated 21.03.2018, Concessionaire agreement dated 14.08.2017. 3. Directions given by Hon'ble NGT in O.A. 514/2018 (Earlier OA No. 415 of 2015) titled as Vivek Kamboj V/s UOI will strictly ensure to be adhered. 4. Directions given by Hon'ble Supreme Court of India in the matter of Writ Petition (Civil) No. 13029 of 1985 titled M.C. Mehta V/s UOI will strictly ensure to be adhered. 5. Legacy waste disposal guidelines issued by CPCB dated 28.02.2019 will strictly ensure to be adhered. 6. The project proponent will obtain all necessary clearances from all concerned departments. 7. Project proponent will not change the quantity of domestic effluent/trade effluent/air emission without prior permission of the Board. Project Proponent will obtain prior CTO before starting of production and apply for CTO/ CTE Extension at least 90 days before expiry date of this CTE. 8. Project Proponent will install Leachate Treatment Plant (LTP)/STP/ETP/ACPM along with the main project. The Project Proponent will install the project only on the land for 7.680 hectare (18.97769 Acres) for which clearance under Aravali notification was granted by the Govt. of Haryana, Department of Environment vide Memo. No. DEH/AN-151/1468 dated 28.07.2008 and in pursuant to the Environmental Clearance. 9. Project Proponent will install adequate acoustic enclosures/chambers on their DG SETS with proper stack height as per prescribed norms to meet the prescribed standards under EP Rules. 10. Project Proponent will comply with the provisions of Water Act, 1974, Air Act, 1981, Solid Waste Management Rules, 2016, Hazardous & Other Waste Management Rules, 2016, Plastic Waste Management Rules, 2016, E-Waste Management Rules, 2016, Battery Managements Rules, C&D Waste Management Rules, 2016 & amendments and other applicable environmental legislation. 11. Project Proponent will ensure that they will not contaminate the underground water, soil, surface water and aquifer etc. 12. The Monitoring Committee constituted vide State Govt. Notification dated 06.11.2001 under the Chairmanship of DC, Gurugram will ensure effective monitoring of compliance of the conditions mentioned in the Aravali Clearance 28.07.2008. 13. Project Proponent will submit revised site plan alongwith Sazra and layout plan alongwith specific Khasra Nos. and area strictly in accordance with the Aravali Clearance obtained vide letter dated 28.07.2008 for 7.680 Hectare (18.97769 Acres) and in pursuant with Environmental Clearance dated 01.11.2019. 14. Project Proponent will use only treated effluent supplied from Sewage treatment plant during construction phase of the project 15. That this CTE will not provide any relaxation /benefit from any other Act/Rules/Regulations applicable to the project/land in question. 16. Project Proponent will not discharge any type Treated or untreated effluent outside the premises of the project. 17. Project Proponent will not use in their DG set as a fuel i.e. pet coke, furnace oil and LSHS etc. 18. Stack emission level should be stringent than the existing standards in terms of the identified critical pollutants. 19. Effective fugitive emission control measures should be imposed in the process, transportation, parking etc. 20. Encourage use of cleaner fuels (pet coke / furnace oil /LSHS may be avoided). 21. Best available technology may be used. For example usage of EAF/SAF/IF in place of Cupola Furnace, Usage of Supercritical technology in place of sub – critical technology. 22. Increase of green belt cover by 40% of the total land area beyond the permissible requirement of 33%, wherever feasible. 23. Stipulation of greenbelt outside the project premises such as avenue plantation, plantation in vacant areas, social forestry etc. 24. Assessment of carrying capacity of transportation load on the roads inside the industrial premises. If the roads required to be widened, shall be prescribed as a condition. 25. Project Proponent will not discharge any type of effluent inside & outside of the premises of the project and reuse/recycle of treated waste water be ensured. 26. Continuous monitoring of emission and effluent quality / quantity to be installed & will connect the same with server of CPCB and HSPCB. 27. A detailed water harvesting plan may be submitted by the project proponent. 28. Project Proponent will achieve zero discharge and install latest technology of LTP/STP/ETP and reuse/recycle of treated effluent. 29. In case, domestic waste water generation is more than 10 KLD, the industry may install STP. 30. Dumping of waste (fly ash, slag, red mud etc.) may be permitted only at designated locations approved by SPCBs/PCCs. 31. More stringent norms for management of hazardous waste. The waste generated should be preferably utilized in co-processing. 32. Monitoring of compliance of EC conditions may be submitted with third party audit every year. 33. Project Proponent will dispose off their waste/spent oil of DG sets only to authorize recyclers by the HSPCB. 34. The % of the CER may be least 1.5 times the slabs given in the OM dated 01.05.2018 for SPA and 2 times for CPA in case of Environmental Clearance.

35. Project proponent will comply all the directions of CPCB in this regard and will comply all the orders issued by any court in this regard. 36. Project Proponent will submit an affidavit regarding compliances of above said conditions within 30 days. 37. The above Consent to Establish is further subject to the conditions that the unit complies with all the laws/rules/decisions and competent directions of the Board/Government and its functionaries in all respects before commissioning of the operation and during its actual working strictly. 38. At any stage, if any violation observed of any above conditions at any time, this CTE stands cancelled /revoked & further action will be taken as per law if any violation is observed at any stage.

Kuldeep Singh Digitally signed by Kuldeep Singh  
Date: 2010.12.14 11:43:29 +0530'

*Regional Officer, Gurgaon North  
Haryana State Pollution Control Board.*



**MINUTES OF THE MEETING HELD ON 07.12.2020 AT 4.00 pm UNDER THE CHAIRMANSHIP OF HON'BLE CHIEF MINISTER, HARYANA REGARDING ISWMP - GURUGRAM AND FARIDABAD CLUSTER:**

Minutes of the meeting held under the Chairpersonship of Shri Manohar Lal, Hon'ble Chief Minister of Haryana to discuss about the problems being faced by Ecogreen Energy Gurgaon Faridabad Private Limited ("Concessionaire"/ "Ecogreen") in operation of Integrated Solid Waste Management Project for Gurugram and Faridabad cluster on 07.12.2020 at 4:00 PM at PWD Rest House, Gurugram, Haryana.

**Chairperson:** Shri Manohar Lal Khattar

Hon'ble Chief Minister, Government of Haryana

**Participants of the meeting:**

S.No.	Name	Designation
1	Sh. S N Roy, IAS	Additional Chief Secretary to Government Haryana, Urban Local Bodies Department.
2	Sh. Rajeev Ranjan, IAS	Commissioner Gurugram Division
3	Sh. Ashok Sanghwan, IAS	Additional Resident Commissioner, Haryana Bhawan, New Delhi
4	Sh Ashok Meena, IAS	Director Urban Local Bodies, Haryana
5.	Smt. Madhu Azad	Mayor, Municipal Corporation, Gurugram.
6.	Smt Suman Bala	Mayor, Municipal Corporation, Faridabad.
7.	Sh Devender Chaudhary	Senior Deputy Mayor, Municipal Corporation, Faridabad.
8.	Sh Manmohan Garg	Deputy Mayor, Municipal Corporation, Faridabad.
9.	Sh. Yash Garg, IAS	Commissioner, Municipal Corporation, Faridabad
10.	Sh Vinay Pratap Singh, IAS	Commissioner, Municipal Corporation, Gurugram
11	Sh Sanjay Sharma	Deputy CEO, Ecogreen.
12	Sh Sanjay Sharma	General Manager- Legal, Ecogreen

13	Sh Suvendu Samataray	Operational Head- Ecogreen,
14	Sh Anant Nath Suthoo	AGM -Operations- Ecogreen
15	Sh Sumit Kumar	General Manager- Engineering, Ecogreen
16	Sh N Vineeth Kumar Reddy	SWM Expert – Operations, Ecogreen
17	Smt Parul Choudhary	General Manager-HR, Ecogreen

On detailed discussion, following decisions were made:

**1. Construction of Waste to Energy (WtE) Plant:**

At the outset, the Concessionaire apprised the worthy Chief Minister that M/s Ecogreen Energy Gurugram, Faridabad Pvt. Ltd., (Ecogreen) is facing a lot of challenges due to non-availability of required land for construction of Waste to Energy Plant.

It was informed that Environmental Clearance for the Bhandwari site was obtained on 01.11.2019 and Consent to Establish on 14.12.2019 for construction of Waste to Energy Plant. Though statutory approvals and permissions have been obtained, the concessionaire is unable to construct Waste to Energy plant due to non-availability of required land (10 acres) at the existing integrated solid waste management plant at Bhandwari, Gurugram.

It was also informed that considering this handicap, the COD has been extended by 2 years.

It was further informed that the Municipal Corporation, Gurugram has been directed to bio-remediate the legacy waste in Bhandwari at the risk and cost of the Ecogreen.

Following actionable directions were thereafter made in this regard:

- (i) For identifying land for dumping the incoming fresh waste, Shri Ashok Sangwan, IAS, Additional Resident Commissioner, Haryana Bhawan shall be

Nodal Officer and he will be responsible to identify and allocate the land for this purpose;

- (ii) Henceforth, no fresh waste will be dumped at the existing site in Bhandwari and Ecogreen will be responsible for the processing of fresh waste on the new allocated site. Such processing shall start within 3 months from allocation of land for dumping the fresh waste with the indulgence of Nodal Officer.
- (iii) The Municipal Corporation, Gurugram will, on priority, undertake remediation of 10 acres of land in the Bhandwari site so that land for setting up the waste to energy plant is made available to Ecogreen expeditiously;
- (iv) To the extent possible, the said 10 acres of land for setting up the plant must be made available expeditiously. Once the land is made available, Ecogreen will start constructing the Waste to Energy Plant and, if necessary, further extension in COD (Commercial Operation Date) shall be considered while keeping the handing over of land to the Ecogreen in mind.
- (v) ACSULB was authorized to appoint Shri Ashok Sangwan, IAS, Additional Resident Commissioner, Haryana Bhawan as Nodal Officer to monitor the status of Waste to Energy Plant and to assign such other responsibilities to the Nodal Officer as are required for implementation of integrate project and to take immediate measures to resolve the issues related to ISWM project of Gurugram and Faridabad cluster.

## **2. Availability of Collection and Transportation vehicles:**

It was informed that the Ecogreen has not provided collection and transportation vehicles in sufficient numbers and there is an immediate shortage of atleast 200 vehicles.

The Ecogreen gave an undertaking that the concerned Corporation may procure these vehicles out of the pending payment due to Ecogreen or.

alternatively, once the payment is released, Ecogreen will procure these vehicles and make available to the respective Corporations.

The proposal of Ecogreen was accepted and both the Municipal Corporations were asked to make appropriate arrangements in this behalf out of the pending payment to be paid to Ecogreen.

Meeting ended with a vote of thanks to the Chair

A handwritten signature in black ink, appearing to be a stylized 'S' or similar character, located to the right of the text 'Meeting ended with a vote of thanks to the Chair'.

**Work order issued to M/s The Peoples Association.**

From  
Executive Engineer SBM,  
Municipal Corporation,  
Gurugram.

To  
M/s The People's Association.  
for Total Help & Youth Applause (PATIEYA),  
RZH-15/9, Gurudwara Road, Mahavir Enclave,  
Dabri Palam Road, New Delhi-110045.  
Tel. 011-49041424.  
Email Id- [patheyango7@gmail.com](mailto:patheyango7@gmail.com)

Memo No. EE-SBM/MCG/2021/ 27090

Dated:- 10.09.2021

**Subject: - Bio-remediation, Bio- mining and Reclamation of 10.00 Acre land at Bandhwari Landfill site. Tender ID: 2021\_HRY\_181301\_1.**

**Ref:- DULB/Tech/Sect-1/2021/13636 dated 06.09.2021.**

**Work order Amt. Rs. 18,42,00,000.00**

Under the authority of Commissioner, Municipal Corporation, Gurugram acceptance on dated 06.09.2021 of your lowest tender which inter alia contains the following terms & conditions are hereby conveyed as follow:-

The time limit for the completion of above work as agreed **Two Months (02)** from the date of commencement, which will be reckoned **w.e.f. 15.09.2021 to 14.11.2021.**

Sr.No.	Description	Approx. Qty.	Rate/Unit	Total project cost (in Rs.)
1.	Bio-remediation, Bio- mining and Reclamation of 10.00 Acre land at Bandhwari landfill site.	2,00,000 MT	921/-Per MT	18,42,00,000/-

**General Terms & Conditions: -**

1. All terms & Conditions of tender documents will remain binding on you.
2. You will have to submit PERT/Bar Chart before starting the work and submit bill of executed work for payment.
3. All statutory deductions will be made as applicable from your bills.
4. Please inform in writing of date of start and date of completion of work to undersigned.
5. Payment will be made after the recommendation of Monitoring Committee/Third party/Consultant (If applicable).
6. The work must be started within seven days of the issue of this work order in consultation with concern AE/JE of this office and complete the same within your contractual limits. You are hereby required to execute the agreement within seven days from the date of issuance of this letter. AE/JE will ensure that the work will be carried out accordingly.

*Handwritten signature/initials*

7. You are requested to attend this office for signing of agreement along with necessary documents.
8. Photographs of different stages of the work i.e. before starting, during the execution and after the completion of work will have to be submitted before payment by you.
9. All directions issued in cases of Hon'ble NGT, Hon'ble Courts & Others or in any other case issued by Hon'ble Courts will be strictly followed.
10. All the provisions/directions of industrial safety & health should be strictly complied with.
11. Make reasonable endeavors to maximize the utilization of the Waste from the Bandhwari Dumpsite and for this purpose shall ensure that at least 80% of the Waste is utilized / reused by the Contractor as to produce products/outputs such as soil enricher/compost, recyclables, RDF and products from construction and demolition waste.
12. Set up processing system flexible enough and convenient for segregation of dumped material.
13. Ensure adequate power back-up for smooth operation of the machinery and equipment installed.
14. Excavate the existing mixed compacted garbage, and sieve the waste through mechanical sieving machines/ any other equipment at the cost of the Developer/ Contractor, Ensure the separation of different components of dumped waste to maximize the reuse of legacy waste from the Bandhwari Dumpsite.
15. The waste removed from the dump sites is to be safely transferred to the treatment facility setup at the site. The Concessionaire will prepare a layout clearly showing the area required for treatment of the garbage along with allied activities.
16. The treatment plant should be provided with necessary infrastructure like security and access control/s, camera monitoring and recording features etc. by the Concessionaire.
17. A separate first aid facility will be provided at the treatment plant within 100 meters of the treatment facility.
18. Provide adequate number of processing machines for achieving its daily target of handling waste as per the quarterly plan submitted for Bandhwari Dumpsite.
19. Provide on-site storage facility for various fractions of processed Waste.
20. The hardware and technology adopted may include but not limited to the following: -
  - a. Magnetic separator for ferrous metals & scraps.
  - b. Size reduction & Screening.
  - c. Effective segregation of non-biodegradables mass like plastics, inert material (construction/demolition waste), etc.
  - d. Collection of bio degradable and organic matter followed by scientific processing.
  - e. Transfer and disposal of metal scrap and other recyclable mass like glass and plastics to primary producer industry either directly or through approved vendors / Concessionaires.
  - f. Deploying of all requisite inputs viz., MSW collection & handling equipment and vehicles, conveyors, JCB, dumpers etc. will be Concessionaire's responsibility.
  - g. The plant and machineries necessary for each of the above steps will be part of the proposal submitted to the Authority/ MC for approval.
  - h. Byproducts from such processing like recyclables, Refuse Derived Fuel will be the property of the contractor.
  - i. The Concessionaire has to ensure that all the byproducts generated during the Term will be cleared from the site at the end of the Term apart from the inserts dumped in SLF.

- j. The Concessionaire will ensure that an online monitoring system would be setup for effective Operation and Maintenance of the plant. This will include installation of CCTV camera, electronic weighbridges and daily online updating of processed quantity of waste. The feed will be provided to the respective ULBS.
21. Be responsible for creation and maintenance of infrastructure, facilities and amenities, at their own risk and cost, for sieving, the excavated garbage, storing the segregated materials.
22. The Contractor shall be responsible and entitled to keep the proceeds from the sale of all the recovered components, which may include but not limited to RDF, compost, C&D waste, hazardous waste, medical wastes & inserts.
23. The Contractor shall explore the possibility of minimizing the disposal of inert/processing rejects and maximize the usage of such inert waste including but not limited to making of curb side blocks, filling of low-lying areas (if applicable as per the law of land), construction of roads etc. Hazardous waste such as physical, chemical, biological, reactive, toxic, flammable, explosive or corrosive waste, if found, during excavation, sorting or segregation shall be handled as per the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016.
24. Handover any domestic hazardous waste/ biomedical waste if found during excavation, sorting/segregation to the nearest biomedical/ hazardous waste facility which shall be handled as per Biomedical Waste Management Rules, 2016.
25. Carry out necessary geotechnical surveys for considering the hydrological and flooding potential at sites, in order to mitigate any effect on the activities during Bio-Mining in tens of leachate percolation.
- Sanitary Landfill:
26. In order to prevent environmental impacts of the activities as per the Solid Waste Management Rules, 2016, adopt guidelines for development of landfill as per Schedule-I of the said Rules:
- I. Leachate System: The Contractor shall:
- a) Construct leachate collection system/ tank/s and provide a leachate collection network.
- b) Ensure that the leachate from the Bandhwari Dumpsite is carried to the leachate collection tank without any stagnation (except in storage/holding tanks), and
- c) Ensure overall design of the leachate system/ leachate collection tank should be such as to ensure that there is no percolation of the leachate into the ground and it does not come into contact with any water body.
- II. Storm water drainage system in such a manner as to ensure that:
- (a) It is independent from the leachate system.
- (b) The run-off rainwater from the hinterland does not enter the solid waste storage and processing area;
- (c) There is no stagnation of rainwater on the Site.
- III. Quality Control Laboratory. The Contractor shall provide a quality control laboratory with the equipment adequate to carry out the tests pertaining to municipal solid waste analysis and characterization, leachate quality, air quality, maturity test for residual inert matter, etc. as per the Solid Waste Management Rules, 2016. In the alternative, the Contractor may also get the aforesaid tests done from any other registered laboratory under Applicable Laws.
- IV. The pre-processing and post-processing rejects/ inserts shall be handled as per Solid Waste Management Rules, 2016. In case a sanitary landfill is required to be constructed, the disposal of processing rejects & inserts shall be limited to a maximum of 10% (ten percent) of total waste quantity. In this case, the land filling area for segregated wastes and residues shall be earmarked by Municipal Council, which shall be a part of the project site. Additionally, the contractor shall be responsible for closure of the Bandhwari Dumpsite according to SWM Rules, 2016 before completion and exit from the project. The contractor shall be liable to pay



- a penalty equivalent to 2 times the quoted processing fee if the processing rejects/inserts in the sanitary landfill exceed the maximum limit of 10 % (ten percent). The inert waste material from the processed waste shall be reorganized back in the area designated and calculated for the disposal of such waste. Loader and doser will be involved for dosing and levelling the inert sands from the processing landfill area.
- V. It is necessary to reprofile the waste mount to the designated grade, elevation and slopes. Formation of embankment around slopes should be done to facilitate the side slopes and to avoid seepage of the materials.
  - VI. As a final cover to a completed disposal facility at least 5 layers from the bottom to top, i.e., gas drainage layer, geomembrane, drainage layer clay layer and revegetation layer, should be provided.
  - VII. The post closure management activities will be carried out continuously after dumpsite closure such as, monitoring of environmental condition within and surrounding area, tion curtam gar extraction & as well monitoring of soil cover.
  - VIII. Vegetation should be planted in the top cover and adequate provision for irrigating the plant should be made.
  - IX. Like for other sanitary landfills in the country, post closure plan for this S.L.F should also be given highlighting the responsibilities of different stakeholders.
27. Provide fire protection measures and safety equipment.
- I. Provide utilities such as drinking water facilities and sanitary facilities (preferably washing/bathing facilities for workers) and lighting arrangements for easy operations during night hours shall be provided and safety provisions including health inspections of workers at site shall be carried out.
  - II. Provide security arrangements for the planned project site, machineries, equipment etc. at the cost of the Developer / Contractor.
  - III. Adequate lighting system for the working area as well as to the access ways shall be arranged by the Developer/Contractor and the Municipal Council will not raise any objections for the same.
  - IV. Adequate measures to avoid trespassing shall be taken by the Municipal Authority.
  - V. The Contractor will provide fencing along the perimeter of the Project Site and the land portion earmarked by the Municipal Council for disposal of the residues and rejects.
  - VI. Entrance into the Project Site from outside the Site shall be restricted to one point. However, several emergency exits may be provided.
  - VII. Access to the Project Site provided by Municipal Council shall have to be maintained by the Developer/Contractor to have easy movement of vehicles and etc. from outside.
  - VIII. Set up an eco-friendly and non-polluting process in order to reduce the impact of the dumping site in the adjacent areas.
  - IX. Set a soil and ground water baseline so that the same will be available to evaluate post Bio-Mining and Remediation/ Reclamation of the Bandhwari Dumpsite.
  - X. Monitor ground water quality, work zone air quality and ambient air quality monitoring within the site from authorized laboratories/agencies and submit the report on monthly basis.
  - XI. Monitor and measure noise levels at the site and interface of the facility with plant boundary and surrounding area.
  - XII. Keep a track of the progress of its activities and establish a database and update on a regular basis in-order to optimize its activities.
  - XIII. Involve community participation and discuss with the citizen community in order to ensure a free flow of information.
  - XIV. Complete the work within the time period stipulated in the Contract. Subject to terms and conditions in the Contract, at the end of the Term, the Contractor shall vacate the Bandhwari Dumpsite, as the case may be, along with its equipment and facilities used and handover the

reclaimed area and/or the Sanitary Landfill Site without claiming any compensation of whatever nature.

#### Weight System

1. The Contractor shall provide weighbridge to measure quantity of various components of Waste at dumpsite is processed in terms of sorting and segregated materials, RDF, compost material, and inserts going out of the Bandhwari Dumpsite. Provided however, the Contractor shall ensure that a maximum of **20 % (Twenty percent)** only of the processing rejects are land filled in the Sanitary Landfill at the Sanitary Landfill Site.
2. The contractor shall ensure that weighbridge is fully online, electronic, where in data of weighment facility shall be maintained for the entire Term with backup server facilities, daily online reports should be generated. Online data shall be provided to the Authority as & when required, but mandatory on monthly basis. It should also have CCTV surveillance system.
3. Weighbridge should be calibrated as per the OEMs manual and fortnightly reviewed by Authority. In case of breakdown of the weighbridge, it should be rectified within 24 hr. During this period, weighing should be done at private weighbridge approved by the Authority.

#### SCOPE OF WORK

- Upon execution of the Draft Contract, the Contractor shall undertake following activities:
- SCOPE OF PROJECT
1. Excavate the existing mixed compacted garbage and sieve the waste through mechanical sieving machines/any other equipment at the cost of the Developer/Contractor.
  2. The Contractor shall take necessary steps and processes to minimize environmental pollution while carrying out remediation/ reclamation of legacy waste at the Bandhwari Dumpsite. The Contractor shall take all reasonable steps to ensure that there is control of odor, dust and treatment generated leachate, flies, rodents and bird menace and fire hazards in and around the Bandhwari Dumpsite during the period of reclamation.
  3. The Contractor shall ensure processing of the Legacy Waste in accordance with CPCB guidelines for handling Legacy Waste (Old Municipal Solid Waste dated March 2020) along with SWM Rules 2016 (as amended time to time).
  4. Set up mechanical segregation and compost recovering facility
  5. Set up an eco-friendly and non-polluting processing system in order to reduce the impact of the dumping site on the adjacent areas.
  6. Set up a processing system flexible enough and convenient for segregation of dumped material;
  7. Set a soil and ground water baseline so that the same will be available to evaluate post Bio Mining and Remediation/ Reclamation of the Bandhwari Dumpsite.
  8. Monitor ground water quality, work zone air quality and ambient air quality monitoring within the site from authorized laboratories/agencies and submit the report on monthly basis.
  9. Monitor and measure noise levels at the site and interface of the facility with plant boundary and surrounding area.
  10. Carry out necessary geotechnical surveys for considering the hydrological and Flooding potential at sites, in order to mitigate any effect on the activities during Bio-Mining in terms of leachate transport. The agency will also ensure collection, treatment & disposal of leachate generated at Site by using suitable technology as per CPCB Norms.

*Handwritten signature/initials*

11. Segregate the excavated garbage in the land portion earmarked, into as many kinds and categories as possible at the cost of the Developer/ Contractor. Maximize the separation of recyclables viz. glass, metal etc. from the Bandhwari Dumpsite. Maximize the separation of components for generation of Refuse Derived Fuel ("RDF") from the Bandhwari Dumpsite.
12. Provide on-site storage facility for various fractions of processed Waste.
  1. The Contractor shall make reasonable endeavors to maximize the utilization of the Waste from the Bandhwari Dumpsite and for this purpose shall ensure that at least 80% of the Contractor shall make reasonable endeavors to maximize the utilization of the Waste from the Bandhwari Dumpsite and for this purpose shall ensure that at least 80% of the Waste is utilized / reused by the Contractor so as to produce products/outputs such as soil enricher/compost, recyclables, RDF and products from construction and demolition waste.
  2. Deal with pre-processing outputs such as RDF. Target to generate compost from the biodegradable component of the Waste at the Bandhwari Dumpsite.
13. While reclaiming and excavating MSW from the present open dumpsite following aspects must be handled carefully.
  - a. Exposure to hazardous material, leachate, gases, odor etc.
  - b. Contaminated wastes that maybe uncovered during reclamation operations require special handling and disposal requirements.
  - c. Precautions must be taken while excavating as it releases gases like methane, Sulphur dioxide and other gases which causes explosion and fire.
14. The Contractor shall explore the possibility of minimizing the disposal of inert/processing rejects and maximize the usage of such inert waste including but not limited to making of curb side blocks, filling of low lying areas, construction of roads etc.
15. Be responsible for the sale and marketing of all recovered materials to appropriate vendors.
16. Be responsible for creation and maintenance of infrastructure, facilities and amenities for sieving the excavated garbage and storing the segregated materials etc. at their own risk and cost. Provide adequate number of processing machines for achieving its daily target of handling at least 1000 (one thousand) Metric Tons of Waste per day or above so as to achieve the total reclamation of land up to 07.04.2021 based on the estimated quantum of waste at Bandhwari Dumpsite.
17. Provide weighbridge to measure the quantity of various components of waste at dumpsite, processed in terms of sorting and segregated materials, RDF, compost material, and inerts going out of the Bandhwari Dumpsite.
18. Carry out leveling of the earth surface by bulldozers or any other earth moving equipment. Deploy the necessary manpower, materials, equipment, tools and construction of plants and sheds and creation of facilities for handling, separating, segregating and storing for the operation of the plant.
19. Provide security arrangements for the planned project site, machineries, equipment etc. at the cost of the Developer/Contractor.
20. Legacy C&D waste if found during excavation, sorting/segregation and final disposal of such legacy C&D Waste shall be the sole responsibility of the Contractor. The Contractor shall be free to explore alternate uses for C&D waste as per the C&D Waste Rules, 2016. Further, if the said C&D Waste is found to be lying around the Bandhwari Dumpsite or found to be not properly disposed of, the Contractor shall be liable to be penalized for the same in accordance with the terms of the Draft Contract.
21. Hazardous waste such as physical, chemical, biological, reactive, toxic, flammable, explosive or corrosive waste, if found, during excavation, sorting or segregation shall be handled as per the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016.

*Handwritten signature/initials*

22. Handover any domestic hazardous waste/ biomedical waste if found during excavation, sorting/segregation to the nearest biomedical hazardous waste facility. This waste shall be handled as per Biomedical Waste Management Rules, 2016.

B. COMPLETION AND EXIT

1. The work of Remediation and Reclamation of Existing Dumpsite shall be completed up to cutoff date given by this office/Hon'ble NGT i.e. 14.11.2021.
2. Subject to terms and conditions in the Contract, at the end of the Term, the Contractor shall vacate the Bandhwari Dumpsite and/or the Sanitary Landfill Site, as the case may be, along with its equipment and facilities used and handover the reclaimed area and/or the Sanitary Landfill Site without claiming any compensation of whatever nature.
3. Incentives/Bonus @ (1 %) one percent of the contract value per month subject to a maximum of five percent of contract value for early completion shall be paid to the Contractor if complete the work before the prescribed time frame.

Penalties/Liquidity damages

In case of delay in completion of the contract, liquidated damages @ (0.5%) half percent of the contract value per week of delay subject to a maximum of ten percent of contract value should be levied on the contractor. The penalty damages mentioned in the Work Contract shall be levied on the contractor in addition to these penalties.

  
10.09.21  
Executive Engineer-SBM,  
Municipal Corporation,  
Gurugram.

Ends No.- EE-SBM/MCG/2021/

Dated: - 10.09.2021.

A copy of the above is forwarded to the following for information & necessary action: -

1. Ld. Mayor, Municipal Corporation, Gurugram.
2. Ld. Senior Deputy Mayor/ Deputy Mayor, Municipal Corporation, Gurugram.
3. Additional Commissioner IV, Municipal Corporation, Gurugram.
4. Chief Engineer, Municipal Corporation, Gurugram.
5. Concerned Assistant Engineer /Junior engineer with the direction to comply the above mention direction strictly and execute the work as per DNIT. If there is any deficiencies found than you will be personally liable for that. If any other item executed beyond the DNIT then prior approval from competent authority will be taken.
6. PA to Commissioner for kind information please.

  
10.09.21  
Executive Engineer-SBM,  
Municipal Corporation,  
Gurugram.

Steps made to avoid sliding at the site



**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI**

Original Application No.172/2021

**IN THE MATTER OF:-**

Poonam Yadav

.....Applicant

Versus

State of Haryana

.....Respondent(s)

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Placed: Chandigarh  
Dated: 12 May 2022

  
District Attorney  
O/o Chief Secretary to Government Haryana,  
on behalf of State of Haryana

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI**

Original Application No.172/2021

**IN THE MATTER OF:-**

Poonam Yadav

.....Applicant

Versus

State of Haryana

.....Respondent (s)

**Response of the Chief Secretary to  
Government Haryana, on behalf of State of  
Haryana in compliance of order dated 19 July  
2021 of Hon'ble NGT.**

**RESPECTFULLY SHOWETH:-**

1. That I, in my official capacity as Chief Secretary to Government of Haryana, am well conversant with the facts and circumstances of the present case and competent to file the present status report on behalf of the State of Haryana, on the basis of record/information made available by the Urban Local Bodies Department and other officers of the Government of Haryana.

2. That the status report is being filed with respect to the directions dated 19 July 2021 issued by this Hon'ble Tribunal in the above mentioned Application which are to be complied with by the Commissioners of Municipal



Corporations, Gurugram & Faridabad. Relevant part of the said order dated 19<sup>th</sup> July 2021 is reproduced hereunder:-

*"In view of above, to ascertain the factual status, we constitute a three-member Committee comprising CPCB, Haryana State PCB and the District Magistrate, Gurgaon. The Committee may visit the site, interact with the stakeholders and take assistance from any other individual/institution and give its report within one month by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/ OCR Support PDF with a copy to the Chief Secretary, Haryana. The report may inter alia include causes of fire, reasons for unauthorized persons working in the landfill premises, progress on remediation of site and setting up of waste processing plant in furtherance of order of this Tribunal dated 7.4.2021 in OA 514/2018, steps taken by the MCG to prevent sliding of garbage mound due to fire and during monsoon and status of compliance of Rules on relevant aspects. The report may also mention status of legacy waste dump site in terms of order dated 17.7.2019 in OA 519/2019.*

*The Chief Secretary, Haryana may give response within one month thereafter about remedial action taken to comply with the law and steps taken against erring officers for failure for long time to remedy the situation resulting into such ugly situation. The monitoring mechanism in place to ensure that such failures do not happen may also be mentioned. The report may be furnished by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/ OCR Support PDF."*



3. That vide aforesaid orders, a joint committee of CPCB, HSPCB and District Magistrate, Gurugram was constituted to submit a report, inter alia, on causes of fire, reasons of unauthorised persons working in landfill premises, progress on remediation of site and setting up of Waste Processing Plant in furtherance of order of this Tribunal dated 7 April 2021 in OA 514/2018, steps taken by the MCG to prevent sliding of garbage mound due to fire and during monsoon and status of compliance of Rules on relevant aspects.

4. That the report of the Joint Committee had been reported to have been received and a review meeting was convened on 06 May 2022 with the Commissioners of Municipal Corporations Gurugram & Faridabad, Additional Chief Secretary to Government Haryana, Environment, Forest & Climate Change Department, Director, Urban Local Bodies, officers of Haryana State Pollution Control Board and Deputy Commissioner, Gurugram.

5. That the report of the Joint Committee was discussed in detail and it was observed that the report is sketchy and does not serve the purpose for which the Committee was constituted by the Hon'ble Tribunal. The report was incomplete as it does not contain specific actionable points and does not bring out the defaults properly to enable decision making for drawing a proper action plan for mitigation of the situation. Further, it was observed that the officers who participated in the so called proceedings of the Joint Committee were of a considerably junior level who could not have done justice to the task handed over by the Hon'ble Tribunal. To cite an example, the Deputy Commissioner Gurugram has himself neither visited the site nor participated in the deliberations of the Joint Committee. Only a Tehsildar had been deputed to perform the task on his behalf. Similarly, the Scientist deployed by the Central Pollution Control Board and Environmental Engineer deputed by the Haryana State Pollution Control Board should have been of a



senior level so that they could identify faults of officers responsible for necessary action that was required to be taken in the management of the issues concerned. It was therefore decided to direct that the Deputy Commissioner as Chairman, Senior Environmental Engineer from State Pollution Control Board and a Senior Officer of Central Pollution Control Board should personally join the field inspections and then make recommendations.

6. It was felt that the Committee must revisit the site immediately and prepare the report containing specific actionable points as well as the names of officers found deficient in performing the assigned tasks within fifteen days.

7. It is submitted that immediately thereafter on receipt of the revised report, the response will be filed before this Hon'ble Tribunal. The aforesaid response may kindly be accepted and be placed on record before this Hon'ble Tribunal.

Respondent



(Sanjeev Kaushal)

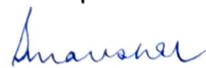
Chief Secretary to Government Haryana,  
on behalf of State of Haryana

Placed: Chandigarh  
Dated: 12 May 2022

**VERIFICATION:-**

Verified that the content of para no.1 to 7 of the status report are true and correct to my knowledge derived from official record. No part of it is false and nothing has been concealed therein.

Respondent



(Sanjeev Kaushal)

Chief Secretary to Government Haryana,  
on behalf of State of Haryana

Placed: Chandigarh  
Dated: 12 May 2022