

CONCESSION AGREEMENT

For

**Development, Construction, Operation and Maintenance of
an Integrated Municipal Solid Waste Management Project for
Bathinda Cluster in Punjab**

BETWEEN

MUNICIPAL CORPORATION OF BATHINDA

AND

M/s JITF URBAN WASTE MANAGEMENT (BATHINDA) LIMITED

AND

**M/s JITF URBAN INFRASTRUCTURE LIMITED &
M/s Ladurner Impainti S.r.l.**

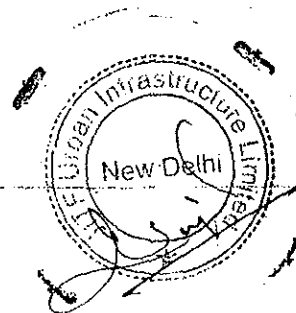
AND

DEPARTMENT OF LOCAL GOVERNMENT

Volume I of III

October 2011

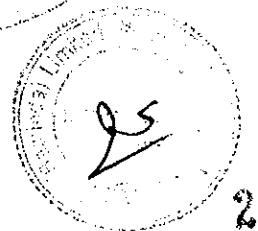
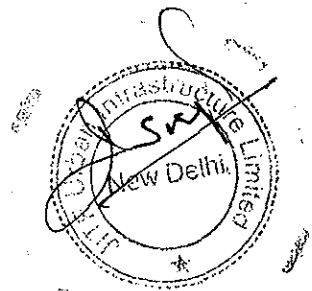
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Volume-I	Section1: Concession Agreement Section2: LOI issued to the Selected Bidder Section3: Annexure to the Concession Agreement
Volume-II	Technical Proposal submitted by the Selected Bidder
Volume-III	<u>Request for Proposal Documents / Bidding Documents</u> Section1: Instruction to Bidders & Proposal Formats Section2: Draft Concession Agreement & Annexure Section3: Draft Waste Offtake Agreement & Annexure Section 4: Draft Land Lease Agreement Section5: Addendum1 issued to the Bidders Section6: Detailed Project Report

Additional Volumes to be signed in the latter Stages	
Volume	Site (s) Lease Deed (To be Executed as per the signed Concession Agreement)
Volume	Waste Offtake Agreement with other Cluster ULBs (To be Executed as per the signed Concession Agreement)

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Volume	Contents
Volume-I	Section1: Concession Agreement Section2: LOI issued to the Selected Bidder Section3: Annexure to the Concession Agreement

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SECTION 1: Concession Agreement


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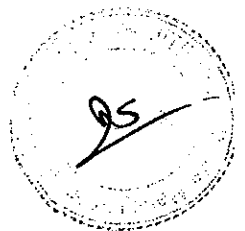
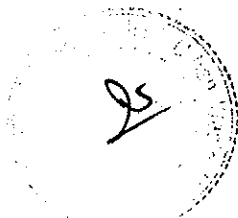
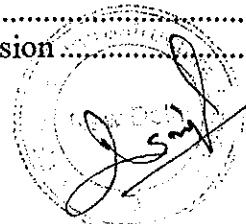


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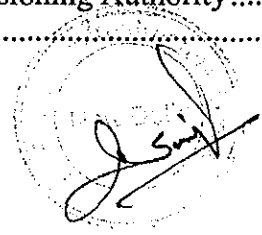



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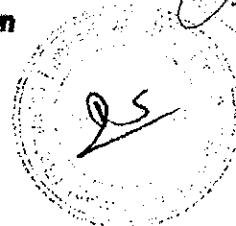
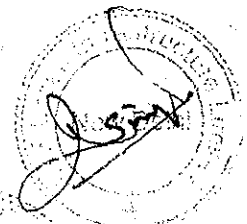

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CONCESSION AGREEMENT

THIS AGREEMENT made this 23rd day of November 2011 at Bathinda

BETWEEN

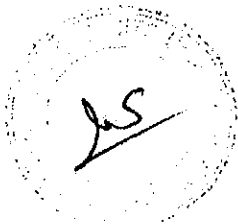
MUNICIPAL CORPORATION OF BATHINDA, a statutory body constituted under the Punjab Municipal Corporation Act of year 1976, and having its office at Near Railway Station, Bathinda represented by Commissioner, (hereinafter referred to as "Concessional Authority" which expression shall unless repugnant to the context thereof, include its successors and assigns) of the FIRST PART;

AND

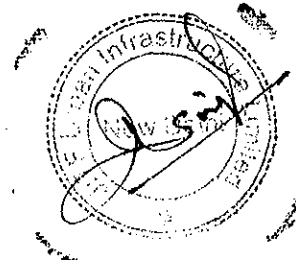
M/s JITF Urban Waste Management (Bathinda) Limited a company incorporated under the Companies Act, 1956, having its registered office at Jindal ITF Centre, 28, Shivaji Marg, New Delhi, 110015, India, represented by Mr. Rajneesh Singh duly authorized vide board resolution dated 28th September 2011 hereinafter referred to as the "Concessionaire" (which expression shall, unless repugnant to the context or meaning thereof, mean and include its, successors and assigns) of the SECOND PART;

AND

The Consortium of (i) M/s JITF Urban Infrastructure Limited, a company incorporated under the Companies Act, 1956, having its registered office at 28 Shivaji Marg, New Delhi 110015 (ii) of M/s Ladurner Impainti S.r.l. a company duly incorporated under laws of Italy, having its registered office at via Innsbruck 33, Bolzana-391100 hereinafter collectively referred to as the "Selected Bidder" (which expression shall, unless repugnant to the context or meaning thereof, mean and include its, successors and assigns) duly represented through M/s JITF Urban Infrastructure



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Ltd., the Lead Member of the consortium through its Authorized Signatory Mr. Rajneesh Singh duly authorized vide board resolution dated 28th September 2011 of the THIRD PART;

AND

DEPARTMENT OF LOCAL GOVERNMENT for and on behalf of the GOVERNMENT OF PUNJAB having its Office at Mini Secretariat, Sector 9, Chandigarh – 160017, represented by Secretary, (hereinafter referred to as the “DoLG” or “Confirming Party”, which expression shall mean and include its successors and assigns) of the FOURTH PART.

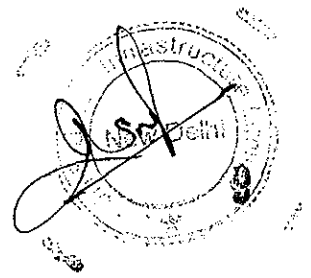
The Concessing Authority, the Concessionaire, the Selected Bidder and the Confirming Party are hereinafter referred to individually as the “Party” and collectively as the “Parties”.

WHEREAS

- A. Urban Local Bodies (“ULBs”) are responsible for providing municipal and allied civic services in their respective city/town, which encompasses the collection, transportation, processing and disposal of Municipal Solid Waste (“MSW”) generated in their respective city/town. Most of the ULBs currently dispose their MSW by open dumping, which is an unscientific way of disposal of waste.
- B. The Ministry of Environment and Forests (“MoEF”) under the aegis of Government of India (“GoI”), has formulated the Municipal Solid Wastes (Management and Handling) Rules 2000, which makes it mandatory for every civic body to implement a scientific solid waste management system through which MSW is duly processed and only that waste, which is not suitable for recycling or processing is to be disposed off in a Sanitary Landfill Site (“SLF”).
- C. The Concessing Authority along with the ULBs mentioned at Annexure 1 (“Cluster ULBs”) is desirous of establishing a suitable mechanism on regional basis to scientifically manage the collection, transportation, processing and disposal of MSW generated from the residential and other areas of the entire “Cluster” (as defined in Annexure 1), with a view to meet environmental regulations and for improvement in public health and hygiene.
- D. Based on the mandate given by the DoLG, IL&FS Infrastructure Development Corporation Limited (“IIDC”) has been advising Government of Punjab (“GoP”) for development of MSW management projects on Public-Private-Partnership (“PPP”) model, covering all corporation towns and other 140 ULBs in Punjab, and for developing various projects on regional approach. The objective is to develop and implement a viable and environmentally sustainable MSW management system on Public Private Partnership (PPP) basis, to scientifically manage MSW and gainfully utilize it to produce compost, Refuse Derived Fuel (“RDF”) and/or power, and dispose-off the residual matter in an environmentally benign manner.
- E. For the aforesaid purpose, the DoLG, has conducted a competitive bidding process. Following the process of competitive bidding, after evaluating the Proposals submitted by Bidders in response to its request for proposal (RFP) dated May 23, 2011, the DoLG accepted the Proposal submitted by the Selected Bidder for developing and implementing the Project and communicated its acceptance to the Selected Bidder vide Letter of Intent dated July 28, 2011 (the “Letter of Intent” or “LOI”).
- F. The Selected Bidder has incorporated the Concessionaire under the Companies Act, 1956, as a Special Purpose Company (SPC), pursuant to the award of the Concession, to develop and implement the Project.




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- G. Following the issuance of the LOI, the Selected Bidder /Concessionaire within 3 (three) weeks of issuance of LOI , as a pre-condition to the execution of this Agreement, has made the payment of Project development Fee to IL&FS Infrastructure Development Corporation Ltd. and provided the Performance Security to the Concessioneing Authority. Following these payments, the Concessioneing Authority has agreed to award the implementation of the Project to the Concessionaire on the terms, conditions and covenants hereinafter set forth in this Agreement
- H. The Concessionaire is hereby required to enter into this Concession Agreement with the Concessioneing Authority and DoLG, being these presents to record the terms, conditions and covenants of the Concession.


NOW THEREFORE THIS AGREEMENT WITNESSETH AND IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

Signature of CONCESSIONING AUTHORITY

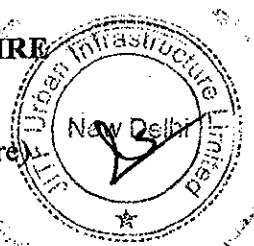
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Signature of CONCESSIONAIRE

 (Signature)

(Authorised Signatory)
Jindal ITF Centre, 28, Shivaji Marg,
New Delhi, 110015




Signature of SELECTED BIDDER

 (Signature)

(Authorised Signatory)
28, Shivaji Marg,
New Delhi, 110015



Signature of CONFIRMING PARTY:

 (Signature)
Secretary Local Govt.
Punjab
Mini Secretariat,



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 ascribed 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 Construction Period, or
- (ii) cumulative period of more than 45 (forty-five) days during the Construction Period
- (iii) for a period defined in Annexure 6 read with Annexure 18 during the Operations Period

other than as a result of an event of Force Majeure or a Material Breach of its obligations by the Concessioneing Authority;

1.1.2. **"Access Road"** means the motorable approach road for access to the Site(s) from public road;

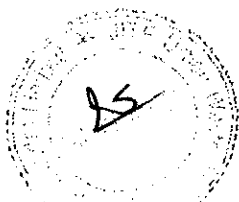
1.1.3. **"Acceptance of Concession"** shall have the meaning ascribed thereto in Article 2.1.5 ;

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;

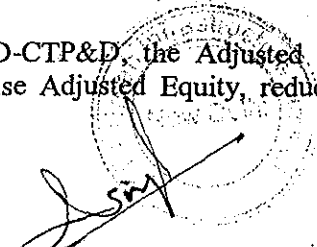
1.1.5. **"Additional Cost"** shall mean the additional capital expenditure and/or the additional operating costs or both as the case may be, which the Concessionaire would be required to incur as a result of Change in Law;

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-CTP&D, 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-CTP&D and until the 4th (fourth) anniversary thereof, an amount equal to the Adjusted Equity as on COD-CTP&D 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-CTP&D to the extent of variation in WPI occurring between COD-CTP&D and the Reference Date;
- c. after the 4th (fourth) anniversary of COD-CTP&D, the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, reduced by



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0.33% (zero point three three percent) thereof at the commencement of each month following the 4th (fourth) anniversary of COD-CTP&D and the amount so arrived at shall be revised to the extent of variation in WPI occurring between COD-CTP&D and the Reference Date;

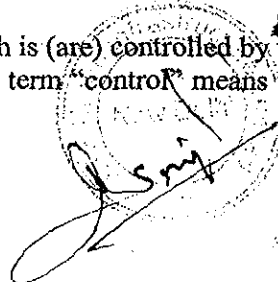
For the avoidance of doubt, the Adjusted Equity shall, in the event of Termination, be computed as on the Reference Date immediately preceding the Transfer Date; provided that no reduction in the Base Adjusted Equity shall be made for a period equal to the duration, if any, for which the Concession Period 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" shall mean the Party claiming to be affected by a Force Majeure Event in accordance with Article 8;
- 1.1.8. "Agreement" or "Concession Agreement" means this agreement executed between the Concessionaire, Selected Bidder, Concessioneing Authority and DoLG including its schedules and Annexures and includes any amendments made hereto in accordance with the provisions hereof;
- 1.1.9. "Annexure" shall mean any of the annexure, appendices, supplements or documents annexed to this Agreement and as amended from time to time;
- 1.1.10. "Appellate Authority" shall be as defined in Annexure 13;
- 1.1.11. "Applicable Law" shall mean all laws, acts, ordinances, rules, regulations, notification and guidelines in force and effect, including MSW (M&H) Rules 2000, 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;
- 1.1.12. "Applicable Approvals" or "Applicable Permits" 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 either the Concessioneing Authority or by the Concessionaire in connection with the implementation of the Project. An indicative and partial list of such Applicable Approvals and responsibility thereof has been specified in Annexure 7. It is clarified that the Concessionaire shall be responsible for procuring all such Applicable Approvals at its cost and risk that may not listed in Annexure 7 and hence are not specifically assigned to the Concessioneing Authority;
- 1.1.13. "Appointed Date" shall mean the date of execution of the Concession Agreement.
- 1.1.14. "Arbitration Act" shall mean the Arbitration and Conciliation Act, 1996 of India and shall include any amendment to or any re-enactment thereof as in force from time to time;
- 1.1.15. "Associates" shall mean any company (ies) which is (are) controlled by the company concerned. For the purpose of this definition, the term "control" means the power to



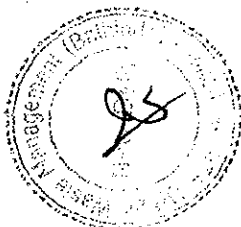
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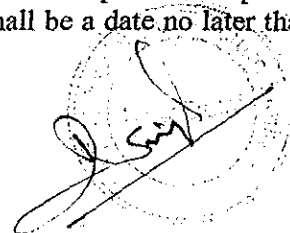
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direct the management or policies of such entity, directly or indirectly, through the ownership of shares or other securities, by contract or otherwise, provided that the direct or indirect ownership of fifty one per cent (51%) or more of its voting share capital is deemed to constitute control of such entity, and "controlling" and "controlled" shall be construed accordingly;

- 1.1.16. **"Base Tipping Fee(s)"** refers to the Tipping Fee(s) quoted by the Selected Bidder in its Financial Proposal, as set out in Annexure 12;
- 1.1.17. **"Bidder(s)"** shall have the same meaning as ascribed to it under the RFP issued by DoLG.
- 1.1.18. **"C&T" or "Collection and Transportation"** refers to primary collection and transportation of MSW from the MSW Supply Area to the Processing Facilities Site after COD P&D ;
- 1.1.19. **"CT&D" or "Collection Transportation and Dumping"** refers to primary Door to Door Collection of MSW from MSW Area, and its transportation and dumping, prior to COD-P&D, at the site(s) designated by the Concessioneing Authority for the purpose.
- 1.1.20. **"CT&D Period"** shall mean the period commencing from Compliance Date- CT&D till COD-P&D during which the Concessionaire is engaged in door to door collection of MSW from MSW Supply Area and its dumping at site(s) designated for this purpose by the Concessioneing Authority.
- 1.1.21. **"Concession Period" or "Term"** shall mean a period commencing from Appointed Date and extending till the Transfer Date, which shall, except for earlier termination of this Agreement, consist of a period of 25 years;
- 1.1.22. **"Construction & Demolition (C&D) Debris" or "Debris"** means solid waste resulting from construction, re-modeling, 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 are 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;
- 1.1.23. **"Change in Law"** shall have the meaning ascribed thereto in Article 8.11;
- 1.1.24. **"Cluster" or "Bathinda Cluster"** shall have the meaning as ascribed to it in Annexure 1;
- 1.1.25. **"COD"** shall refer to COD-P&D and/or COD-CTP&D, as the context may require.
- 1.1.26. **"COD-CTP&D"** shall mean the date on which the Independent Expert issues the Project Facilities Completion Certificate, which shall be a date no later than 15 days

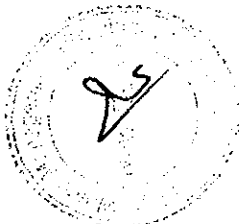


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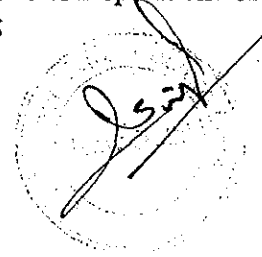


from COD-P&D and upon which the Concessionaire shall commence the commercial operation of Project Facilities with respect to all the ULBs.

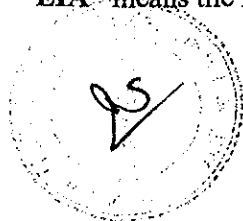
- 1.1.27. **"COD-P&D"** shall mean the date on which the Independent Expert issues the Processing & Disposal Facilities Completion Certificate, upon which the Concessionaire commences commercial operations of the Processing Facilities with respect to the MSW Area;
- 1.1.28. **"CTP&D"** or **"Collection, Transportation, Processing and Disposal"** refers to collection and transportation of MSW from Other Cluster ULBs to one of the Project Site(s), and its Processing and Disposal, as is more clearly defined in Scope of Works;
- 1.1.29. **"Compliance Date-CT&D"** shall be the date on which Concessionaire and Concessioneing Authority fulfill their Conditions Precedent for CT&D and upon which date Concessionaire is authorized to initiate the collection and transportation of MSW from MSW Area.
- 1.1.30. **"Compliance Date-P&D"** shall be the date on which Concessionaire and Concessioneing Authority fulfill their Conditions Precedent for P&D and upon which Concessionaire is authorized to commence the construction of the Processing Facilities.
- 1.1.31. **"Composting"** shall mean a controlled process involving microbial decomposition of organic matter;
- 1.1.32. **"Concession"** shall have the meaning as defined in Article 2.1;
- 1.1.33. **"Concessionaire Vehicles "** means the vehicles accepted and bought by the Concessionaire for utilization in the Project out of the vehicles made available on as-is-where-is basis by the Concessioneing Authority and at the rates as listed in Annexure 23 and procure from any other sources ;
- 1.1.34. **"Conditions Precedent(s)"** shall mean Conditions Precedent – CT&D or Conditions Precedent – P&D, as the context may require and as defined in Article 2.2.2 and Article 2.2.3;
- 1.1.35. **"Compliance Period"** shall mean Compliance Period – CT&D or Compliance Period- P&D, as the context may require and as defined in Articles 2.2.4 (a) and 2.2.4 (b)
- 1.1.36. **"Construction Period"** shall mean the period commencing from the Compliance Date P&D to date of issuance of Project Facilities Completion Certificate;
- 1.1.37. **"Construction Requirements"** shall have the meaning ascribed thereto in Annexure 3;
- 1.1.38. **"Construction Works"** shall mean the works and things necessary for achieving Construction Completion and for commencing commercial operations of the Project in accordance with the provisions of this Agreement;



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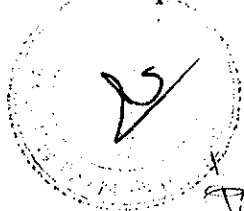
- 1.1.39. **"Contractor"** shall mean any Person with whom the Concessionaire has entered into/may enter into any material contract in relation with the Construction Works and O&M Requirements;
- 1.1.40. **"CPCB"** shall mean the Central Pollution Control Board of Government of India
- 1.1.41. **"Daily Weight Sheet"** shall have the meaning given to the term in **Annexure 13**;
- 1.1.42. **"Dead Remains"** means the dead bodies, carcasses, bones or skeletal remains of animals, rodents and other living beings (other than plants);
- 1.1.43. **"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; and
- 1.1.44. **"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;
- 1.1.45. **"Dispute"** shall have the meaning ascribed thereto in Article 11.1(a) hereof;
- 1.1.46. **"Dispute Resolution Procedure"** means the procedure for resolution of disputes set forth in Article 11;
- 1.1.47. **"Door to Door Collection"** means the collection of MSW from the Waste Generators at their doorstep.
- 1.1.48. **"Development Costs"** shall mean the aggregate of the amounts spent by the Concessionaire in undertaking activities in relation to the implementation of the Project till the Date(s) of Commissioning which amounts shall include but not be limited to: (a) expenditure incurred by IIDC and its Associates for and in relation to the Project which have been charged/assigned to the Concessionaire (b) expenditure incurred in relation to preparation of all reports, studies and other papers relating to the Project and the Project Facilities, (b) expenditure incurred in respect of filing applications for and obtaining and maintaining Applicable Approvals, (c) fees of all consultants (including IIDC), experts, accountants, lawyers, lenders and other independent persons hired in relation to the Project, (d) costs of maintaining offices of the Concessionaire that are attributable to the Project, (e) any payments made to Cluster ULBs or on behalf of Cluster ULBs in relation to the Concession or the Project and (f) costs of any Contractors appointed by the Concessionaire in relation to the implementation of the Project;
- 1.1.49. **"EIA"** means the Environment Impact Assessment for the Project.



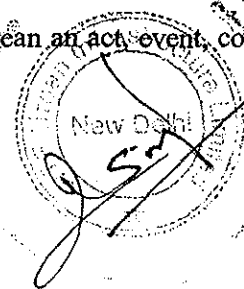
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- 1.1.50. "Emergency" shall mean conditions or situation that is likely to endanger the safety of the individuals on or about the Project Facilities or which poses an immediate threat of material damage to any of the Project Facilities;
- 1.1.51. "Encumbrances" 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;
- 1.1.52. "Engineered Sanitary Landfill Site" or "Sanitary Landfill Unit" or "Sanitary Landfill Site" means the engineered sanitary landfill site to be developed, constructed and operated by the Concessionaire at one of the Site(s), in conformance with the MSW Rules or any revision thereof, for disposal of Residual Inert Matter and Rejected Waste in accordance with the Scope of Works;
- 1.1.53. "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;
- 1.1.54. "Estimated Total Project Cost" shall be as given in Data Sheet placed at Annexure 8;
- 1.1.55. "Event of Default" shall have the meaning ascribed thereto in Article 9.1 ;
- 1.1.56. "Event of Default - Concessionaire" shall have the meaning ascribed thereto in Article 9B.1 (a) ;
- 1.1.57. "Event of Default - Concessioning Authority" shall have the meaning ascribed thereto in Article 9B.1 (b);
- 1.1.58. "Excluded Waste" means waste material of the nature that the Project Facilities are not designed or authorised to receive, manage, process and dispose which includes (i) Hazardous Waste, (ii) Bio-Medical Waste and (iii) Dead Remains;
- 1.1.59. "First Appellate Authority" shall be as defined in Annexure 13;
- 1.1.60. "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 relevant security (such as mortgages or charges or liens) on the Project Facilities or any part thereof in line with this Agreement, for securing the debt provided;
- 1.1.61. "Financial Proposal" refers to the final quotation of the Selected Bidder that shall be placed at Annexure 12;
- 1.1.62. "Financial Year" shall be same as Accounting Year;
- 1.1.63. "Force Majeure" or "Force Majeure Event" shall mean an act, event, condition or occurrence as specified in Article 8;



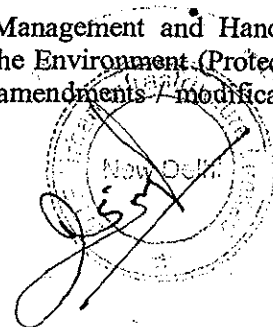
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- 1.1.64. "GoI" shall mean the Government of India;
- 1.1.65. "GoP" shall mean the Government of Punjab, and includes its successors and assigns;
- 1.1.66. "Good Industry Practice" means the exercise of that degree of skill, diligence, prudence and 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;
- 1.1.67. "Government Agency" shall mean GoI, GoP, DLG, Cluster ULBs or any state government or governmental department, commission, board, body, bureau, agency, authority, instrumentality, court or other judicial or administrative body, central, state, or local, having jurisdiction over the Concessionaire, the Site/Project Facilities 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;
- 1.1.68. "Hazardous Waste" shall have the meaning as defined under the the Hazardous Waste (Management, Handling and Transboundary Movement) Rules, 2008 and as amended thereto;
- 1.1.69. "Independent Expert" means any person, body or organization with requisite technical/professional expertise in respect of any field, matter or subject relevant for the purpose of this Agreement, appointed by the Concessioneing Authority at its own cost;
- 1.1.70. "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;
- 1.1.71. "Land ULBs" shall mean those ULBs in the Cluster, other than the Concessioneing Authority, that are responsible for providing land for the Site(s) for the Project components, as listed in Annexure 5 (A).
- 1.1.72. "Lenders" shall mean 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;
- 1.1.73. "MNRE" means Ministry of New & Renewable Energy, GoI;
- 1.1.74. "MSW" or "Municipal Solid Waste" means solid waste generated by households, public services, agricultural activities, commercial establishments and industries located within the jurisdiction of Cluster ULBs, and shall include solid waste, and Organic Waste, but shall not include the Excluded Wastes;
- 1.1.75. "MSW Rules" means the Municipal Solid Wastes (Management and Handling) Rules, 2000 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;



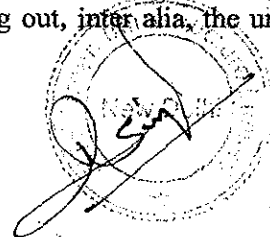
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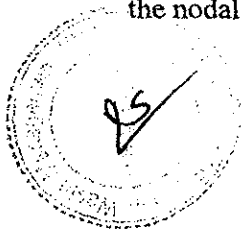
- 1.1.76. **"MSW Supply Area"** means the area presently under municipal boundaries of the Concessioneing Authority or any extension thereof during the Concession Period;
- 1.1.77. **"Estimated MSW Quantity"** means the estimated quantity of MSW that is expected to be generated from MSW Supply Area after Compliance Date-CT&D;
- 1.1.78. **"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);
- 1.1.79. **"Material Breach"** shall mean 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;
- 1.1.80. **"O&M Requirements"** shall mean the requirements as to operation and maintenance of the Project Facilities set forth at **Annexure 3**;
- 1.1.81. **"Operations Period"** shall mean the period starting from COD-P&D till the date of expiry or earlier termination of the Concession Agreement
- 1.1.82. **"Organic Waste"** means such type of MSW that can be degraded by micro-organisms, but shall not include Excluded Wastes;
- 1.1.83. **"Other Cluster ULBs"** mean the Cluster ULBs except the Concessioneing Authority
- 1.1.84. **"P&D"** or **"Processing & Disposal"** refers to Processing & Disposal of MSW collected from MSW Supply Area, as is more clearly defined in Scope of Works;
- 1.1.85. **"Performance Security"** shall mean the guarantee for performance of its obligations as per terms of this Agreement, to be furnished by the Selected Bidder (or the Concessionaire), in accordance with **Article 7.1** and of an amount indicated in the Data Sheet (**Annexure 8**) and in the format given at **Annexure 9**;
- 1.1.86. **"Person"** shall mean (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;
- 1.1.87. **"Post Closure Activities"** shall mean the activities to be undertaken by the Parties after closure of Sanitary Landfill Site;
- 1.1.88. **"Post Closure Period"** shall mean a period of twenty (20) years starting from the date of closure of the specific cell of the Sanitary Landfill Unit during which Post Closure Activities are to be undertaken.
- 1.1.89. **"Power Plant"** shall mean a power plant as may be developed in line with the policy of MNRE, GoI, as applicable from time to time;
- 1.1.90. **"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;



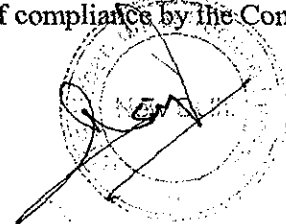
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- 1.1.91. **"Processing Facilities"** shall mean the infrastructure to be created for processing of MSW prior to its final disposal at Sanitary Landfill Site, as detailed in **Annexure 2**;
- 1.1.92. **"Processing & Disposal Facilities"** shall mean the Processing Facilities and Sanitary Landfill Unit;
- 1.1.93. **"Processing and Disposal Facilities Completion Certificate"** mean the certificate issued by the Independent Expert on completion of construction of Processing Facilities and Sanitary Landfill Unit in the form and manner as set forth at **Annexure 11**;
- 1.1.94. **"Processing Facilities Site"** shall mean total [15] acres (approx) of land made available to the Concessionaire by the Concessioneing Authority under Processing Facilities Site Lease Deed, for construction of the entire Project Facilities except for the Processing Facility, details of which are placed at **Annexure 5 A**
- 1.1.95. **"Processing Facilities Site Lease Deed"** the lease deed executed between Concessionaire and the Concessioneing Authority substantially in the form set out in **Annexure 5B**, pursuant to which the Concessioneing Authority shall lease to the Concessionaire, the Processing Facilities Site for a period co-terminus with Concession Period.
- 1.1.96. **"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 Facilities, including without limitation the Waste Offtake Agreement(s), Project Site Lease Deeds and Processing Facilities Site Lease Deed;
- 1.1.97. **"Project"** means collection, transportation, processing and disposal of MSW for the Bathinda Cluster and for that purpose to design, develop, finance, construct, operate and maintain the Project Facilities, under and in accordance with the Scope of Works and Technical Specifications and other terms and provisions of the Concession Agreement and Waste Offtake Agreement(s);
- 1.1.98. **"Project Assets"** means all tangible and intangible assets, movable and immovable assets relating to the Project Facilities including, but not limited to, (a) rights over the Project Sites and Processing Facilities Site in the form of lease, sub-lease, Concession, right-of-way or otherwise, (b) tangible assets such as the Project Facilities, foundation, embankments, buildings, structures, super structures, constructions, additions, alterations or improvements etc. thereof, landscape structures, pavement and walkways, drainage facilities, sign boards, kilometre stones, electrical, mechanical, civil, sanitation and other works, telephone, other communication equipment, equipment, technology at the Project Site/relating to the Project; (c) financial assets of the Project such as receivables, cash and investments, security deposits for utilities, User Fee etc.; (d) the Applicable Permits relating to the Project and (f) insurance;
- 1.1.99. **"Project Development Fees"** is as defined in Article 7.2;
- 1.1.100. **"Project Engineer"** shall be any Engineer of the level of Executive Engineer or above as may be nominated/appointed by the Concessioneing Authority, who shall be the nodal person for supervision and monitoring of compliance by the Concessionaire

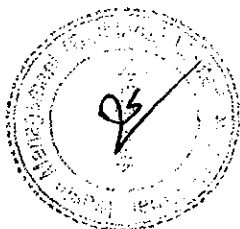


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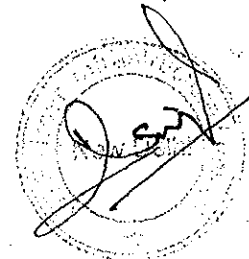


with respect to the Construction Requirements and O&M Requirements, more particularly to undertake, perform, carry out the duties, responsibilities, services and activities set forth in **Annexure 10**;

- 1.1.101. **"Project Report"** shall mean the indicative project report prepared for the Project and issued along with the RFP.
- 1.1.102. **"Project Facilities"** shall mean the physical infrastructure to be created by the Concessionaire to implement the Project as more particularly set out at **Annexure 2**;
- 1.1.103. **"Project Implementation Schedule"** is as set out at **Annexure 14**;
- 1.1.104. **"Project Facilities Completion Certificate"** shall mean the certificate issued by the Independent Expert on completion of construction of Project Facilities in the form and manner as set forth at **Annexure 11**;
- 1.1.105. **"Project Site(s)"** shall mean total 55.81 acre (approx) of land made available to the Concessionaire by the Land ULBs under Project Site Lease Deed(s), for construction of the entire Project Facilities except for the Processing Facility, details of which are placed at **Annexure 5** ;
- 1.1.106. **"Project Site Lease Deed(s)"** shall mean the lease deed(s) executed between Concessionaire and the Concessioneing Authority/Land ULB substantially in the form set out in **Annexure 5 B**, pursuant to which the Land ULBs shall lease to the Concessionaire, the Project Site for a period co-terminus with Concession Period.
- 1.1.107. **"Proposal"** shall have the same meaning as ascribed to it under the RFP issued by DoLG.
- 1.1.108. **"Proprietary Material"** shall have the same meaning as ascribed to it under Article 12.1;
- 1.1.109. **"Public Road"** means a state or national highway or a road falling under the purview of PWD(B&R), Mandi Board or a public authority other than the Municipal Corporation/ Urban Local Body concerned.
- 1.1.110. **"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;
- 1.1.111. **"RDF Plant"** means the processing plant that will be constructed, operated and maintained as part of the processing facilities, for producing of RDF from MSW;
- 1.1.112. **"Residual Inert Matter"** means the inert matter left for final disposal in Sanitary Landfill Unit after processing of the MSW by one or more of the relevant Project Facilities;
- 1.1.113. **"Rupees or Rs"** refers to the lawful currency of the Republic of India;
- 1.1.114. **"Scope of Works"** is as defined in **Annexure 3**;



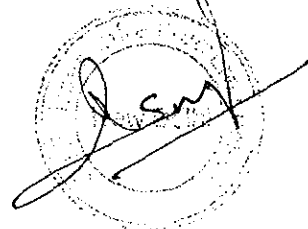
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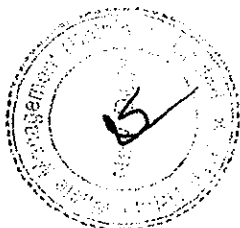
- 1.1.115. **"Scheduled Construction Completion Date"** means Scheduled Construction Completion Date – P&D or Scheduled Construction Completion Date – CTP&D, as the context may require as more particularly specified at **Annexure 14**;
- 1.1.116. **"Secondary Collection Points"** means an area mutually identified by the Concessioneing Authority and the Concessionaire to temporarily store the MSW collected by the Concessionaire from MSW Supply Area by way of door-to-door waste collection system, and MSW collected by the Concessioneing Authority by way of street sweeping and drain de-silting from MSW Supply Area;
- 1.1.117. **"Security Interest"** means any mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, assignment, security interest or other encumbrances of any kind securing or conferring any priority of payment in respect of any obligation of any Person and includes without limitation any right granted by a transaction which, in legal terms, is not the granting of security but which has an economic or financial effect similar to the granting of security in each case under any Applicable Law;;
- 1.1.118. **"SPCB"** shall mean State Pollution Control Board particularly Punjab Pollution Control Board;
- 1.1.119. **"Substitution Agreement"** shall mean the agreement that may be executed between the Concessionaire, Concessioneing Authority and the Lenders, pursuant to which, in case of Default by the Concessionaire, Lenders (through its nominee) shall be allowed to take charge of the Concessionaire's roles and responsibilities under this Agreement.;
- 1.1.120. **"Selected Bidder"** shall mean the consortium of M/s JITF Urban Infrastructure Ltd. and M/s Ladurner Impainti S.r.l.
- 1.1.121. **"Supplementary Fuel"** shall mean any fuel that can be used as a supplement to the MSW to enrich RDF in line with guidelines/policies of MNRE as issued from time to time;
- 1.1.122. **"Tax"** shall mean and includes all taxes, fees, cess, levies that may be payable by the Parties under Applicable Law(s);
- 1.1.123. **"Technical Specifications"** are as defined in **Annexure 3**;
- 1.1.124. **"Termination"** shall mean 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;
- 1.1.125. **"Termination Date"** shall mean the date specified in the Termination Notice as the date on which Termination occurs / comes into effect;
- 1.1.126. **"Termination Notice"** shall mean the notice of Termination by any of the Parties to the other Party, in accordance with the applicable provisions of this Agreement;
- 1.1.127. **"Termination Payments"** means the payments payable pursuant to Article 8.8 and 9.2(f) of this Agreement;
- 1.1.128. **"Third Party"** means any Person other than the Parties to this Agreement;



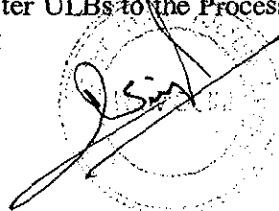
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- 1.1.129. "Tipping Fee(s)" shall refer to Tipping Fee- CT&D or Tipping Fee – C&T or Tipping Fee – P&D or Tipping Fee – CTP&D, as the context may require and as defined in Article 7;
- 1.1.130. "Tipping Fee Index" refers to the index of escalation/reduction in Tipping Fee (s) during the Concession Period, and shall be used to compute the percentage rate of variation in Tipping Fee from the Base Tipping Fee, to be calculated for every year of the Concession Period, as detailed in Annexure 22;
- 1.1.131. "Tipping Fund" or "Tipping Fee Fund" means a fund created by the Concessions Authority jointly with the Concessionaire in accordance with Annexure 13;
- 1.1.132. "Total Project Cost" means the lower of the following:
- (a) the capital cost of the Project as set forth in the Financing Documents; or
 - (b) Estimated Total Project Cost;
- 1.1.133. "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;
- 1.1.134. "Transfer Station" means the point(s) where MSW collected by the Concessionaire from Other Cluster ULBs would be stored to achieve economies of scale before further transportation to the Processing Facilities or Sanitary Landfill Unit, as applicable;
- 1.1.135. "Tests" shall mean the tests to be carried out in accordance with the Construction Requirements or the O&M Requirements and generally conform to the nature of construction and operation as per Good Industry Practice;
- 1.1.136. "User Charges" shall mean the fees chargeable from Waste Generators in line with the policy on Door-to-Door Collection of MSW, duly notified by the Concessions Authority, and placed at Annexure 20, for providing door-to-door MSW collection service to such Waste Generators;
- 1.1.137. "ULB" means Urban Local Body being a Municipal Corporation or a Municipal Council set up under the Punjab Municipal Corporation Act, 1976 or under the Punjab Municipal Act, 1911 ;
- 1.1.138. "Vacant Possession" means delivery to the Concessionaire of possession of the Site(s) free from all Encumbrances and the grant of all easementary rights and all other rights appurtenant thereto;
- 1.1.139. "Waste Generators" shall mean all residential, commercial and industrial establishments generating MSW and located within municipal boundaries of all Cluster ULBs ;
- 1.1.140. "Waste Offtake Agreement(s)" shall mean agreement(s) executed between the Concessionaire, Other Cluster ULBs and the Concessions Authority for the purpose of collection and transportation of MSW from Other Cluster ULBs to the Processing Facilities and/or Sanitary Landfill Unit as the case may be;



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1.1.141. "Weighbridge" means the electronic weighbridge capable of performing the operations specified in Annexure 3 of Scope of Work.

1.2. Interpretation

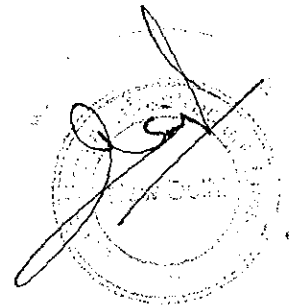
- (i) The words, phrases and expressions defined hereinabove in Article 1.1 or defined elsewhere by description in this Agreement, together with their respective grammatical variations and cognate expressions shall carry the respective meanings assigned to them in the said Article 1.1 or in this Agreement 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) all words in singular shall be deemed to connote their respective plurals and vice-versa, unless the context suggests otherwise;
- (iii) the words "include" and "including" are to be construed without limitation;
- (iv) 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;
- (v) the Schedules and Annexures to this Agreement form an integral part of this Agreement and shall be interpreted accordingly;
- (vi) any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both such days or dates;

1.3. Priority of Documents

The documents forming part of bidding process leading to this Agreement shall be interpreted in the following descending order of priority:

- (a) This Concession Agreement;
- (b) Waste Offtake Agreement(s);
- (c) Letter of Intent;
- (d) Written clarifications issued to the bidders;
- (e) Written addenda to the RFP;
- (f) RFP;
- (g) The Selected Bidder's Technical and Financial Proposal;
- (h) RFQ.

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ARTICLE 2

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 out in this Agreement, the Concessioning Authority hereby irrevocably grants to the Concessionaire, and the Concessionaire hereby accepts exclusive right and authority, during the Concession Period, to investigate, study, design, engineer, procure, finance, construct, install, commission, operate and maintain the Project and to exercise and / or enjoy the rights, powers, benefits, privileges, authorizations and entitlements granted under this Agreement.

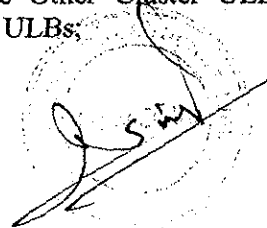
2.1.2 Rights Associated with the Grant of Concession

Without prejudice to the generality of foregoing, the Concession hereby granted to the Concessionaire shall entitle the Concessionaire, without requiring any further authorization or authority from the Concessioning Authority, 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 each of the Project Facilities either itself or through such Person as may be selected by it;
- b) upon achieving COD of Project 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
- d) to assign its rights, title or interest or create a Security Interest in respect of its rights under this Agreement or any part thereof, including its right to receive Tipping Fee (if the same is positive), in favour of Lenders for securing the financial assistance provided or agreed to be provided by the Lenders under the Financing Documents; provided that any such assignment or Security Interest shall be consistent with the provisions hereof and the Lenders are made aware of the same by the Concessionaire
- e) Provided that the Concessioning Authority 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 Concessioning Authority within such time, notarized true copies of any and all documents/agreements relating thereto.
- f) to use, appropriate, process entire MSW from the MSW Supply Area and Cluster ULBs Area and dispose-off the Residual Inert Matter and Rejected Waste in Sanitary Landfill Unit(s);
- g) to execute Waste Offtake Agreement(s) with the Other Cluster ULBs for the treatment and disposal of MSW generated in Cluster ULBs;



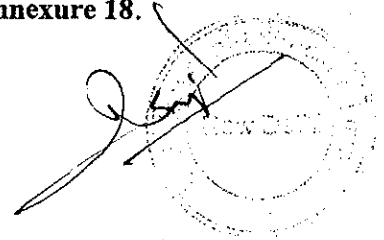
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- h) to exclusively collect User Charges from Waste Generators, and appropriate/retain and utilize the same at its own discretion;
- i) Transportation of horticulture and C&D waste in accordance with specific guidelines/policy of the Authority with regards to such waste and at the rates prescribed under such guidelines/policy.
- j) 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;
- k) to apply for and receive the fiscal incentives and benefits (as provided under Article 7.10 (b)) 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;
- l) to obtain the utilities required for enabling the construction of the Project Facilities, without any additional cost or charges, other than the applicable charges for the utilities;
- m) to exclusively hold, possess, control the Processing Facilities Site and Project Sites, in accordance with the terms of the Concession Agreement and Land Lease Agreement(s), for the purposes of the due implementation of this Project;
- n) to use the unutilised space available at the Project Facilities for display of advertisements under Applicable Laws against payment of applicable Taxes such as advertisement tax;
- o) 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 Project Sites with reference to MSW management in MSW Supply Area;
- p) to develop the Project Facilities using such technology that it considers suitable and commercially viable for the purposes of implementing the Project, in accordance with terms of this Agreement, MSW Rules and Good Industry Practices;
- q) to modify, adapt, upgrade or change the technology, from time to time, based on actual operations of the Processing Facilities, Good Industry Practices and the requirements of the Project;
- r) to use, at such times as it may deem fit, any fuel as a supplement to the MSW to enrich the RDF (such fuel shall be referred to as "Supplementary Fuel"). If the Concessionaire wishes to set-up a Power Plant in line with this Agreement, such Supplementary Fuel shall not exceed the limits stipulated in MNRE Guidelines, as applicable from time to time;
- s) to suspend C&T of MSW, transportation of MSW from Transfer Stations, processing of MSW, and disposal of MSW, if required, for undertaking maintenance or repair of the Project Facilities subject to the provisions under Annexure 18.



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2.1.3 Concession Period

The Concession is granted to the Concessionaire for the Concession Period which shall terminate upon the expiry of the Concession due to efflux of time or upon earlier Termination of this Agreement as per terms of this Agreement.

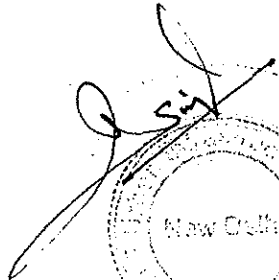
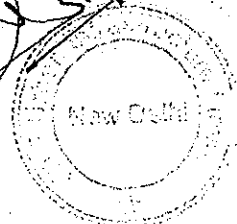
2.1.4 Renewal of Concession


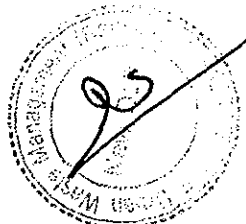
The Concessions Authority may agree to renew or extend the Concession after the expiry of the initial Concession Period, for another period equal to the initial Concession Period or such other period as may be mutually agreed to and on such terms and conditions as mutually agreed upon. However any such extension should also lead to an extension of Land Lease Agreement(s) and Waste Offtake 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 Concession Period, 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.

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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.

2.2.2 Conditions Precedent for CT&D (CP-CT&D)

2.2.2.1 Conditions Precedent for Concessioneing Authority-CT&D (CP-CT&D Concessioneing Authority)

The obligations of the Concessioneire hereunder for Collection Transportation & Dumping ("CT&D") are subject to the satisfaction in full of the following Conditions Precedent of the Concessioneing Authority. The Concessioneing Authority shall have:

- a. notified door-to-door MSW collection policy in the MSW Supply Area;
- b. finalised and allocated Secondary Collection Points in the MSW Supply Area in consultation with the Concessioneire;
- c. Transferred the necessary Applicable Approvals as per Annexure 7, which have already been applied for and obtained by the Concessioneing Authority in its name, to the name of the Concessioneire.
- d. allocated / demarcated site for dumping of MSW till the time processing and disposal facilities are established as a part of the Project. Such dumping of MSW shall be at risk and responsibility of the Concessioneing Authority, till the Project achieves COD - P&D;
- e. created a "Tipping Fund" as per requirements of Annexure 13;
- f. deposited the money in "Tipping Fund" as per requirements of Annexure 13;
- g. appointed Project Engineer and Independent Expert as per Article 4;
- h. approved in consultation with the Concessioneire and/or Independent Expert the design and detailed engineering for the Project Facilities for CT&D in accordance with the provisions of Annexure 19, and provided copies thereof to the Concessioneire.

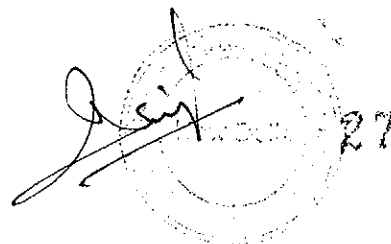
2.2.2.2 Conditions Precedent for Concessioneire - CT&D (CP-CT&D Concessioneire)

The obligations of the Concessioneing Authority hereunder for CT&D are subject to the satisfaction in full of the following Conditions Precedent of the Concessioneire. The Concessioneire shall have

- a. finalised and taken over Secondary Collection Points in the MSW Supply Area in consultation with the Concessioneing Authority;
- b. procured the Concessioneire Vehicles from Concessioneing Authority at the rates given in Annexure 23 as per the provisions of this Concession Agreement
- c. Procured bins for source segregated storage of MSW at household level, Containers/Bins for storage of MSW, street sweeping and drain desilting waste and placed them at required locations/Secondary Collection Points in MSW Supply Area.
- d. Execute Waste Offtake Agreement with Other Cluster ULBs



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- e. Facilitated appointment of Independent Expert as per Article 4; provided the Concessioneing Authority notarised true copies of its board resolution authorising the execution, delivery and performance of this Agreement by the Concessionaire.
- f. fulfilled all the pre-conditions to execution of this Agreement as mentioned in recital G of this Agreement;
- g. confirmed that all the representations and warranties of the Concessionaire/Selected Bidder set forth in the Proposal of the Selected Bidder and in this Agreement are true and correct.

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

2.2.3 Conditions Precedent for P&D (CP-P&D)

2.2.3.1 Conditions Precedent for Concessioneing Authority-P&D (CP-P&D Concessioneing Authority)

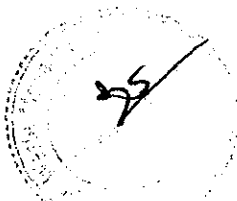
The obligations of the Concessionaire hereunder for Processing & Disposal ("P&D") are subject to the satisfaction in full of the following Conditions Precedent of the Concessioneing Authority. The Concessioneing Authority shall have:

- a. executed the Project Site Lease Deed and Processing Facilities Site Lease Deed and handed over vacant and unencumbered possession of the Project Site to the Concessionaire, if any required to be provided by the Concessioneing Authority in accordance with Annexure 5;
- b. facilitated the Concessionaire in terms of support and participation by its representative or sending follow-up letters to departments concerned for obtaining of all Applicable Approvals, if requested by the Concessionaire;
- c. approved in consultation with the Concessionaire and/or Independent Expert the design and detailed engineering for the Project Facilities in accordance with the provisions of Annexure 19, and provided copies thereof to the Concessionaire;
- d. facilitated and ensured the provision of Access Roads to the Processing Facilities Site and Project Site(s) as per Good Industry Practices
- e. achieved the Compliance Date - CT&D.

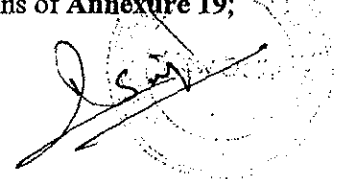
2.2.3.2 Conditions Precedent for Concessionaire-P&D (CP-P&D Concessionaire)

The obligations of the Concessioneing Authority hereunder for Processing & Disposal ("P&D") are subject to the satisfaction in full of the following Conditions Precedent of the Concessionaire. The Concessionaire shall have:

- a. achieved financial closure i.e. procured and raised all the funds (debt, equity, grant etc.) necessary to finance the Construction Works - P&D as evidenced by the funding documents becoming effective and the Concessionaire having immediate access to the funds there under;
- b. identified and communicated to the Concessioneing Authority the Project Site(s) for the Transfer Station out of the total available Project Sites
- c. executed the Project Site Lease Deed and Processing Facilities Site Lease Deed(s) and taken over vacant and unencumbered possession of the Processing Facilities Site and Project Site(s) from the Concessioneing Authority in accordance with Annexure 5
- d. got approved from the Concessioneing Authority the design and detailed engineering for the Project Facilities in accordance with the provisions of Annexure 19;



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- e. received, at its own cost, water connection, power connection and other service connections to the Project & Processing Facilities Site/ Project Sites;
- f. obtained at its cost the Applicable Approvals set out in Annexure 7 that are required to commence the Construction Works unconditionally or if subject to conditions then all such conditions have been satisfied in full and such Applicable Approvals are in full force and effect;
- g. confirmed that all the representations and warranties of the Concessionaire/Selected Bidder set forth in the Proposal of the Selected Bidder and in this Agreement are true and correct.
- h. achieved the Compliance Date – CT&D

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

Fulfilment of all CP-P&D (Concessionaire), except for achievement of Financial Closure shall be the condition precedent for effectiveness of Financing Agreements

2.2.4 Satisfaction of Conditions Precedent

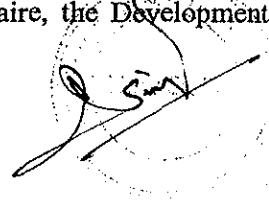
- a. Each Party shall make all reasonable endeavors at its respective cost and expense to procure the satisfaction in full of the Conditions Precedent – CT&D relating to it within a period of 60 (Sixty) days from the Appointed Date (the “Compliance Period- CT&D”).
- b. Each Party shall make all reasonable endeavors at its respective cost and expense to procure the satisfaction in full of the Conditions Precedent – P&D relating to it within a period of 120 (One Hundred & Twenty) days from the Appointed Date (the “Compliance Period- P&D”).
- c. The later of the date within such time when the Concessioneing Authority or the Concessionaire fulfils its Conditions Precedent (unless the Concessioneing Authority waives the same for the Concessionaire) shall be the date from which the relevant and respective obligations of the Parties hereunder shall commence (“Compliance Date – CT&D” and “Compliance Date – P&D” respectively).

2.2.5 Non-Compliance with Conditions Precedent

- a. In the event the Conditions Precedent for Concessionaire have not been satisfied within the stipulated time and the Concessioneing Authority 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 Concessioneing Authority 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 Concessioneing Authority shall forfeit and encash the Performance Security.
- c. In the event the Conditions Precedent for Concessioneing Authority have not been satisfied within the stipulated time, then the Concessionaire shall have the option of either: (i) mutually extend the time period for satisfaction of the Conditions Precedent for Concessioneing Authority or (ii) terminate this Agreement, in which event, the Concessioneing Authority shall pay to the Concessionaire, the Development Costs,

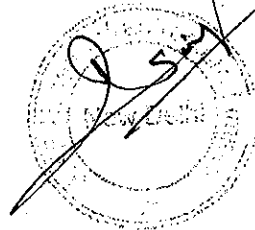


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duly certified by the Independent Expert. In case of extension of CP-P&D for Concessioneing Authority beyond a period of 120 (One Hundred and Twenty) days from Appointed Date, the Concession Period shall be extended with an equivalent period

- d. In the event this Agreement fails to come into effect on account of the non-fulfillment of the Concessioneing Authority's Conditions Precedent, the Concessioneing Authority shall return the Performance Security to the Concessionaire; provided there are no outstanding claims of the Concessioneing Authority 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



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ARTICLE 3

3. SITE(S)

3.1. Access to sites

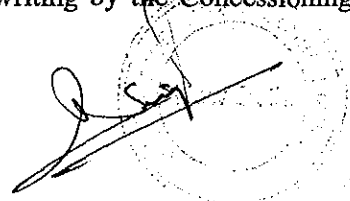
- a. The Concessioning Authority shall before the Compliance Date – P&D hand over or cause to be handed over to the Concessionaire the physical possession of the Processing Facilities Site on an “as is where is basis” together with the necessary rights of way/way leaves free from Encumbrances, and along with the right, authority and license to implement the Project there at in accordance with the provisions of this Agreement.
- b. The Concessioning Authority shall facilitate and ensure that before the Compliance Date – P&D, the Concessionaire is handed over the physical possession of the Project Sites on “as is where is basis” together with the necessary rights of way/way leaves free from Encumbrances, and along with the right, authority and license to implement the Project there at in accordance with the provisions of this Agreement.
- c. The Concessioning Authority shall provide full details of boundaries of Project Site(s) to the Concessionaire at the time of handing over of the possession of the Project Site(s) to the Concessionaire.
- d. The Concessionaire hereby confirms and accepts the suitability of the condition, soil and location of the Processing Facilities Site and Project Site(s), the EIA, the availability of goods, materials and things at the Processing Facilities Site and Project Site(s) for implementation of the Project, as determined by it through its independent assessment, and hereby accepts the Project Site(s) on an “as is where is basis” at its cost, risk and consequence.
- e. The Concessionaire acknowledges that prior to the execution of this Agreement, the Selected Bidder has after a complete and careful examination, made an independent evaluation of the local conditions, physical qualities of ground, subsoil and geology and all information provided by the Concession Authority or obtained procured or gathered otherwise, and has determined to its satisfaction the accuracy or otherwise thereof and the nature and extent of difficulties, risks and hazards as are likely to arise or may be faced by it in the course of performance of its obligations hereunder. The Concession Authority makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy, adequacy, correctness, reliability and/or completeness of any assessment, assumption, statement or information provided by it and the Concessionaire confirms that it shall have no claim whatsoever against the Concessioning Authority in this regard.
- f. The Concessionaire shall not part with or create any Encumbrance on the whole or any part of the Processing Facilities Site /Project Site(s) save and except as set forth and permitted under this Agreement; provided, however, that nothing contained herein shall be construed or interpreted as a restriction on the right of the Concessionaire to appoint any Contractors for the performance of its obligations hereunder during the Construction Period.

3.2. Use of Processing Facilities Site /Project Sites

The Concessionaire shall not use the Processing Facilities Site /Project Site(s) for any purpose other than for the purposes of implementing the Project and purposes incidental thereto as permitted under this Agreement or as approved in writing by the Concessioning Authority



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subject to the terms and conditions of the Processing Facilities Site Lease Deed and Project Site Lease Deed (s).

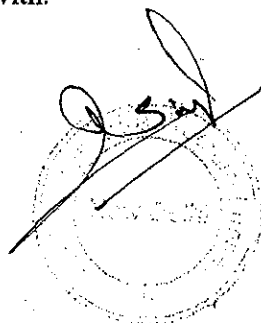
3.3. Information about Processing Facilities Site /Project Sites

The information about the Processing Facilities Site and Project Site(s) set out in Annexure 5 are provided by the Concessioneing Authority in good faith and with due regard to the matters for which such information is required by the Concessionaire. The Concessioneing Authority agrees to provide to the Concessionaire, upon a reasonable request, any further information relating to the Processing Facilities Site and Project Sites, which the Concessioneing Authority may now possess or may hereafter come to possess. Subject to this, Concessioneing Authority makes no representation and gives no warranty to the Concessionaire in respect of the suitability of the condition, soil and location of the Site for implementation of the Project and shall not be liable in any manner for the correctness or completeness of the information provided by it to the Concessionaire. The Concessionaire shall accept such information at its cost, risk and consequence.

3.4. Concessioneing Authority and Land ULBs' Property at Site

The Processing Facilities Site and Project Site(s) shall be held and handled by the Concessionaire in trust for and on behalf of the Concessioneing Authority or respective Land ULB, as the case may be, consistent with the Applicable Laws, and in particular,

- (a) All Debris generated during the construction or implementation of the Project shall be the property of the Concessionaire. The Concessionaire shall use or dispose of at its cost such Debris as it may deem fit.
- (b) All gold, silver, oil, minerals, precious stones, fossils, coins, articles of value or antiquity, and structures and other relics or remains, or things of geological or archaeological interest discovered on the Site(s) shall be the property of the Concessioneing Authority or respective Land ULB (as the case may be). The Concessionaire shall take reasonable precautions to prevent the Contractors and its labour and personnel and that of the Contractors from removing or damaging any such article or thing. The Concessionaire shall immediately upon discovery of such article or thing, inform the Concessioneing Authority and/ or respective Land ULB, which may issue instructions for dealing therewith.



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ARTICLE 4

4. PROJECT ENGINEER AND INDEPENDENT EXPERT

4.1. Project Engineer

The detailed terms and conditions for appointment of Project Engineer and its rights, responsibilities and scope of works are specified in Annexure 10.

4.2. Independent Expert

The detailed terms and conditions for appointment of Independent Expert and its rights, responsibilities and scope of works during the Construction Period are specified in Annexure 11.



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ARTICLE 5
5. THE CONCESSIONAIRE'S OBLIGATIONS

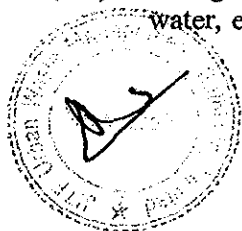
In addition to and not in derogation or substitution of any of its other obligations under this Agreement, The Concessionaire shall have the following obligations:

5.1. General Obligations of Concessionaire

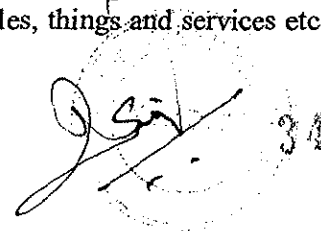
The Concessionaire shall meet the Conditions Precedent for Concessionaire – CT&D and Conditions Precedent for Concessionaire – P&D in timely manner. Further, the Concessionaire shall meet the following obligations at its cost during the Concession Period, and beyond the Concession Period in case of Post Closure Activities:

(a) Development and Implementation of Project

- (i) investigate, study, design, develop, finance, construct, establish, operate and maintain the Project Facilities, including closure and Post Closure Activities and maintenance, in accordance with the provisions of this Agreement, Scope of Works, the terms of Applicable Approvals, the Applicable Laws and Good Industry Practice;
- (ii) submit Performance Security as per Article 7.1;
- (iii) pay Project Development Fees as per Article 7.2;
- (iv) prepare a surface and ground water, leachate and air emission monitoring programme in accordance with the Applicable Laws including PPCB requirements, MoEF guidelines and MSW Rules and comply with its requirements;
- (v) achieve agreed milestones within the time periods specified in the Project Implementation Schedule set out in **Annexure 14** and achieve COD – P&D and COD CTP&D within time period stipulated therein;
- (vi) pay "Liquidated Damages" in line with **Annexure 15** for delays, if any, in achieving CODs as per Project Implementation Schedule (**Annexure 14**);
- (vii) operate and maintain the Project Facilities during the Concession Period, including closure and Post Closure Activities and maintenance, at its cost and expense, and in conformity with this Agreement including but not limited to the MSW Rules, Technical Specifications and Good Industry Practice;
- (viii) meet the Performance Parameters as stated in **Annexure 17** for Project Facilities
- (ix) shall adhere to and comply with all the conditions and guidelines provided under D.O. No. Z -14013/3/2009-PHE II dated March 22, 2010 issued by Ministry of Urban Development, Government of India and set forth at **Annexure 24 B**;
- (x) demand, charge, collect, retain and appropriate the Tipping Fee (in case of Positive Tipping Fee) from the Concessioning Authority and Other Cluster ULBs or pay the Tipping Fee (in case of Negative Tipping Fee) to the Concessioning Authority and Other Cluster ULBs at the rates set forth in **Annexure 12**;
- (xi) pay "Penalties" in line with **Annexure 18** for not meeting Performance Parameters as per **Annexure 17**;
- (xii) provide such facilities as may be required for the Project Engineer at the Processing Facilities Site and Project Sites during his visits;
- (xiii) arrange and access at its cost and expense all infrastructural facilities like water, electricity and goods, materials, consumables, things and services etc.



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- as necessary for the implementation of the Project and make arrangements for back-up supply of power;
- (xiv) be responsible for safety, soundness and durability of the Project Facilities including all structures forming part thereof and their compliance with the provisions of this Agreement, including the Technical Specifications and Good Industry Practice;
 - (xv) shall install and maintain Geographical Positioning System (GPS) for monitoring of waste quantity and vehicle movement in the Project. The system shall be in the control of the Concessionaire and Periodic Report will be submitted to the Concessioneing Authority in consultation with Project Engineer and/or Independent Expert, as applicable. However, Concessioneing Authority can inspect and monitor the system as and when required.
 - (xvi) Shall install a suitable computerised system to capture vehicle no., type of the vehicle, time of entry and weight of MSW carried by it during each entry and exit at the weighbridge.
 - (xvii) Shall install, operate and maintain Weighbridge(s) at its own cost.
 - (xviii) shall maintain a website that provides detail of the Project in such reasonable detail as would enable awareness about the Project to any person accessing the website. Without prejudice to the generality of the foregoing, the Concessionaire shall provide, on its website, details of the quantity of MSW, liquid, solid and gaseous material discharged from the Project and update the information as to these quantities on a weekly basis;
 - (xix) shall have minimum 51% (fifty one percent) of its issued and paid up equity capital from Selected Bidder or Lead Partner (in case of a consortium being Selected Bidder) during the Construction Period and 2 (two) years following COD – CTP&D and shall have minimum 26% (twenty six percent) of its issued and paid up equity capital from Selected Bidder or Lead Partner (in case of a consortium being Selected Bidder) during the remaining term of the Agreement.
 - (xx) shall allow the Concessioneing Authority to install, at the Concessioneing Authority's cost, any equipment/system/software at the weigh-bridge facility or any other Project Facility and similarly in other cluster ULBs which the Concessioneing Authority may feel necessary for monitoring those operations that affect the Concessioneing Authority's interest in the Project.
 - (xxi) shall ensure that no such technology is used that is banned by Government of India
 - (xxii) shall ensure moisture content of MSW shall be suitably addressed and other Performance Parameters are met in all seasons so as to meet the stipulations under MSW Rules 2000.

(b) Applicable Permits and Applicable Laws

- (i) obtain, maintain and periodically renew the requisite authorisation under the Applicable Laws and in particular the MSW Rules for establishing, managing and operating and maintaining the Project Facilities, including Post Closure Activities;
- (ii) obtain, maintain and periodically renew at its cost all Applicable Approvals, including environmental clearances, in conformity with the Applicable Laws and be in compliance therewith at all times;
- ✓(iii) comply with the obligations at all times, under any approval or issued from time to time by any Government Authority, including without limitation the GoP, GoI (under the Environment Protection Act, etc), the PPCB and the CPCB, and not undertake any act, deed or thing that violates the terms and



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conditions of any approval, clearance or no-objection certificate granted by such authority in relation to the Project;

- (iv) procure and maintain in full force and effect, as necessary, appropriate proprietary rights, intellectual property rights, licenses, agreements and permissions for materials, methods, processes and systems used in or incorporated into the Project;
- (v) be in compliance with the Applicable Laws, including without limitation those relating to municipal solid waste, materials and wastes, safety, health, sanitation, environment and labour, as amended from time to time, and the statutory and regulatory framework relating to the implementation of the Project and the establishment, operation and maintenance, including post closure maintenance of the Project Facilities. Without limiting the generality of the foregoing, the Concessionaire shall comply with the Environment (Protection) Act, 1986, the MSW Rules, the Water Pollution Act, 1974, the Public Liability Insurance Act, 1991, the Water (Prevention and Control of Pollution) Cess Act, 1977, the Air (Prevention and Control of Pollution) Act, 1981, the Motor Vehicles Act, 1988 and the rules framed there under by GoP or GoI, as the case may be.

(c) Liability

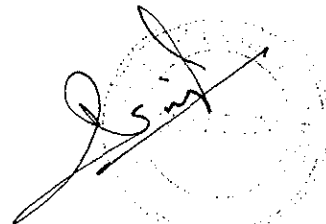
- (i) be the applicant, the authorized person, the occupier, the transporter (where applicable) and operator of the Project Facilities under and for the purposes of the Applicable Laws, including the MSW Rules. The Concessionaire accepts all liability and shall be liable under the Applicable Laws or otherwise for the implementation, operation and maintenance of the Project Facilities and indemnify and keep indemnified at its cost the Concessioneing Authority and the Government Authorities from and against any liability arising due to its acts or deeds or lack of any of its acts or deeds either by itself or Persons claiming through or under it, for the Project;
- (ii) bear at its cost and consequence, all risks of loss of or damage to life, limb, personal injury, death, physical property and environment, in or around the Project Site(s) or in relation to implementation of project, which arise in connection with or in consequence of the performance of the Construction Works by the Concessionaire or Persons claiming through or under it. Concessionaire shall restore and/or compensate at its cost as the case may be for all such losses or damages;
- (iii) be liable for all cost overruns in the implementation of the Project, save and except as expressly provided herein;
- (iv) be liable for its contracts with its Contractors, personnel, labour or any Third Party. The Concessioneing Authority shall not be liable in any manner in this behalf;
- (v) be solely liable for any cost or price escalation resulting from fluctuation in the prices of goods, materials, consumables, things and services used in the construction and implementation of the Project and not be exempted from its obligation to implement the Project or compensated in any form on account of any such escalation;

The obligation set out in this Article 5.1(c) shall survive the expiration or prior termination of this Agreement

(d) Processing Facilities Site /Project Sites



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- (i) not to place or create nor to permit any Contractor or other Person claiming through or under the Concessionaire to create or place any Encumbrance over all or any part of the Processing Facilities Site and Project Site(s) and Concessionaire Vehicles, or on any rights of the Concessioneing Authority therein;
- (ii) ensure that the Processing Facilities Site and Project Sites remains free from all encroachments and take all steps necessary to remove encroachments, if any;
- (iii) confine its operations and activities to the Processing Facilities Site and Project Site(s) and to any additional areas arranged by it at its cost and shall not encroach upon, damage or degrade adjacent land and be liable for all costs and consequences for a failure to do so;
- (iv) not undertake any act, deed or thing in derogation of or that violates the terms and conditions of the Processing Facilities Site Lease Deed and Project Site Lease Deed(s) between the Concessionaire and/or the Land ULBs.
- (v) In the event the Concessionaire is not able to construct the Transfer Station(s) at any of the Project Site(s), as notified by him to the Concessioneing Authority, before the COD CTP&D, it shall hand over the vacant and peaceful possession of such Project Site(s) to the concerned Land ULB(s) within 15 days from COD CTP&D. However, such an event shall not have any impact or effect on the entire Project or the Concession.
- (vi) remove promptly according to Good Industry Practice from the Processing Facilities Site and Project Site(s) all surplus construction machinery and material, litter, debris, waste water, rubbish and other debris and keep the Processing Facilities Site and Project Site(s) in a neat and clean condition and in conformity with the Applicable Laws and Applicable Approvals;
- (vii) be liable for all hazardous, dangerous and other goods, materials, creatures and substances brought , kept, stored or handled at the site/ Project Facilities.

(e) Shifting of Utilities

Shift the utilities at, on, over or under the ground at the Processing Facilities Site/Project Site(s) to an appropriate location or alignment. Such shifting of the utilities shall be carried out only if and to the extent the non-shifting thereof materially obstructs the implementation of the Project. The Independent Expert and Project Engineer shall at the request of the Concessionaire decide if the shifting of utilities is required or not. The cost of shifting underground utilities shall be borne by the Concessioneing Authority, while the cost of shifting of all other utilities shall be borne by the Concessionaire with a right to seek set off from the owner of such utilities as might be available under the Applicable Laws or contract. In the case of any delays in shifting of the utilities due to the owner of the utility or any Government Authority and provided such delay is not due to any default or negligence on the part of the Concessionaire or Persons claiming through or under it, there shall be a commensurate extension of the Construction Period and the Concession Period as certified by the Concessioneing Authority.

(f) Personnel and Labour

- (i) appoint and retain the key personnel as required. In the event the Concessionaire is required by the Concessioneing Authority to remove or change any key personnel, it shall forthwith provide as replacement a Person of equivalent or higher qualifications acceptable to the Concessioneing Authority;



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- (ii) provide the requisite training related to the handling and management of MSW to all persons (the labour and personnel of the Concessionaire, its Contractors, agents or otherwise) employed or working at the Project Facilities;
- (iii) make efforts to maintain harmony and good industrial relations among the labour and personnel employed in connection with the performance of the Concessionaire's obligations under this Agreement and be the primary employer, vis-a-vis the Concessioneing Authority in respect of such labour and personnel;
- (iv) be solely responsible and liable for compliance with all Applicable Laws, including labour and local laws, pertaining to the employment of labour, staff and personnel by it and its Contractors for implementing the Project;
- (v) at all times be responsible for its employees and Contractors and the Concessioneing Authority shall not be liable in any manner whatsoever in respect of such employees and their employment.

(g) Contractors

- (i) may appoint Contractors on its behalf at its cost and risk to assist it in executing the Construction Works without in any way relieving the Concessionaire of its obligations as set out in this Agreement, provided such Contractors are capable of discharging the obligations under this Agreement for and on behalf of Concessionaire;
- (ii) ensure that its obligations, which are relevant to the scope of work of a Contractor pursuant to this Agreement, are incorporated in the terms and conditions under which such Contractor is retained. The Concessionaire shall further ensure that its contracts with such Contractor contain appropriate provisions reflecting such Contractor's liability for timely completion of the Construction Works and for cost overruns etc., the payment of liquidated damages by them for delays, step in rights in favour of the nominee of Concessionaire and the provision of performance bonds or bank guarantees by them as security for the performance of their obligations there under;
- (iii) supervise, monitor and control the activities of Contractors under their respective Project Agreements.

(h) Reporting and Access

- (i) provide to the Concessioneing Authority reports on a regular basis in accordance with the provisions of Annexure 16 hereof and as set forth elsewhere in this Agreement;
- (ii) provide all assistance to the Concessioneing Authority and the Independent Expert and access to the Processing Facilities Site and Project Site(s), documents, materials and information as may reasonably be required by either of them for the performance of their respective functions, duties and services under this Agreement, the Applicable Laws or otherwise; Provided that any failure on the part of the Concessioneing Authority to inspect any works shall not, in relation to such works, (a) amount to any consent or approval of the Concessioneing Authority or be deemed to be a waiver of any of the rights of the Concessioneing Authority under this Agreement; and (b) release or discharge the Concessionaire from its obligations or liabilities under this Agreement in respect of such work;
- (iii) shall also be liable to provide Monthly Weight Sheets (consolidated Daily Weight Sheets) to the Concessioneing Authority at the end of every calendar month.



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- (iv) at all times, afford access to the Processing Facilities Site or Project Sites to the authorized representatives of the Concessioning Authority, the DoLG, the PPCB, the CPCB, and officers and representatives of any Government Authority having jurisdiction over the Project, including those concerned with safety, security or environmental protection to inspect the Project and to investigate any matter within their authority and the Concessionaire shall provide to such persons reasonable assistance necessary to carry out their respective duties and functions;
- (v) allow access to and use of the Processing Facilities Site and Project Site(s)/ Project Facilities for telegraph lines, electric lines, ducting or such other public purposes as any Government Authority may specify.

(i) Safety and Accidents

- (i) give priority to safety in its construction and planning activities in order to protect life, health, property and environment;
- (ii) develop, implement and administer a surveillance and safety program for the Project Facilities, the Concessionaire's and Contractors' labour and personnel engaged in the provision of any services under any of the Project Agreements and goods and Persons in or within the proximity of the Processing Facilities Site and Project Site(s), including correction of safety violations and deficiencies, and taking of all other actions necessary to provide a safe environment in accordance with Applicable Laws and Good Industry Practice;
- (iii) take all reasonable precautions for the prevention of accidents and emergencies on or about the Processing Facilities Site and Project Site(s)/Project Facilities, including from fire, explosion, unplanned release of MSW etc. by installing fire fighting devices, alarms and communication systems and maintaining adequate water supply, safety equipment and materials at the Project Facilities. The Concessionaire shall liaison and maintain contact with Emergency response teams, hospitals, police, the fire department, taxi services etc. The Concessionaire shall provide all reasonable assistance and Emergency medical aid to accident victims;
- (iv) implement the environment management plan (EMP), the Safety, Health and Environment programme (SHE) and fire protection programme in accordance with the Good Industry Practice.

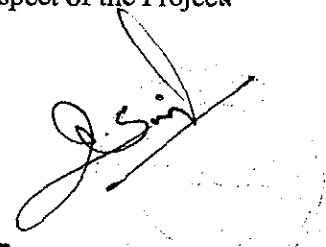
(j) Taxes

- (i) pay all charges, Taxes, fines, late fees and other outgoings in relation to the use of utilities and services by the Concessionaire or its Contractors and agents during the implementation and operation of the Project such as water supply, sewage disposal, fuel, MSW collection and disposal, electric power, gas, telephone and other utilities and consumables used in the implementation of the Project and ensure avoidance of any disruption thereof due to disconnection or withdrawal of the facility;
- (ii) pay in a timely manner all Taxes, duties, levies, cess and charges including but not limited to income tax, sales tax, value added tax, excise duty, customs duty and octroi that may be levied, claimed or demanded from time to time by any Government Authority, including any increase therein effected from time to time by any Government Authority, in respect of the Project.

(k) Project Agreements



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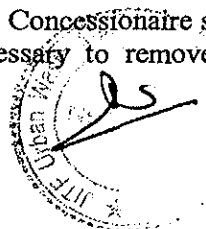
- (i) provide to the Concessioneing Authority notarised true copies of the duly executed Project Agreements to which the Concessionaire is a party, including any related instruments, deeds, contracts, supplemental agreements and other such documents relating thereto and of any amendments, supplements or replacements thereof within 15 (fifteen) days of the execution of such amendment etc.;
- (ii) comply with its obligations set out in the Project Agreements.
- (iii) Shall not amend the Project Agreement(s) without the prior consent of the Concessioneing Authority.

(l) Others

- (i) maintain insurances throughout the Concession Period in accordance with the provisions hereof;
- (ii) pay liquidated damages to the Concessioneing Authority for occurrences and at rates set forth in Annexure 15 other than where such occurrences are caused by (a) the occurrence of an event of Force Majeure in accordance with Article 8 hereof or (b) a fundamental breach of the Agreement by the Concessioneing Authority or any other material act or omission by the Concessioneing Authority in contravention of its obligations under this Agreement;
- (iii) not carry out any business or undertake any project that is in competition, direct or indirect, with the Project/Project Facilities;
- (iv) upon the establishment of on-line waste management/tracking systems at the Project Facilities, the Concessionaire shall have such systems linked to the regional and/or central monitoring systems installed at the Concessioneing Authority, PPCB or other Government Authorities.

5.2. Additional Obligations of the Concessionaire during Construction Period

- (a) The Concessionaire shall prior to commencing the Construction Works
 - i. Submit to the Concessioneing Authority with due regard to the Project Implementation Schedule and Scheduled Construction Completion Date, its design, engineering and construction time schedule and shall formulate and provide Critical Path Method (CPM)/ Project Evaluation and Review Technique (PERT) charts for the completion of the said activities;
 - ii. Have requisite organization and designate and appoint suitable officers/representatives, as it may deem appropriate to supervise the Project and to deal with the Government Agencies and to be responsible for all necessary exchange of information required pursuant to this Agreement;
 - iii. Undertake, do and perform all such acts, deeds and things as may be necessary or required to adhere to the Project Implementation Schedule and to achieve Construction Completion under and in accordance with this Agreement.
- (b) The Concessionaire shall make its own arrangements for quarrying, if necessary, and observe and fulfil the environmental and other requirements under the Applicable Laws and Applicable Approvals;
- (c) The Concessionaire shall promptly carry out at its cost such further works as may be necessary to remove any defects or deficiencies observed by the Concessioneing



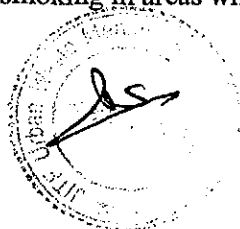
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Authority, the Independent Expert or any Government Authority and ensure completion of construction of the Project in all respects in accordance with the provisions of this Agreement;

- (d) The Concessionaire shall commence commercial operations of the Processing & Disposal Facilities and entire Project Facilities on achieving COD-P&D and COD-CTP&D respectively;
- (e) The Concessionaire shall with due diligence carry out all necessary and periodical Tests with advance intimation to the Independent Expert to determine that Construction Works are being undertaken in accordance with the requirements.
- (f) The obligations related to construction activities and Conditions Precedent – Concessionaire (CP-C&D Concessionaire) shall be applicable for any upgradation/ addition in Project Facilities that the bidder may decide to incorporate any time during the Concession Period.

5.3. Additional Obligations of the Concessionaire during CT&D Period and Operations Period

- a. The Concessionaire shall carry out the operations and maintenance of the Project Facilities at its own cost and risk in accordance with the provisions hereof.
- b. The Concessionaire shall replace, repair, replenish or renew, as the case may be, the materials, goods, machinery, equipment, spares, capital components of the Project Facilities etc. and undertake routine, periodic, preventive and major maintenance, repairs and replacements of machinery, equipment, consumables, capital components of the Project Facilities, structures etc. at its cost as necessary to carry out efficient operations and maintenance of the Project Facilities and to provide adequate service standards. The Concessionaire shall maintain the maintenance logs.
- c. The Concessionaire shall, at its own cost, operate, and maintain all vehicles and equipment, including Concessionaire Vehicles procured by the Concessionaire.
- d. The Concessionaire shall notify the Concessions Authority in writing about the authorization of the Project Facilities to handle, transport, process, and dispose MSW and keep copies of such notices as part of the operating records.
- e. The Concessionaire shall accept MSW at the Project Facilities from the MSW Supply Area and area under the municipal boundaries of Other Cluster ULBs.
- f. The Concessionaire shall not accept Excluded Waste as it does not have the requisite authorisation or capacity to handle, treat and dispose such waste.
- g. The Concessionaire shall prepare a Waste Analysis Programme (WAP) and be in compliance therewith. The WAP shall outline the verification procedures, including specific sampling methods etc. necessary to ensure the environmentally sound management of the collection, storage, transportation, processing, and disposal of the MSW handled by the Project Facilities.
- h. The Concessionaire shall observe and comply with all the necessary caution and care in handling ignitable, reactive or incompatible wastes, including putting of sign boards and banning smoking in areas where such wastes are handled.



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- i. The Concessionaire shall monitor the entrances to and exits from the Project Facilities, put appropriate danger sign boards in English, Hindi and the local language, notices and barriers as necessary at or around the active areas.
- j. The Concessionaire shall transport the MSW by itself or through authorized vehicles. The Concessionaire shall maintain an adequate fleet of transport vehicles or enter into an arrangement with Contractors as necessary for transporting such wastes from Cluster ULBs or one of the Project Facilities to other Project Facilities and be in compliance with all laws relating to motor vehicles and transportation of MSW. Such wastes shall be transported and stored in containers lined with materials that are compatible with such wastes and do not react with them.
- k. The Concessionaire shall implement corrective action as and when required to protect life, the environment, flora and fauna.
- l. The Concessionaire shall carry out the Closure and Post Closure maintenance of Sanitary Landfill Unit at the Site in conformity with the provisions of this Agreement, including the Technical Specifications, the Applicable Laws, the terms of Applicable Approvals and Good Industry Practice.
- m. The Concessionaire shall execute Waste Offtake Agreements with the Other Cluster ULBs on the terms and conditions and as per draft that is placed at Annexure 4 and that is in conformity with and not in derogation of the provisions of this Agreement.
- n. The Concessionaire shall duly inform the Concessions Authority of the additional land requirement for Sanitary Landfill at least two years prior to the exhaustion of existing Sanitary Landfill and may request for additional land, if so desired.
- o. The Concessionaire shall provide to the Cluster ULBs at their cost the assistance and facilitation, as may reasonably be requested by the Cluster ULBs, in the classification, segregation and testing of MSW generated in such Cluster ULBs.
- p. The Concessionaire shall promptly and diligently repair, replace or restore the Project Facilities or part thereof which may be defective, destroyed, lost or damaged.
- q. Except as provided or authorized under this Agreement, the Concessionaire shall not, without the prior written consent of the Concessions Authority, remove or replace any asset comprised in the Project.

5.4. No Breach of Concessionaire's Obligations in Certain Circumstances

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:

- Non Political Event, subject to Article 8;
- Concessions Authority's Event of Default;
- Compliance with the written instructions of / from the Concessions Authority or relevant Cluster ULBs 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;
- Closure of the Project Facilities or part thereof with the approval of the Concessions Authority;
- Orders of any court having competent jurisdiction.



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Signature

ARTICLE 6

6. CONCESSIONING AUTHORITY'S OBLIGATIONS

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

6.1. Specific Obligations

The Concessioning Authority shall:

- a) meet the Conditions Precedent for Concessioning Authority – CT&D and Conditions Precedent for Concessioning Authority – P&D in timely manner;
- b) create “**Post Closure Performance Account**” as per provisions of Article 7.4 and **Annexure 13**;
- c) grant in a timely manner all such approvals, permissions and authorizations which the Concessionaire may require or is obliged to seek from the Concessioning Authority under this Agreement, in connection with implementation of the Project and the performance of its obligations. Provided where authorization for availing permits for utilities such as power, water, sewerage, telecommunications or any other incidental services/utilities is required, which are within the administrative control/ powers of the Concessioning Authority, the same shall be provided by the Concessioning Authority within 15 (fifteen) days from receipt of request from the Concessionaire to make available such authorization, provided that the conditions that the applications / details submitted are complete and correct;
- d) without prejudice to the generality of Article 6.1 (a) above:
 - i. recommend and forward to the relevant authority/ministry/department, any application of the Concessionaire to obtain any Applicable Approval
 - ii. facilitate the grant of the Applicable Approval with the relevant authority/ministry/department, including entry permits from traffic police, and assist the Concessionaire in getting necessary clearances from the relevant authorities / ministry/departments;
 - iii. ensure that the building plans for the Project Facilities at Processing Facilities Site and Project Sites are duly and expeditiously approved by the concerned authorities under the Act / building by-laws / other relevant by-laws or regulations;
- e) ensure peaceful use of the Processing Facilities Site and Project Site(s) by the Concessionaire under and in accordance with the provisions of this Agreement without any let or hindrance from any Persons claiming through or under the Concessioning Authority;
- f) make timely payment to the Concessionaire in accordance with the provisions of this Agreement in accordance with the provisions of Article 7.3 to 7.5 (in case the Tipping Fee is positive) and **Annexure 13** hereof;
- g) declare and maintain, or cause to declare and maintain, a no-development zone around the Processing Facilities Site and Project Site(s) in accordance with Applicable Laws;
- h) provide additional land for development of additional Sanitary Landfill Unit as close as possible to the existing Sanitary Landfill Unit, if during the Concession Period, the available Site for Sanitary Landfill Unit falls short of the actual landfill requirements;
- i) pay an additional fees (if the Tipping Fee is positive) as may be mutually agreed with the Concessionaire if the new site for Sanitary Landfill Unit is more than 25 Kilometres away from the existing site for Sanitary Landfill Unit;



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- j) cause appropriate notations and entries to be made in the land records relating to the Site for Sanitary Landfill Unit with the concerned Government Authorities so as to notify any Person dealing with such site or leasing/buying the land and property comprised in such site that the site shall be used for handling and disposal of MSW and that the usage of the site is restricted.
- k) The Concessioning Authority shall facilitate the Concessionaire for public awareness campaign through appropriate media and road shows, so as to create the conducive environment.



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ARTICLE 7

7. SECURITIES, FEES, PAYMENTS & REVENUES

7.1. Performance Security

The Selected Bidder has given, for due and punctual performance of its obligations hereunder relating to the Project, deliver to the Concessioneing Authority, a bank guarantee in favour of the Concessioneing Authority from a scheduled bank payable at Delhi----- in the form as set out in Annexure 9, ("Performance Security") for a sum as indicated in Data Sheet (Annexure 8). The Performance Security has been furnished by the Selected Bidder as per terms of the bid documents (along with acceptance of LoI) and the bank guarantee shall be valid for a period of ninety (90) days over and above the Construction Period.

On or before COD-CTP&D, the Concessionaire shall furnish a Performance Security in form of a bank guarantee of reduced amount which shall be fifty percent (50%) of the amount of initial Performance Security. Against submission of such Performance Security, the earlier Performance Security shall be released by the Concessioneing Authority. The Concessionaire shall ensure that amount of the said Performance Security shall be escalated, every three years from the date of its issuance, by fifteen percent (15%) of the amount of subsisting Performance Security during that time.

The Performance Security shall be kept valid by replenishment or otherwise throughout the Concession Period in accordance with the above provisions. The renewal of the bank guarantee constituting the Performance Security, as and when required shall be done by the Concessionaire at least one (1) month prior to the date of expiry of the existing bank guarantee, failing which, the Concessioneing Authority shall be entitled to invoke the bank guarantee.

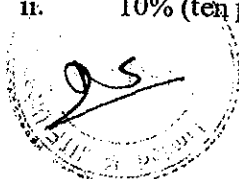
In the event Performance Security or any part thereof is encashed by any of the ULBs in accordance with the provisions of the Waste Offtake Agreements, the Concessionaire shall replenish the Performance Security by the encashed amount to ensure that the Performance Security is valid and subsisting, throughout the Concession Period, for the entire amount as per the provisions mentioned above.

Provided that if the Agreement is terminated due to any event other than the Concessionaire Event of Default, the Performance Security if subsisting as on the Termination Date shall, subject to the Cluster ULBs' and Concessioneing Authority's right to receive amounts at prevailing time if any, due from the Concessionaire under this Agreement, be duly discharged and released to the Concessionaire within thirty (30) days from the Termination Date

7.2. Project Development Fees

- a. The Selected Bidder shall pay to IL&FS Infrastructure Development Corporation Limited (IIDC) or any person nominated by IIDC, a non-adjustable, non-refundable fees ("Project Development Fees") equal to 4.5% (inclusive of all applicable taxes and duties) of the Estimated Total Project Cost (indicated in Data Sheet at Annexure 8). Which is Rs. 29,907,739 (Rupees Two Crores yNinety Nine Lakhs Seven Thousand Seven Hundred Thirty Nine Only). Out of which 80% (eighty percent) has been paid within 15 days of issue of Letter of Intent); and remaining Project Development Fees shall be paid in two instalment i.e.

- i. 10% within one hundred and eighty (180) days of the Appointed Date ;
- ii. 10% (ten percent) within seven (7) days of achieving COD - P&D.



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The Selected Bidder has submitted required to submit two (2) bank guarantees payable at Chandigarh (in format provided at Annexure 9B) each of value equal to ten percent (10%) of the Project Development Fees in favour of IIDC before the Appointed Date, which shall remain in the custody of Project Engineer of the Concessions Authority. Such bank guarantees shall be returned only after IIDC confirms in writing to the Project Engineer that it has received the due payment from Selected Bidder/Concessionaire on account of Project Development Fees.

- i. If the Concessionaire has not proposed a power plant as part of Project Facilities in its Technical Proposal at the time of its submission and decides to add this component at any later stage during the Concession Period, then **Project Development Fees- Power Plant** will become payable to IIDC. The Concessionaire shall be under an obligation to intimate IIDC and Concessions Authority if and when it decides to add a power plant as part of Project Facilities. Full payment of the Project Development Fee-Power Plant shall be the Condition Precedent for effectiveness of Financing Agreements for power plant component of Project Facilities. Project Development Fees- Power Plant shall be paid in lumpsum within 15 days of the intimation to Concessions Authority/IIDC in this regard or start of construction, if the former is not complied with ("Due Date of Payment of PDF-PP"). The amount of Project Development Fees-Power Plant to be paid to IIDC shall be calculated by escalating the present value of Project Development Fees- Power Plant e.g. Rs. 18,000,000 (Rupees One Crore and Eighty Lakh Only) by 5% per annum (compounded monthly) from Appointed Date till the date of actual payment of this fees.

For example, if the Appointed Date is 1st June 2011 and the Project Development Fees- Power Plant is paid on 15th August 2016, then the value of Project Development Fees- Power Plant (PDF-PP) shall be calculated as follows:

$$\text{PDF-PP} = \text{Rs. } 18,000,000 \times [1 + (5\%/12)]^{51} \text{ or Rs. } 22,251,964$$

In this example 50.5 months would have elapsed between the Appointed Date and Date of Actual Payment. If the number of months is a fraction it shall be rounded off to the next higher integer, and therefore 50.5 has been rounded off to 51.

If the Project Development Fees-Power Plant (PDF-PP) is not paid directly to IIDC by the Concessionaire, then the Concessions Authority shall withhold the Tipping Fee (if Positive) payable to the Concessionaire and shall pay an equal amount to IIDC continuously on a monthly basis till the Project Development Fees-Power Plant gets fully paid. Similarly, if the Tipping Fee is negative, Concessions Authority shall transfer the Negative Tipping Fee to IIDC continuously on a monthly basis till the Project Development Fees-Power Plant gets fully paid. For this purpose, the amount of Project Development Fees-Power Plant shall be computed as on the date of last monthly payment for full and final settlement of Project Development Fees-Power Plant.

For example,

- (i) if the Due Date of Payment of PDF-PP is 15th August 2016 and PDF-PP is not paid to IIDC by this date,
- (ii) if the monthly Tipping Fee payable to the Concessionaire is Rs. 30 lakhs, then PDF-PP will be fully paid in the 8th month of Due Date of Payment of PDF-PP or in the 59th month from Appointed Date

$$\text{PDF-PP} = \text{Rs. } 18,000,000 \times [1 + (5\%/12)]^{51} \text{ or Rs. } 22,251,964 \text{ Tipping Fee}$$



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7.3. Tipping Fee

is placed at Annexure 12 of this Agreement, on the Appointed Date. To clarify further, the Tipping Fee is termed to be positive when required to be paid by the Concessioneing Authority/Other Cluster ULBs and negative when required to be paid by the Concessionaire.

In line with the Financial Proposal and details set out in Annexure 13, the Concessionaire shall submit to the Project Engineer a monthly statement ("**Monthly Fee Statement**") providing the details, regarding payment to be received from or payment to be made to the Concessioneing Authority ("**Monthly Payment**"), as the case may be.

(a) Positive Tipping Fee

The Concessioneing Authority agrees and undertakes to pay to the Concessionaire, fee per ton of MSW ("**Positive Tipping Fee**") for following activities:

- (i) Collection, Transportation and Dumping of MSW from MSW Supply Area till the site designated for this purpose by the Concessioneing Authority during CT&D Period ("**Tipping Fee- CT&D**");
- (ii) Collection and Transportation of MSW from MSW Supply Area till the Processing Facilities Site or any other site notified by the Concessioneing Authority for Processing and/or Disposal ("**Tipping Fee - C&T**") after COD-P&D; and

(b) The Concessioneing Authority agrees and undertakes not to pay any Tipping Fee for Processing & Disposal of MSW received from MSW Supply Area after COD P&D as per the Financial Proposal submitted by the Selected Bidder.

The Tipping Fee with respect to Other Cluster ULBs shall be paid in the manner set out in the Waste Take off Agreement(s).

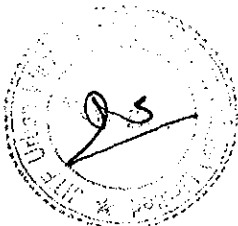
It is to be noted that Tipping Fee-CT&D, Tipping Fee-C&T or Tipping Fee-P&D can be both positive or negative

7.4. Mechanism of Payment during the Concession Period

The Concessioneing Authority (in case of Positive Tipping Fee) or the Concessionaire (in case of Negative Tipping Fee) shall, within thirty (30) days from the date of receipt of the Monthly Fee Statement shall, in accordance with procedure laid out in Annexure 13,

- a.) Pay to the Concessionaire (in case of Positive Tipping Fee) or the Concessioneing Authority (in case of Negative Tipping Fee), an amount equal to 100% of the total amounts payable as Monthly Payment for CT&D or Monthly Payment for C&T in accordance with Article 7.3 as stated in respective Monthly Fee Statement.
- b.) Pay to the Concessionaire (in case of Positive Tipping Fee) or the Concessioneing Authority (in case of Negative Tipping Fee), an amount equal to 98.5% of the total amounts payable as monthly payment - P&D in accordance with Article 7.3 as stated in such Monthly Fee Statement.

The Concessioneing Authority (in case of Positive Tipping Fee) or the Concessionaire (in case of Negative Tipping Fee) shall credit the balance amounts, which are equal to 1.5% of the monthly payment - P&D, in a separate bank account in the name and style of "**Post Closure Performance Account**" maintained by the Concessioneing Authority for meeting the expenses related to Post Closure Activities.



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7.5. Non Payment by the Concessing Authority (in case of Positive Tipping Fee) or Concessionaire (in case of Negative Tipping Fee) during Concession Period

- a) In case the monthly payments as prescribed in the previous clause are due from the Concessing Authority and the Concessing Authority does not pay the monthly payments in stated period of thirty (30) days, the monthly payments shall be duly released from Tipping Fund within a period of seven (7) days therefrom, and the Concessing Authority shall make good the deficit in Tipping Fund within seven (7) days of release if such payment from Tipping Fund;
- b) If Concessing Authority does not make good the deficit within seven (7) days of payment from Tipping Fund, the Concessionaire shall make representation to the First Appellate Authority. The First Appellate Authority shall advise the Concessing Authority to make good the deficit in Tipping Fund;
- c) If Concessing Authority does not make good the deficit within thirty (30) days of payment from the Tipping Fund, the Concessionaire shall make representation to the Appellate Authority. The Appellate Authority shall take necessary measures to ensure that the deficit in Tipping Fund is made good.

7.6. Mechanism of Payment during Post Closure Period

- a) The Concessionaire shall, at the time of Handing Over of Project Facilities to the Concessing Authority, nominate a Person ("Beneficiary") as beneficiary of payments from Post Closure Performance Account pursuant to Termination of the Agreement
- b) For every year during Post Closure Period, the Concessing Authority shall pay to the Beneficiary an amount equal to 1.5% of the initial balance available (inclusive of all taxes and duties, if any applicable) in Post Closure Performance Account as on the date of termination of this Agreement by efflux of Concession Period or otherwise. Such payments shall be made against written demand by the Beneficiary on yearly basis after deduction of applicable taxes and duties. Provided however, no payments from Post Closure Performance Account shall be made to the Selected Bidder / Concessionaire / Beneficiary, if the Agreement is terminated due to Concessionaire's Default.
- c) It may be specifically noted that if any amount in Post Closure Performance Account is utilized to meet any of the obligations pertaining to Post Closure Activities, then such amount shall be first adjusted before allowing yearly payments to the Beneficiary.
- d) The remaining value of amount accumulated in Post Closure Performance Account, if any, shall be promptly released by the Concessing Authority within 60 (Sixty) days of end of Post Closure Period.

7.7. Terms of Payment

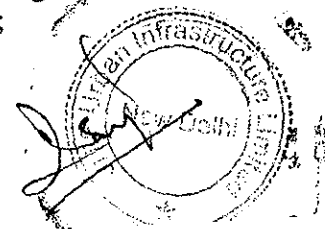
- (i) Any delay in making payment in accordance with Article 7.3 to 7.6 above shall, without prejudice to any other consequences under this Agreement, entail payment of interest on the amount in default at prevailing annual prime lending rate ("PLR") of State Bank of India calculated for the duration of delay.
- (ii) All payments, whether by the Concessionaire or by the Concessing Authority, shall be made by way of demand draft or cheque payable at par in the city of Concessing Authority.

7.8. User Charges

Starting from Compliance Date CT&D and during the entire Concession Period, the Concessionaire shall, be entitled to exclusively collect User Charges from Waste Generators, and appropriate/retain and utilize the same at its own discretion;



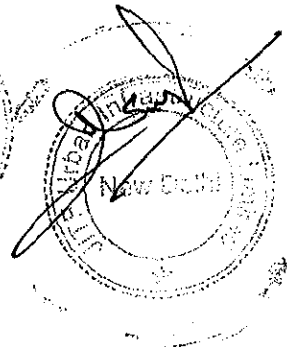
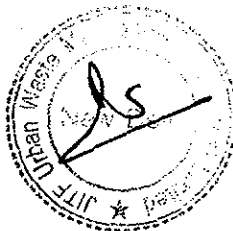
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7.9. Other revenue sources

Starting from COD-P&D and during the entire Concession Period, the Concessionaire shall be entitled to the following:

- a) Subject to the applicable laws, rule, regulation and government orders, the Concessionaire shall be entitled 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;
- b) The Concessionaire shall be entitled to receive the 85% of the fiscal incentives and benefits accruing to the Project in respect of or on account of Certified Emission Reductions (CERs) or Verified Emission Reductions (VERs) under Kyoto Protocol / Climate Change initiative. Concessioning Authority shall be entitled to receive the remaining 15% of the fiscal incentives and benefits The required applications in this regard will have to be filed by the Concessionaire;
- c) The Concessionaire shall be entitled to use the unutilised space available at the Project Facilities and on Concessionaire Vehicles for display of advertisements under Applicable Laws against payment of applicable Taxes such as advertisement tax etc. and retain, appropriate and utilise the revenue from such advertisements at its own discretion;
- d) In accordance with the provisions of this Agreement and applicable laws, rules and regulations, the Concessionaire shall be free to set-up a Power Plant, if it so desires, and sell the electricity to the users at specified rates and retain and appropriate the proceeds therefrom.



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ARTICLE 8

8. FORCE MAJEURE

As used in this Agreement, the expression "Force Majeure" or "Force Majeure Event" shall mean occurrence in India of any or all of Non-Political Event, Indirect Political Event and Political Event, as defined in Articles 8.1, 8.2 and 8.3 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 (i) is beyond the reasonable control of the Affected Party, and (ii) the Affected Party could not have prevented or overcome by exercise of due diligence and following Good Industry Practice, and (iii) has Material Adverse Effect on the Affected Party.

8.1. Non-Political Event

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

- (i) 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);
- (ii) strikes or boycotts (other than those involving Contractors, or their respective employees/representatives, or attributable to any act or omission by any of them) interrupting supplies and services to the Project for a continuous period of 48 (forty eight) hours and an aggregate period exceeding 10 (ten) days in an Accounting Year, and not being an Indirect Political Event set forth in Article 8.2;
- (iii) 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;
- (iv) any judgment or order of any court of competent jurisdiction or statutory authority made against the Concessionaire in any proceedings for reasons other than (a) its own failure to comply with any Applicable Law or Applicable Permits, or (b) on account of its own breach of any Applicable Law or Applicable Permit or of any contract, or (c) enforcement of this Agreement, or (d) exercise of any of its rights under this Agreement by the Government;
- (v) 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
- (vi) any event or circumstances of a nature analogous to any of the foregoing.

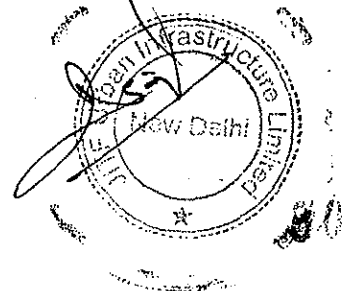
8.2. Indirect Political Event

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

- (i) an act of war (whether declared or undeclared), invasion, armed conflict or act by foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;



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- (ii) industry-wide or State-wide strikes or industrial action for a continuous period of 48 (forty eight) hours and exceeding an aggregate period of 10 (ten) days in an Accounting Year;
- (iii) any civil commotion, boycott or political agitation which prevents collection of User Charges by the Concessionaire for an aggregate period exceeding 30 (thirty) days in an Accounting Year;
- (iv) 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;
- (v) any Indirect Political Event that causes a Non-Political Event; or
- (vi) any event or circumstances of a nature analogous to any of the foregoing.

8.3. Political Event

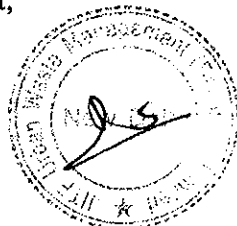
A Political Event shall mean one or more of the following acts or events by or on account of any Government Instrumentality:

- (a) compulsory acquisition in national interest or expropriation of any Project Facilities or rights of the Concessionaire or of the Contractors;
- (b) unlawful or unauthorized or without jurisdiction revocation of or refusal to renew or grant without valid cause, any clearance, licence, permit, authorization, 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 Concessionaire or any Contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such clearance, licence, authorization, no objection certificate, exemption, consent, approval or permit;
- (c) 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
- (d) any event or circumstance of a nature analogous to any of the foregoing.

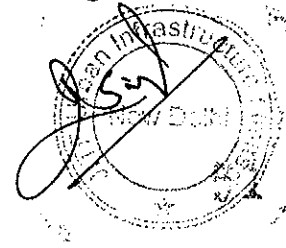
8.4. Duty to report Force Majeure Event

8.4.1 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 8 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;



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- 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.

8.4.2 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 not 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.

8.4.3 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 Article 8.4.1, and, such other information as the other Party may reasonably request the Affected Party to provide.

8.5. Effect of Force Majeure Event on the Concession

Upon the occurrence of any Force Majeure Event prior to the Compliance Date – CT&D, the Compliance Period and Scheduled Construction Completion Date(s) shall be extended accordingly by a period equal in length to the duration of the Force Majeure Event.

At any time after the Compliance Date – CT&D, if any Force Majeure Event occurs before COD-P&D, the Concession Period and the dates set forth in the Project Implementation Schedule shall be extended by a period equal in length to the duration for which such Force Majeure Event subsists;

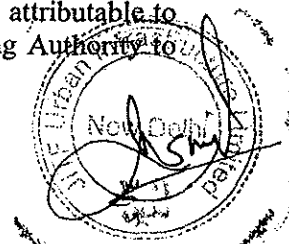
If any Force Majeure Event occurs after COD-P&D, the Concession Period shall be extended by a period equal in length to the duration for which such Force Majeure Event subsists.

8.6. Allocation of costs arising out of Force Majeure

- (a) Upon occurrence of any Force Majeure Event prior to the Compliance Date – CT&D, the Parties shall bear their respective costs and no Party shall be required to pay to the other Party any costs thereof.
- (b) Upon occurrence of a Force Majeure Event after the Compliance Date – CT&D, 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:
 - i. 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;
 - ii. 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 Concessions Authority to the Concessionaire; and
 - iii. upon occurrence of a Political Event, all Force Majeure Costs attributable to such Political Event shall be reimbursed by the Concessions Authority to the Concessionaire.



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- (c) For the avoidance of doubt, Force Majeure Costs may include interest payments on debt, O&M Expenses, 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 Fee, revenues or debt repayment obligations, and for determining such costs, information contained in the Financial Proposal may be relied upon to the extent that such information is relevant.
- (d) Save and except as expressly provided in this Article 8, neither Party shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, co-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.

8.7. 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 8, 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.

8.8. Termination Payment for Force Majeure Event

Upon occurrence of a Force Majeure Event resulting in Termination of the Agreement, the Concessioneing Authority shall make payments in line with the following, to the Concessionaire ("Termination Payments"):

- (i) If Termination is on account of a Non-Political Event, the Concessioneing Authority shall make a Termination Payment to the Concessionaire of an amount equal to 90% (ninety per cent) of the Debt Due less Insurance Cover for assets under the Concessionaire's ownership.
- (ii) If Termination is on account of an Indirect Political Event, the Concessioneing Authority shall make a Termination Payment to the Concessionaire of an amount equal to:
- a. Debt Due less Insurance Cover for assets under the Concessionaire ownership; 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 also be included in the computation of Termination Payments; plus
 - b. 110% (one hundred and ten per cent) of the Adjusted Equity.
- (iii) If Termination is on account of a Political Event, the Concessioneing Authority shall pay an amount that would be payable under Article 9.2 as if it were a Concessioneing Authority's Default.



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8.9. 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.

8.10. 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; 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.

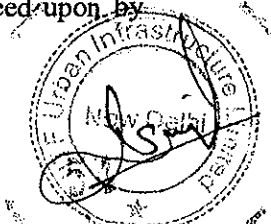
8.11. Change in Law

- (a) Change in Law shall mean the occurrence or coming into force of any of the following, after the Appointed Date:
 - i. The enactment of any new Indian law;
 - ii. The repeal, modification or re-enactment of any existing Indian law;
 - iii. A change in the interpretation or application of any Indian law by a court of record;
 - iv. Any order, decision or direction of a court of record.

Provided that Change in Law shall not include:

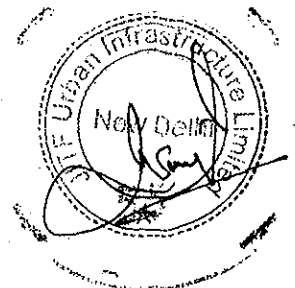
- i. Coming into effect, after the Appointed Date, of any provision or statute which is already in place as of the Appointed Date,
 - ii. Any new law or any change in the existing law under the active consideration of or in the contemplation of any government as of the Appointed Date which is a matter of public knowledge;
 - iii. Any change in the rates of the Taxes.
- (b) Subject to Change in Law resulting in Material Adverse Effect and subject to the Concessionaire taking necessary measures to mitigate the impact or likely impact of Change in Law on the Project, if as a direct consequence of a Change in Law, the Concessionaire is obliged to incur Additional Costs, then Concessioneing Authority shall subsequently reimburse to the Concessionaire, 100% of such Additional Costs, provided such Additional Cost in any manner as may be mutually agreed upon by Parties.

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- (c) If as a result of Change in Law, the Concessionaire benefits from a reduction in costs or increase in net after-tax return or other financial gains, the Concessioneing Authority may by notice require the Concessionaire to pay an amount that would place the Concessionaire in the same financial position that it would have enjoyed had there been no such Change in Law, and within 15 (fifteen) days of receipt of such notice, along with particulars thereof, the Concessionaire shall pay the amount specified therein to the Concessioneing Authority.
- (d) Upon occurrence of a Change in Law, the Concessionaire may notify the Concessioneing Authority of the following:
- (i) The nature and the impact of Change in Law on the Project
 - (ii) In sufficient detail, the estimate of the Additional Cost likely to be incurred by the Concessionaire on account of Change in Law
 - (iii) The measures, which the Concessionaire has taken or proposes to take to mitigate the impact of Change in Law, including in particular, minimising the Additional Cost
 - (iv) The relief sought by the Concessionaire
- (e) Upon receipt of the notice of Change in Law issued by the Concessionaire pursuant to preceding sub-article, the Concessioneing Authority and the Concessionaire shall hold discussions and take all such steps as may be necessary including determination by the Project Engineer/Concessioneing Authority of the quantum of the Additional Cost to be borne and paid by the Concessioneing Authority
- (f) The Concessioneing Authority shall within 30 days from the date of determination of quantum of Additional Cost, provide relief to the Concessionaire in the manner as mutually agreed upon by the Parties.

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ARTICLE 9

9. EVENTS OF DEFAULT AND TERMINATION

9.1. Events of Default

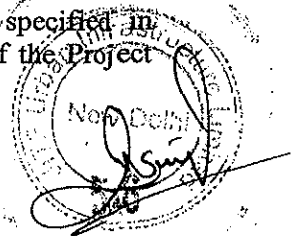
"Event of Default" shall mean either the Concessionaire Event of Default or the Concessioneing Authority's Event of Default or both as the context may admit or require.

(a) The Concessionaire Event of Default

Any of the following events shall constitute an Event of Default by the Concessionaire ("Event of Default - Concessionaire") when not caused by the Concessioneing Authority's Event of Default or Force Majeure Event:

- (i) the Concessionaire has failed to achieve COD(s) beyond ninety (90) days of the respective Scheduled Construction Completion Date.
- (ii) the Concessionaire has failed to achieve Performance Parameters as specified in Annexure 17.
- (iii) the Concessionaire has caused Abandonment of the Project.
- (iv) the Concessionaire has failed to make any payments due to the Concessioneing Authority more than sixty (60) days have elapsed since such payment default.
- (v) the Concessionaire is in Material Breach of any of its obligations under this Agreement and the same has not been remedied for more than sixty (60) days.
- (vi) A resolution for voluntary winding up has been passed by the shareholders of the Concessionaire.
- (vii) 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, provided that, as part of such amalgamation or reconstruction and the amalgamated or reconstructed entity has unconditionally assumed all surviving obligations of the Concessionaire under this Agreement.
- (viii) The equity holding of the Selected Bidder in the Concessionaire is not in line with Article 5.1 (a) at any point of time during the Concession Period.
- (ix) The Concessionaire has committed an Event of default as set out in Annexure 6 and there has been failure/undue delay in carrying out scheduled/planned maintenance or the scheduled/planned maintenance has not been carried out in accordance with the O&M Requirements as evidenced by events of significance that resulted in prolonged interruptions of waste collection/ transportation/ processing/ disposal for the period specified in Annexure 6 and affected the Performance Parameters of any of the Project Facilities.

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- (x) The Concessionaire has committed an Event of default as set out in **Annexure 15**.
- (xi) The maintenance of the Project Facilities or any part thereof has deteriorated to a level, which is below the acceptance level prescribed by the O&M Requirements, required in line with the nature of activity.
- (xii) There has been a serious or persistent let up in adhering to the O&M Requirements and thereby the Project Facilities or any part thereof is not safe for operations.
- (xiii) The Concessionaire shall not have renewed or obtained a clearances/ Licenses/NoC's from the State Pollution Control Board (SPCB) or any other similarly empowered Government Agency which is due and to be required as per MSW (Management & Handling) Rules 2000.
- (xiv) The Concessionaire has undertaken the activities at Site for any purpose unconnected or which is not incidental to the Project or related activities, unless otherwise permitted under this agreement.

(b) The Concessioneing Authority's Event of Default

Any of the following events shall constitute an event of default by the Concessioneing Authority ("**Event of Default - Concessioneing Authority**") when not caused by an Event of Default - Concessionaire or Force Majeure Event:

- (i) The Concessioneing Authority is in Material Breach of any of its obligations under this Agreement and has failed to cure such breach within sixty (60) days of receipt of notice thereof issued by the Concessionaire
- (ii) The Concessioneing Authority has unlawfully repudiated this Agreement or otherwise expressed its intention not to be bound by this Agreement.
- (iii) The Concessioneing Authority has failed to make any payments due to Concessionaire and more than ninety (90) days have elapsed since such payment default;

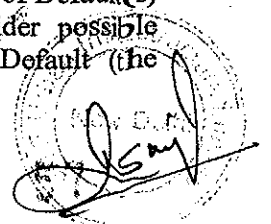
9.2. Parties Rights

- (a) Upon the occurrence of the Concessionaire Event of Default, the Concessioneing Authority shall without prejudice to any other rights and remedies available to it under this Agreement is entitled to terminate this Agreement.
- (b) Upon the occurrence of the Concessioneing Authority Event of Default, the Concessionaire shall without prejudice to any other rights and remedies available to it under this Agreement is entitled to terminate this Agreement:

9.3. Consultation Notice

Either Party exercising its right under Article 9.2 above, shall issue to the other Party and the Lenders a notice in writing specifying in reasonable detail the underlying Event of Default(s) and proposing consultation amongst the Parties and the Lenders to consider possible measures of curing or otherwise dealing with the underlying Event of Default (the "**Consultation Notice**").

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9.4. Remedial Process

Following the issue of Consultation Notice by either Party, within a period not exceeding 90 (ninety) days or such extended period as they may agree (the "Remedial Period") the Parties shall, in consultation with the Lenders Representative, endeavour to arrive at an agreement as to the manner of rectifying or remedying the underlying Event of Default. Without prejudice to this, if the underlying event is an Concessionaire Event of Default, the Parties shall, in consultation with the Lenders Representative, endeavour to arrive at an agreement as to one or more of the following measures and/or such other measures as may be considered appropriate by them in the attendant circumstances;

- (a) the change of management or control/ownership of the Concessionaire;
- (b) the replacement of the Concessionaire by a new Concessionaire ("Substitute Entity") on terms no less favourable than those contained in this Agreement, proposed by Lenders Representative and the specific terms and conditions of such replacement which shall include:
 - (i) the criteria for selection of the Substitute Entity,
 - (ii) the transfer of rights and obligations of the Concessionaire surviving under this Agreement to the Substitute Entity,
 - (iii) handing over/ transfer of the Project Assets and the Project to the Substitute Entity,
 - (iv) assumption by the Substitute Entity of the outstanding obligations of the Concessionaire under the Financing Documents and preserving Lenders' charge on the Concessionaire's assets ,
 - (v) assumption by Substitute Entity of any amounts due to the Concessioning Authority from the Concessionaire under this Agreement.

9.5. Obligations during Remedial Period



During the Remedial Period, the Parties shall continue to perform their respective obligations under this Agreement capable of performance, failing which the Party in breach shall compensate the other Party for any loss or damage occasioned or suffered on account of the underlying failure/breach.

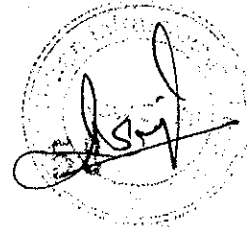
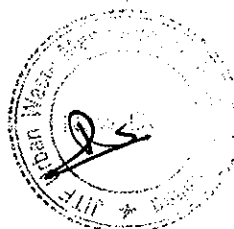
9.6. Revocation of Consultation Notice

If during the Remedial Period the underlying Event of Default is cured or waived or the Parties and the Lenders agree upon any of the measures set out in Article 9.4, the Consultation Notice shall be withdrawn by the Party that issued the same.

9.7. Step-in rights

The Concessionaire agrees that the Concessioning Authority shall be entitled to administer, operate, maintain etc. the Project Facilities on the occurrence of an Concessionaire Event of Default. In the event of an Concessionaire Event of Default, the Concessioning Authority may (but shall not be obliged to) operate, or procure and cause operation of the Commercial Facility upon the issue of the Termination Notice.


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9.8. Termination due to Event of Default

(a) Termination Notice

If after the expiry of the Remedial Period, the underlying Event of Default is neither cured nor waived nor the Parties and the Lenders have agreed upon any of the measures in accordance with Article 17.4, the either Party shall be entitled to terminate this Agreement on account of an Event of Default and shall do so by issue of a notice in writing ("Termination Notice") to the other Party and simultaneously deliver a copy thereof to the Lenders. The Termination Notice shall set out the following details:

- (i) in sufficient detail the underlying Event of Default;
- (ii) the Termination Date which shall be a date occurring not earlier than (forty five) 45 days from the date of Termination Notice;
- (iii) the estimated Termination Payment including the details of computation thereof; and
- (iv) any other relevant information.

The Parties hereby agree that any Termination Notice shall also be sent to all Lenders by registered post/courier and a public notice of Default shall also be published in leading daily newspapers (of both English and the prevalent local language) of the city of Concessionsing Authority.

(b) Obligation of Parties

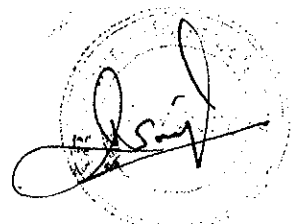
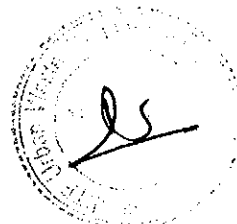
Following issue of Termination Notice by either Party, the Parties shall, subject to the provision of the Financing Documents, Substitution Agreement (prescribed format in Annexure 24 A) (if any) and the rights of the Lenders provided therein, promptly take all such steps as may be necessary or required to ensure that:

- (i) until Termination the Parties shall, to the fullest extent possible, discharge their respective obligations so as to maintain the continued operation of the Project Facilities;
- (ii) the Termination Payment, if any, payable by the Concessionsing Authority in accordance with the following Article 9.10 is paid to the Concessionaire on the Termination Date; and
- (iii) the Project Facilities are handed over to the Concessionsing Authority by the Concessionaire on the Termination Date free from any Encumbrance along with any payment that may be due from the Concessionaire to the Concessionsing Authority in accordance with Article 9.2(f).

(c) Withdrawal of Termination Notice

Notwithstanding anything inconsistency 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 actual Termination occurs, the Termination Notice shall be withdrawn by the Party which had issued the same.

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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 or as mutually agreed upon by both parties.

(d) **Termination Payments**

(i) Upon Termination of this Agreement on account of the Event of Default – Concessioneing Authority, the Concessionaire shall be entitled to the following Termination Payments in addition to any other payment that may be due from the Concessioneing Authority and has accrued to the Concessionaire prior to the Termination:

i. if the termination occurs prior to the COD - CTP&D, then the Concessioneing Authority shall pay to the Concessionaire, Termination Payment calculated as below:

Termination payment
= Debt due + 120% of Adjusted Equity on Termination Date

ii. if the termination occurs after COD - CTP&D, then the Concessioneing Authority shall pay to the Concessionaire, Termination Payment as below:

Termination payment
= Debt due + 150% of Adjusted Equity on Termination Date.

(ii) Upon Termination of this Agreement on account of the Event of Default - Concessionaire, the Concessioneing Authority shall be liable to pay Termination Payment to the Concessionaire, only to the extent of the following:

Only the Debt Due as on date of Termination (and not the Adjusted Equity or any part thereof).

(e) **Termination Payments Procedure**

Upon Termination of this Agreement for any reason whatsoever, if the Concessioneing Authority is required to make any Termination Payments pursuant to Article 8.8 or 9.9(d), the Concessioneing Authority shall make such Termination Payments to the Concessionaire within ninety (90) days of Termination Date.

If the Concessioneing Authority fails to make Termination Payments to the Concessionaire within ninety 90 days of Termination Date, the Confirming Party undertakes to make such Termination Payments to the Concessionaire within sixty (60) days thereafter i.e. within (one hundred and fifty) 150 days of Termination Date. If Confirming Party makes the Termination Payment to the Concessionaire, the rights of Concessioneing Authority under Article 9.4 can be accessed by the Confirming Party, which in turn can assign such rights at its own wish to any other Person, including, but not limited to the Concessioneing Authority.

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9.9. Effect of Termination of Waste Offtake Agreement(s)

In the event, any of Waste Offtake Agreement is terminated during the Concession Period due to any reason whatsoever and in the opinion of the Concessioneing Authority, it affects the viability or feasibility of the Project, the Concessioneing Authority shall have the right to terminate the Concession Agreement after providing a Termination Notice of not more than 45 days to the Concessionaire. The consequences of such termination shall be in accordance with Clause 9.8 for termination due to Event of Default under the Waste Offtake Agreement or Clause 8.7 for termination due to Force Majeure under the Waste Offtake Agreement of Annexure 4-of this Agreement.

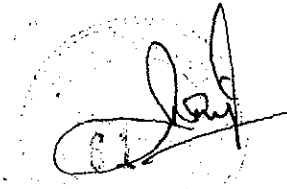
9.10. Rights of the Concessioneing Authority on Termination

- a) Upon Termination of this Agreement for any reason whatsoever, the Concessioneing Authority shall upon making the Termination Payment, if any, to the Concessionaire and in accordance with the provisions of the Financing Documents, shall have the power and authority to:
- (i) enter upon and take possession and control of the Project Facilities forthwith free from any encumbrances; and
 - (ii) prohibit the Concessionaire and any person claiming through or under the Concessionaire from entering upon/ dealing with the Project Facilities or permit a limited number of representatives of the Concessionaire, as required for pending resolution of any issues thereto; and
 - (iii) take possession and control of all materials, stores, implements, construction plants and equipment on or about the Site and as identified by the Concessioneing Authority;
- b) Notwithstanding anything contained in this Agreement, the Concessioneing Authority shall not, as a consequence of Termination or otherwise, have any obligation whatsoever including but not limited to obligations as to compensation for loss of employment, continuance or regularisation of employment, absorption or re-employment on any ground, in relation to any person in the employment of or engaged by the Concessionaire in connection with the Project, and the handover of the Project Facilities by the Concessionaire to the Concessioneing Authority shall be free from any such obligation.

9.11. 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 any Party including its right to claim and recover money damages and other rights and remedies which it may have in law or contract. The rights and obligations of either Party under this Agreement, including without limitation those relating to the Termination Payment, shall survive the Termination but only to the extent such survival is necessary for giving effect to such rights and obligations.

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Bathinda. *Ng*



ARTICLE 10

10. HANDOVER OF PROJECT FACILITIES

10.1. Ownership during the Concession Period

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

10.2. Condition Survey

- a. The Concessionaire agrees that on the service of a Termination Notice or 180 (one Hundred & eighty) days prior to the expiry of the Concession Period by efflux of time, it shall conduct or cause to be conducted by the Project Engineer under the supervision of the Concessions Authority, a survey ("Condition Survey") of the Project Facilities 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 Concessions Authority shall observe/notice that the Project Facilities 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 Concessions Authority may itself cause the condition survey and inventory of Project Facilities to be conducted. The Concessions Authority shall be compensated by the Concessionaire for any costs incurred in conducting such survey and preparation of inventory as also in putting the Project Facilities in the requisite condition.

10.3. The 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 Concession Period by efflux of time.

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

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- iii. hand over to the Concessing Authority all documents, Proprietary Material, including as built designs, drawings, data, engineering, manuals and records relating to the Project Assets and Project Facilities.
 - iv. 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 Concessing Authority. The Concessionaire's employees shall be the Concessionaire's/responsibility even after the expiry of the Concession Period.
 - v. transfer or cause to be transferred/assigned to the Concessing Authority any Project Agreements which are (A) valid and subsisting, (B) capable of being transferred to the Concessing Authority and (C) those the Concessing Authority has chosen to take over, and cancel or cause to be cancelled entirely at its cost such Project Agreements not transferred to the Concessing Authority.
 - vi. at its cost, transfer to the Concessing Authority all such Applicable Permits which the Concessing Authority may require and which can be legally transferred.
 - vii. at its cost remove from the Site all such moveable assets which are not taken over by or transferred to the Concessing Authority. In the event the Concessionaire fails to remove such objects within the stipulated time, the Concessing Authority 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.
 - viii. handover the peaceful and vacant possession of Processing Facilities Site and all the Project Sites to the Concessing Authority or its nominated agent/agency.
- 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/damages payable to the Concessing Authority or any Government Authority or in respect of the Project Facilities 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 Concessing Authority shall be entitled to encash any subsisting Performance Security/bank guarantee(s) provided by the Concessionaire or its parents, if the Termination is on account of Event of Default – Concessionaire.

10.4. Concessing Authority's Obligations

The Concessing Authority shall, subject to the Concessing Authority's right to encash Performance Security towards carrying out works/jobs listed under Article 10.2 and 10.3, which have not been carried out by the Concessionaire, or any outstanding dues, which may

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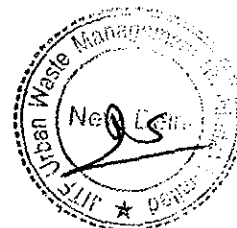
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have accrued in respect of the Project during the Concession Period, duly discharge and release to the Concessionaire any amounts / Performance Security due to the Concessionaire in accordance with the Agreement.

10.5. Divestment Certificate

- a. On the Termination Date the Project Engineer shall verify, in the presence of the Concessionaire or of a representative of the Concessionaire, compliance by the Concessionaire with the requirements of Article 10.2 to 10.4 above, as the case may be. In the event the Project Engineer 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 Concession Period by efflux of time), the divestment by the Concessionaire of all rights, title and interest in the Project, 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 Articles 10.2 to 10.4 shall be fulfilled. The Concessioneing Authority shall upon fulfilment of the requirements of Articles 10.2 to 10.4 issue a certificate (the "Divestment Certificate"), with a copy thereof endorsed to the Concessioneing Authority, the Confirming Party and other Cluster 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, the Project Assets and the Project Facilities and the vesting thereof in the Concessioneing Authority pursuant hereto.
- c. The Performance Security shall constitute security for the Concessionaire's obligation to fulfill the requirements of Articles 10.2 to 10.4.

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ARTICLE 11

11. DISPUTE RESOLUTION

11.1. Amicable Resolution

- (a) Save where expressly stated to the contrary in this Agreement, any dispute, difference or controversy of whatever nature between the Parties, howsoever arising under, out of or in relation to this Agreement (the "Dispute") shall in the first instance be attempted to be resolved amicably in accordance with the procedure set forth in **Article 11.1 (b)** below.
- (b) Either Party may require such Dispute to be referred to the Municipal Commissioner, Bathinda Corporation 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 the First Level Appellate Authority or the Director, Department of Local Government, Punjab. If the Dispute remains unresolved beyond 30 days of its reference to the First Level Appellate Authority, either party may refer it to the Second Level Appellate Authority i.e. the Principal Secretary, Local Government. If the Dispute still remains unresolved after 45 days of such reference, the Dispute shall be referred to arbitration in accordance with the provisions of **Article 11.2** below.

11.2. Arbitration

(i) **Procedure**

Subject to the provisions of **Article 11.1**, any Dispute, which is not resolved amicably or by First and Second Level Appellate Authorities, shall be finally settled by binding arbitration under the Arbitration Act. The arbitration shall be by a panel of three (3) arbitrators, one (1) to be appointed by each Party and the third to be appointed by the two arbitrators appointed by the Parties. The Party requiring arbitration shall appoint an arbitrator in writing, inform the other Party about such appointment and call upon the other Party to appoint its arbitrator. If within thirty (30) days of receipt of such intimation, the other Party fails to appoint its arbitrator, the Party seeking appointment of arbitrator may take further steps in accordance with Arbitration Act.

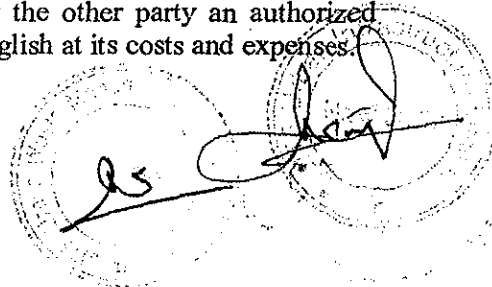
(ii) **Place of Arbitration**

The place of arbitration shall ordinarily be Chandigarh, however with mutual consent 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 Punjabi/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.

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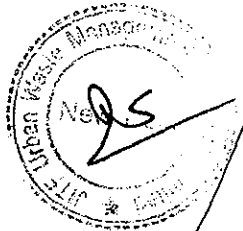
(iv) **Enforcement of Award**

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.

11.3. 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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Bathinda.



ARTICLE 12

12. INSURANCE

12.1. Insurance Cover

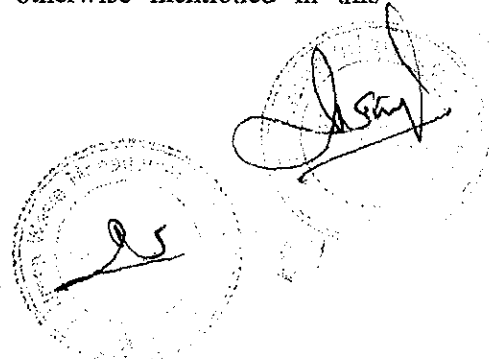
The Concessionaire shall, at its cost and expense, purchase and maintain effective from the Compliance Date and during the Concession Period such insurance policies as are necessary and customary (or may in the future become available) on commercially reasonable terms and reasonably required to be maintained consistent with projects and facilities of the size and type of the Project, including but not limited to the following:

- a. Builders'/contractors' all risk insurance;
- b. Erection insurance and/or break down insurance;
- c. Public liability insurance applicable for the Concession Period, 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 Concessioneing Authority/GoP/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).

12.2. Insurance Companies and Costs

- a. The Concessionaire shall insure all insurable assets comprised in the Project and/or the Project Facilities.
- b. The premiums payable on insurance coverage as indicated above, and for Concessionaire Vehicles, including any costs and expenses incidental to the procurement and enforcement of such insurance coverage shall be borne by the Concessionaire.
- c. 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 Concessioneing Authority, 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.
- d. The Concessionaire hereby further releases, assigns and waives any and all rights of recovery against, inter alia, the Concessioneing Authority, 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.

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12.3. Evidence of Insurance Cover

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

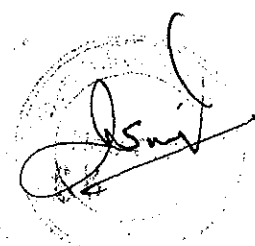
12.4. Application of Insurance Proceeds

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 Facilities 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 Facilities 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.

12.5. 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 Concession Period and furnish copies of the same to the Concessions Authority. 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 Concessions Authority 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 Concessions Authority may at its option purchase and maintain such insurance and all sums incurred by the Concessions Authority in this behalf shall be reimbursed by the Concessionaire forthwith on demand, failing which the same shall be recovered by the Concessions Authority by exercising right of set off or otherwise from the Performance Security.

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Bathinda.



ARTICLE 13

13. INTELLECTUAL PROPERTY AND CONFIDENTIALITY

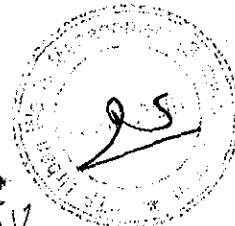
13.1. Proprietary Material

- 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 Facilities/ 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 Concessioneing Authority 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 Concessioneing Authority 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 13.1 shall be construed to grant the Concessioneing Authority or Persons claiming through or under it any right or licence with respect to such Proprietary Material, save and except as otherwise expressly herein.

13.2. Confidentiality

- a. The Concessioneing Authority 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 Facilities, Project, the Concessionaire and the Concessioneing Authority (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 Concessioneing Authority 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 Concessioneing Authority, which have been duly approved by the Concessioneing Authority, with respect to the Project.
- d. The aforesaid provisions shall not apply to the following information:
 - i. already in the public domain otherwise than by breach of this Agreement;
 - ii. obtained from a Third Party who is free to divulge the same and which was not obtained under any obligation of confidentiality; or
 - iii. disclosed due to a court order or under any Act of Go/GoP

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13.3. Survival

The Concessionaire and the Concesssioning Authority accepts and confirms that the provisions of this Article 13 shall survive the expiration or any earlier termination of this Agreement.

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Bathinda. *PS* *TT*



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ARTICLE 14

14. REPRESENTATIONS AND WARRANTIES

14.1. Representations and Warranties of the Parties

Each Party represents and warrants to the others that:

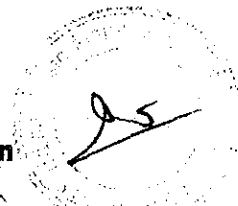
- (a) It is duly organized, validly existing and in good standing under the laws of India;
- (b) It has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- (c) It has taken all necessary corporate and other 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.

14.2. Representations and Warranties of the Concessionaire

The Concessionaire represents and warrants to the Concessions Authority that:

- (a) The Concessionaire shall not venture into or continue any business which is in direct or indirect competition with the Project/Project Facilities. 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;

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- (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 Concesssioning Authority 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.

14.3. Representations and Warranties of Concesssioning Authority


The Concesssioning Authority represents and warrants to the Concessionaire that nothing in this Agreement conflicts with its constitutional authority, mandate, or any law or any other agreement, understanding or arrangement or any judgment, decree or order or any statute, rule or regulation applicable to it.

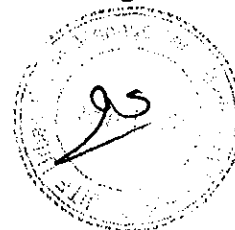
14.4. Disclaimer

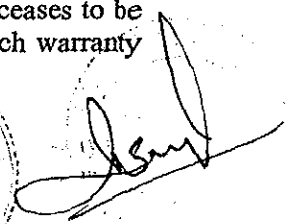
- (a) Without prejudice to any express provision contained in this Agreement, the Concessionaire acknowledges that prior to the execution of this Agreement, the Concessionaire has, after a complete and careful examination, made an independent evaluation of the Project, the legal framework and the technical and financial aspects of the Project, the Technical Specifications, all the information and documents provided by the Concesssioning Authority or any Government Authority, the market and demand conditions, information relating to Cluster 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 14.4(a) above and hereby confirms that the Concesssioning Authority, 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 Concesssioning Authority, 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.

14.5. 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.


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Bathinda. 24





ARTICLE 15

15. MISCELLANEOUS

15.1. 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 both the Concessing Authority and Lenders.
- (b) the Concessionaire shall not create nor permit to subsist any further Encumbrance over the Project Facilities except with prior consent in writing of the Concessing Authority and Lenders .
- (c) Restraint set forth in Articles (a) and (b) above shall not apply to:
 - (i) liens/encumbrances arising by operation of law (or by an agreement evidencing the same) in the ordinary course of business of the Concessionaire;
 - (ii) pledges/hypothecation of goods/stocks/moveable assets, revenue and receivables as security for indebtedness, in favour of the Lenders and working capital providers for the Project;
 - (iii) assignment of the Concessionaire's rights and benefits under this Agreement to or in favour of the Lenders as security for financial assistance provided by them.
- (d) the Concessionaire shall not create nor permit to subsist any further Encumbrance over the Processing Facilities Site /Project Site(s).

15.2. 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 Article 15.2 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.

15.3. Governing Law and Jurisdiction

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

15.4. Waiver

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Bathinda



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.

15.5. Survival

Termination of this Agreement shall not relieve the Concessionaire or the Concessions Authority 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.

15.6. Amendments

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

15.7. 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 as well as DDR of the Region at their respective addresses given in the Data Sheet at **Annexure 8** 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.

15.8. 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

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Rathinda.



[Handwritten signature]

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.

15.9. No Partnership

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

15.10. 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.

15.11. 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.

15.12. 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.

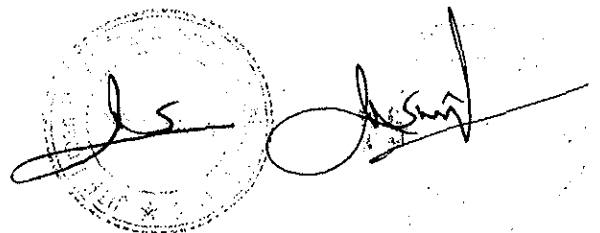
15.13. Liability for Review

Except to the extent expressly provided in this Agreement:

- a. no review, comment, certification, verification or approval by the Concessioneing Authority 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 Facilities 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 Permits; and
- b. the Concessioneing Authority, 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.

15.14. Unforeseen Event

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Bathinda. 24



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.

15.15. Liability and Indemnification

- a. The Concessionaire shall indemnify, defend and hold harmless (the "Indemnifying Party") the Concessions Authority (the "Indemnified Party") during the Concession Period 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 of such Party's representations and warranties herein; covenants, agreements or obligations contained herein or the terms and conditions hereof; 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 Permits 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 Concessions Authority and its advisors in this behalf.
- c. The Concessions Authority/ Authority will indemnify, defend, save and hold harmless the Concessionaire against any and all suits, proceedings, actions, demands and third party claims for any loss, damage, cost and expense of whatever kind and nature arising out of (i) defect in title and/or the rights of the land comprised in the Site, and/or (ii) breach by ULB of any of its obligations under this Agreement or any related agreement, which materially and adversely affect the performance by the Concessionaire of its obligations under this Agreement, save and except that where any such claim, suit, proceeding, action, and/or demand has arisen due to a negligent act or omission, or breach of any of its obligations under any provision of this Agreement or any related agreement and/or breach of its statutory duty on the part of the Concessionaire, its subsidiaries, affiliates, contractors, servants or agents, the same shall be the liability of the Concessionaire.
- d. The Concessions Authority 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 Facilities for any reason whatsoever.
- e. The Concessionaire shall keep the Concessions Authority indemnified during the Concession Period against any claims, damages, liabilities, costs, penalties etc. (i) from or by any Government Authority, including the CPCB or the PPCB, and (ii) from 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

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Municipal Corporation
Gurgaon

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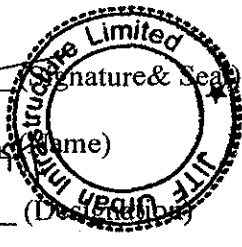
INDUSTRIAL
New Delhi

SIGNED, SEALED AND DELIVERED
For and on behalf of M/s JTF Urban
Infrastructure Ltd. (SELECTED BIDDER)

by:
Director of Selected Bidder, duly authorized
by the resolution of the Board of Directors
passed at its meeting held on

Sep 28, 2011

[Signature]
[Signature]
[Signature]
(Signature & Seal)
(Name)
(Designation)



SIGNED, SEALED AND DELIVERED
For and on behalf of Department of Local
Govt., Punjab. (CONFIRMING PARTY)

[Signature]

As Secretary (Signature & Seal)
Secretary Local Govt.,
Punjab (Name)
(Designation)

IN PRESENCE OF Signed & sealed

[Signature] (Signature)

[Signature] (Name)

[Signature] (Designation)

[Signature] (Signature)

[Signature] (Name)

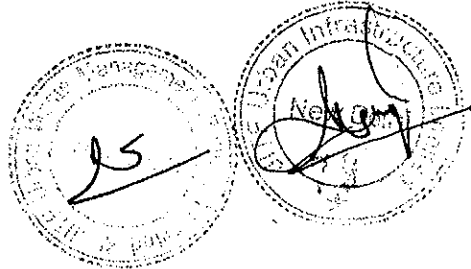
[Signature] (Designation)

[Signature]
Commissioner
Municipal Corporation
Bathinda.



SECTION 2: LOI Issued to the Selected Bidder

[Signature]
Commissioner
Municipal Corporation
Bathinda. *[Signature]*



Ref. No. 3722/MSW

Date: 28/07/2011

To
The Consortium of
(i) M/s JITF Urban Infrastructure Limited; and
(ii) M/s Ladurner Impainti S.r.l.
C/o JITF Urban Infrastructure Limited (Lead Member)
Jindal ITF Centre,
28, Shivaji Marg,
New Delhi-110015

Sub: Development of an Integrated Municipal Solid Waste Management Project for Bathinda Cluster in Punjab on Build, Own, Operate & Transfer (BOOT) basis under Public Private Partnership (PPP) basis (the 'Project') - LETTER OF INTENT (LOI)

Kind Attn: Mr. Rajneesh Singh, (Authorized Signatory, Lead Member)

Sir,

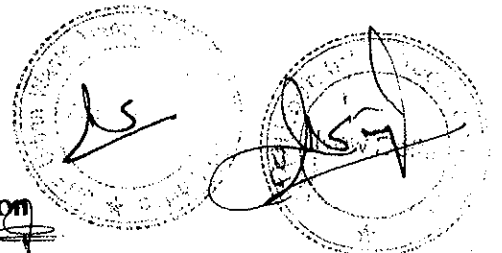
- (1) We refer to your Proposal dated 21st June 2011 containing, interalia, the Financial Proposal dated 23rd June 2011 for the Development of an Integrated Municipal Solid Waste Management Project for Bathinda Cluster in Punjab on Build, Own, Operate & Transfer (BOOT) basis under Public Private Partnership (PPP) basis (the 'Project'), covering Municipal Corporation of Bathinda along with sixteen (16) other municipal councils/participating Urban Local Bodies (ULBs) (the 'Bathinda Cluster') in response to Request for Proposal (RFP) document, dated May 23rd, 2011 and its Addendum-1 issued thereafter on June 8th, 2011 (collectively the 'RFP').

For avoidance of doubt it is hereby clarified that unless otherwise referred hereunder or repugnant to the context or usage thereof, the capitalized terms used herein shall have the same meaning as respectively ascribed thereto in the RFP and/or the draft Concession Agreement to be executed in terms of the RFP and this LOI.

- (2) Pursuant to the evaluation of your Proposal as per the terms of the RFP, we are pleased to inform that your Financial Proposal dated 23rd June 2011 (the 'Financial Proposal'), has been accepted and, as per the terms of the RFP, the Consortium of M/s. JITF Urban Infrastructure Limited and M/s Ladurner Impainti S.r.l. has been identified as the **Selected Bidder** for undertaking the implementation of the Project, subject always & exclusively to the terms hereof, the RFP and the Concession Agreement to be executed as per the terms of the RFP and this LOI.
- (3) As referred in article 12 of Concession Agreement you are required to insure all the insurable assets comprised in project and/or the project facilities to safeguard Municipal Corporation, Bathinda/other participating ULBs against any third party liability.
- (4) Without prejudice to anything stated in this LOI, it may kindly be noted that the following ULBs have, as on the date hereof has not sent their consent by way of passing resolution to include themselves in the list of ULBs forming part of project.

- (1) Abohar
(2) Bareta
(3) Bhikhi
(4) Mansa
(5) Tappa

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Municipal Corporation
Bathinda.



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It is clarified that in case the above mentioned ULBs send their consent later on they will become the part in the project, all terms of Concession Agreement and Waste off-take agreement shall, on and from the date thereof, be applicable to such ULBs including interalia, the payments to the concessionaire towards the Tipping Fee quoted against any or all of the ULBs as per the provisions of RFP & Concession Agreement.

If, in any case the above mentioned ULBs do not give their consent to become part of project, it will not cause any liability in any manner over Municipal Corporation, Bathinda.

(5) In furtherance thereof & as per the terms of the RFP, we hereby issue you this LOI as per the rates quoted in the Financial Proposal, attached herewith as *Annexure-I*, for Bathinda Cluster subject to absolute & unconditional compliance and fulfillment of the following terms and conditions:

(a) The Selected Bidder shall, in accordance with terms of the RFP including article 1.36 thereof, provide and furnish **within 15 (fifteen) days** of the date of issuance of this LOI:

- (i) An irrevocable Bank Guarantee of **Rs 3.30 Crore (Rupees. Three Crore thirty Lakhs Only)**, as Project Performance Security, issued by a nationalized bank or a Scheduled Bank in favour of Municipal Corporation of Bathinda, payable at Bathinda as per the format provided in the RFP;
- (ii) a Demand Draft drawn for an amount equivalent to 80% (eighty percent) of Project Development Fees in favour of and payable to M/s. IL&FS Infrastructure Development Corporation Limited in terms of clause 7.2 (a) of Concession Agreement and clause 1.2.11 of RFP;
- (iii) 2 (Two) unconditional and irrevocable Bank Guarantee(s), each having value equal to 10% of Project Development Fee (aggregating to 20% of the Project Development Fee), from a nationalized bank or a Scheduled Bank in favour of M/s. IL&FS Infrastructure Development Corporation Limited as per the terms of the RFP and the Project undertaking furnished by you as per Annexure 4-B of the RFP.

(b) **Within 30 (thirty) days** from the date of issuance of this LOI, the Selected Bidder shall, in accordance with the provisions of the RFP document Applicable Laws, incorporate a company under the Companies Act, 1956 in form of a **special purpose company (SPC)** to act as the Concessionaire for executing the Concession Agreement and implementing the Project in accordance with the terms thereof and submit to the Municipal Corporation of Bathinda certified true copies of all the incorporation & constitutional documents of such SPC along with board resolutions authorizing the execution, delivery and performance of obligations under the Concession Agreement by the Concessionaire;

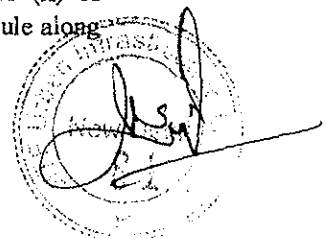
(c) After absolute & unconditional fulfillment of the terms set out in paragraph 2 (a) and 2 (b) above and within a maximum period of **45 (forty five) days** from the date of issuance of this LOI, the Selected Bidder shall, in accordance with the provisions of RFP document, ensure execution by Concessionaire of the Concession Agreement and other necessary agreements with Municipal Corporation, Bathinda, Department of Local Government, Punjab, other concerned parties, as the case may be.

(d) In addition to the above, you shall, throughout the term of the Concession Period, be under an obligation to unconditionally comply as well as ensure unconditional compliance by the Concessionaire with all the other requirements of the RFP document and subsequent addendum issued thereto and the terms of the Concession Agreement.

(e) The Selected Bidder shall, in accordance with the provisions of Clause 5.1 (h) of Concession Agreement, ensure submission by the Concessionaire, a work schedule along with CPM & PERT chart to Municipal Corporation of Bathinda.



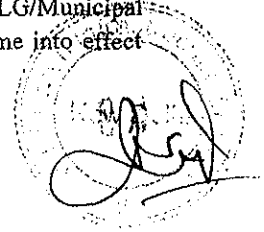
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- (f) The Selected Bidder shall ensure due compliance by the Concessionaire of the procedures and guidelines prescribed in MSW (M&H) Rules 2000 and its further amendments (if any) for fulfillment of all its obligations related to implementation of the Project.
- (6) It may also be noted that in the event of any failure to comply with any one or more of the terms and conditions mentioned in this LOI and/or the RFP within the time and in accordance with the manner prescribed therefore, DoLG/Municipal Corporation of Bathinda shall, in addition to all other rights and remedies that may be available to it under the provisions of the RFP, this LOI, law and equity or otherwise including forfeiture & appropriation of the Bid Security furnished by M/s JITF Urban Infrastructure Limited, at its absolute discretion be entitled to treat Proposal of the Selected Bidder as rejected and unilaterally cancel/revoke this LOI and deal with the captioned Project as it may deem fit in our sole and absolute discretion.
- In such an event the Selected Bidder or any person claiming under it shall have no claim or demand against the DoLG/Municipal Corporation of Bathinda & other ULBs of any nature whatsoever. Further, under any circumstances, DoLG/Municipal Corporation of Bathinda & other ULBs shall not be liable or responsible to the Selected Bidder or to any other entity whomsoever, for any loss of business, business competition, loss of investment, or any other loss or damage, costs or expenses, for any reason whatsoever. The Selected Bidder shall not be entitled to claim any direct or indirect damages, costs, expenses for loss of business, loss of investment etc., upon rejection of its Proposal or cancellation/revocation of this LOI, howsoever and whatsoever caused.
- (7) The Selected Bidder shall indemnify and keep indemnified DoLG/ GOP/Municipal Corporation of Bathinda and other ULBs, its respective directors, consultants, contractors, officers, employees and/or agents, against all claims and loss, that they may suffer/ sustain or are likely to suffer/ sustain, due to or in relation to all/ any acts and omissions of the Selected Bidder/Concessionaire, its employees, staff, personnel etc, pursuant to or in relation to this LOI, the RFP or the Concession Agreement.
- (8) Notwithstanding anything to the contrary contained hereinabove, the arbitration clause hereunder shall be a final and binding agreement between DoLG/Municipal Corporation of Bathinda & other ULBs and the Selected Bidder and shall survive the cancellation/ revocation /annulment of this LOI:
- (i) Any and all disputes controversy or claim, relating to or arising out of the LOI or the rights and obligations of DoLG/Municipal Corporation of Bathinda & other ULBs and the Selected Bidder, under this LOI, including but not limited to validity, interpretation, scope, effect, termination of the terms contained in this LOI, shall be settled by arbitration by a sole arbitrator to be appointed by DOLG/ Municipal Corporation Bathinda or his nominee within thirty (30) days after receipt of a request for appointment of arbitrator, which notice should contain all information regarding the dispute(s) between the parties.
- (ii) The arbitration shall be conducted in accordance with the Arbitration and Conciliation Act, 1996 as amended. The venue of arbitration shall be at Chandigarh, India and it shall be conducted in the English language.
- (iii) The arbitral award shall be in writing, state the reasons for the award and be final and binding on DoLG/ Municipal Corporation Bathinda and the Selected Bidder. The award may include an award of costs, including reasonable attorney's fees and disbursements.
- (iv) The agreement shall be governed by the laws of India and all matters arising out or relating to this LOI, the courts at Chandigarh, India shall have exclusive jurisdiction.
- (9) It may additionally be noted that this LOI by itself does not create any rights or contractual relationship with DoLG/Municipal Corporation of Bathinda & other ULBs or casts any corresponding obligation with respect to the Project or otherwise on DoLG/Municipal Corporation of Bathinda & other ULBs. Any such right or relationship shall come into effect



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only upon your unconditional compliance with terms conditions set out herein and the execution of Concession Agreement & other necessary agreements as per terms hereof and the RFP.

- (10) Without prejudice to anything stated in this LOI and/or the RFP, you are hereby requested to return the duplicate copy of this LOI **within seven (7) days** from the date of this LOI, as a token of the receipt & acknowledgement of this LOI as well as an absolute, unconditional & unqualified acceptance and compliance of the conditions mentioned hereunder.

We look forward to an early and earnest compliance of the above mentioned requirements by yourself as per terms hereof and the RFP.

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Municipal Corporation,
Bathinda

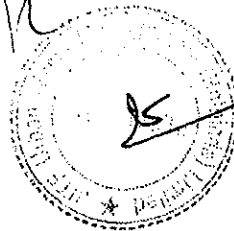
Endst.No. 3723-3728

Dated 28/07/11

1. Secretary,for information and further necessary action
Department of Local Govt.,
Government of Punjab,
Chandigarh.
2. The Director,for information and further necessary action
Department of Local Govt.,
Government of Punjab,
Chandigarh.
3. Chief Engineer,for information and further necessary action
Department of Local Govt., Punjab
Chandigarh

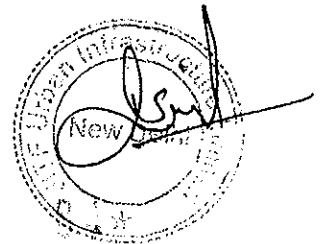
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SECTION 3: Annexure to Concession Agreement

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Annexure-1

Cluster ULBs

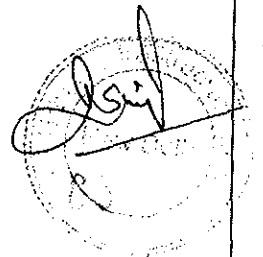
“Cluster” or “Bathinda Cluster” includes the Urban Local Bodies, as listed below, which together form a cluster for development of Integrated MSW Management Project. As shown below, Bathinda Cluster includes the Municipal Corporation of Bathinda and 17 Other Cluster ULBs.

“Cluster ULB” means any ULB included in Bathinda Cluster as shown in the list below.

“Other Cluster ULBs” mean the ULBs in Bathinda Cluster except the Municipal Corporation of Bathinda.

S.No	Concessing Authority	Cluster ULB
1	Municipal Corporation of Bathinda	Municipal Corporation of Bathinda
2		Abohar- Municipal Council of Abohar
3		Bareta- Municipal Council of Bareta
4		Bhikhi-Nagar Panchayat of Bhikhi
5		Bhucho Mandi- Municipal Council of Bhucho Mandi
6		Budhlada- Municipal Council of Budhlada
7		Giddarbaha- Municipal Council of Gidarbaha
8		Goniana- Municipal Council of Goniana
9		Kot Fatta- Municipal Council of Kot Fatta
10		Malout- Municipal Council of Malout
11		Mansa- Municipal Council of Mansa
12		Maur- Municipal Council of Maur
13		Raman- Municipal Council of Raman
14		Rampura Phul- Municipal Council of Rampura Phul
15		Sangat- Municipal Council of Sangat
16		Sardulgarh- Nagar Panchayat of Sardulgarh
17		Talwandi Sabo- Municipal Council of Talwandi Sabo
18		Tappa- Municipal Council of Tappa

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Integrated MSW Management System

The Project includes source segregation and collection of MSW in MSW Supply Area and Other Cluster ULBs, storage of MSW as well as street sweeping and drain desilting waste at Secondary Collection Points in MSW Supply Area and Other Cluster ULBs, transportation of MSW as well as street sweeping and drain desilting waste to the processing site at Bathinda, processing of waste through appropriate technologies at Processing Facilities, transportation of rejects/inerts from Processing Facilities to Sanitary Landfill Facility at Village Mandi Khurad.

The details of Integrated MSW Management System to be developed for the Bathinda Cluster are as below:

1.0

Project Facilities

“Project Facilities” means the physical infrastructure to be created by the Concessionaire to carry out the activities included in its Scope of Work. The Project Facilities shall be as given below. Technical Specifications of these Project Facilities have been given in Annexure 3:

i. **Bins for source segregated storage of MSW at Household Level**

Twin bins shall be provided by the Concessionaire for collecting segregated MSW from Waste Generators at household level.

ii. **Containers/Bins for storage of MSW, street sweeping and Drain desilting waste Secondary Collection Points in MSW Supply Area and Other Cluster ULB Area**

To create infrastructure and provide suitable containers/bins for storage of MSW, street sweeping and drain de-silting waste at Secondary Collection Points in MSW Supply Area.

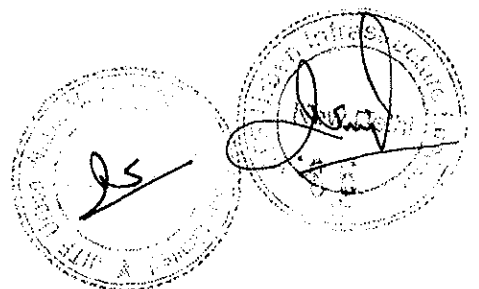
iii. **Suitable vehicles and other related equipments for transportation of segregated MSW, street sweeping and drain desilting waste from MSW Supply Area and Other Cluster ULB Areas**

To create infrastructure by providing suitable vehicles and other related equipments, for transportation of segregated MSW, street sweeping and drain de-silting waste from MSW Supply Area to Transfer Stations, Processing Facilities and/or Sanitary Landfill Facility, as required.

iv. **Construction of Transfer Stations**

Transfer Stations shall be constructed at the Sites notified by the Concessionaire out of the identified sites in terms of Concession Agreement as per details in Annexure 5. The Transfer Stations will serve as collection centres for receiving waste from nearby ULBs for further transportation through large bulk carriers to the Processing Facilities and/or Sanitary Landfill Facility for reducing the transportation cost.

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v. **Processing Facilities**

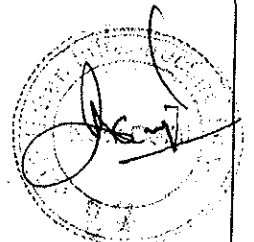
Processing Facilities shall mean the infrastructure to be created for processing of MSW prior to its final disposal at Sanitary Landfill Facility. Processing Facilities shall comprise Compost Plant, Refuse Derived Fuel (RDF) Plant and Power Plant (optional).

Processing Facilities for the Project shall be developed at Site indicated in **Annexure 5**. More details related to the Site are available in **Annexure 5**. The Processing Facilities shall be of a capacity that is able to process the entire MSW generated from all Cluster ULBs during the Term of the Agreement.

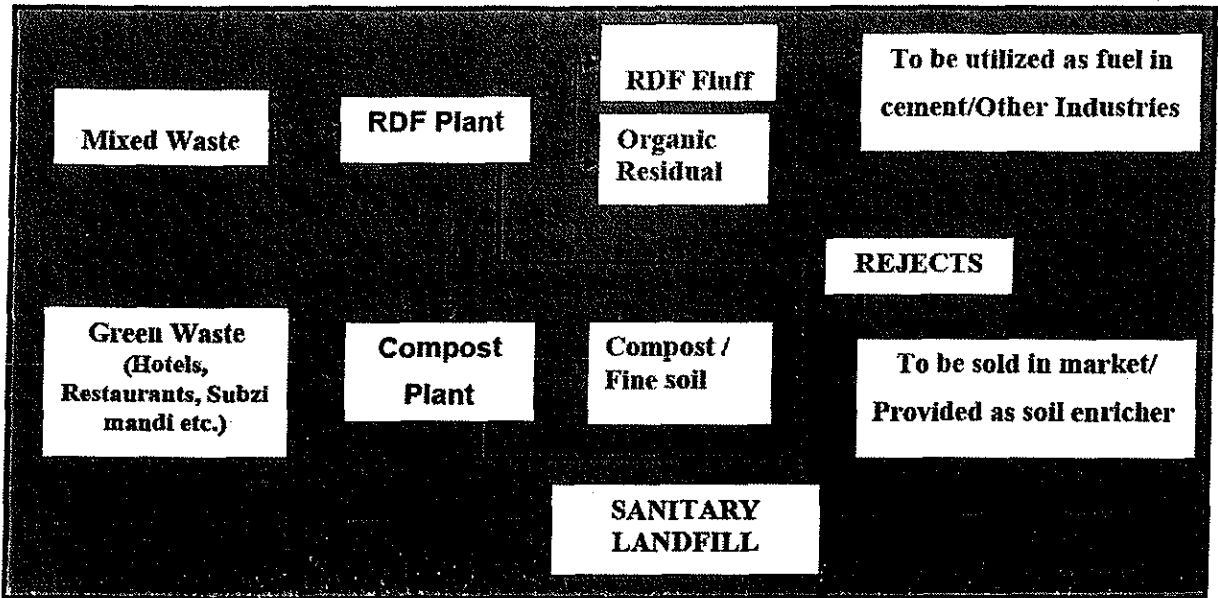
vi. **Sanitary Landfill Facility for disposal of processing rejects & Residual Inert Matter**

Sanitary Landfill Facility shall be developed at the Site(s) indicated in **Annexure 5** for disposal of processing rejects and Residual Inter Matter. Of these, one Site will be developed in Phase I. Once Site for Phase I is exhausted, Site indicated in **Annexure 5** for Phase II shall be used.

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Proposed Complex of Integrated MSW Management System for Bathinda Cluster



Power Plant is optional

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Annexure-3

3.1 Scope of Work

The broad scope of the project shall mean work including but not limited to the following that comprise C&T, P&D and CTP&D:

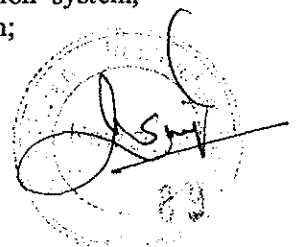
- a) To ensure door to door, collection of MSW from Waste Generators in MSW Supply Area and Other Cluster ULBs;
- b) To identify, in consultation with the Concessioneing Authority and Other Cluster ULBs, as the case may be, the location of Secondary Collection Points and to provide suitable type and number of containers/bins at such Secondary Collection Points for storage of segregated MSW and street sweeping & drain de-silting waste;
- c) To ensure transportation of MSW, street sweeping and drain desilting waste from Secondary Collection Points to the Transfer Stations, Processing Facilities and/or Sanitary Landfill Site, depending on quality of waste;
- d) To develop, construct and operate Transfer Stations (optional) at designated Site(s) in line with Annexure 5;
- e) To ensure transportation of waste from Transfer Stations to Processing Facilities;
- f) To process MSW at the Processing Facilities using appropriate technology, which shall comprise of Compost Plant, RDF plant and Power plant(optional);
- g) To transport and dispose-off the inert matter/Residual Inert Matter/processing rejects from Processing Facilities or elsewhere in the Cluster to the Engineered Sanitary Landfill Site, subject to the same meeting the specified norms;
- h) To develop and operate the Engineered Sanitary Landfill Site at designated Site(s) as per Annexure 5, during the Term of the project;
- i) Transportation of MSW, street sweeping and drain desilting waste from Secondary Collection Points in MSW Supply Area to the Processing facility or Engineered Sanitary Landfill, as required;

3.2 Technical Specifications

Project Facilities shall be adequately designed to meet minimum criteria as per Applicable Laws and should be able to cater to scope of the Project specifically including, but not limited to the activities herein-mentioned below:

- (1) Door to door segregated MSW collection as per policy provided at Annexure20;
- (2) Separate Storage of MSW, street sweeping and drain desilting waste at Secondary Collection Points;
- (3) Mechanism for collection and transportation of MSW to the Site (s);
- (4) Site boundaries and buffer area;
- (5) Computerized Weighbridge Facility;
- (6) MSW storage facility ;
- (7) MSW Processing Facilities;
- (8) Sanitary Landfill Facility with reject fill area and contours (base and top), surface water control works, onsite roads and structures, liner system, leachate collection system, treatment and disposal system, landfill gas control work and final cover design;

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- (9) Monitoring facilities for ground water, leachate, surface water and air emissions
- (10) Analytical Laboratory for MSW characterization ,effluent quality and environmental monitoring;
- (11) Contingency plan for leachate control;
- (12) Site closure and Post Closure Activities;
- (13) Ancillary facilities and utilities like administration building, approach road, water supply, sanitation, standby power, parking, vehicle cleaning facility, garage etc.

Detailed specifications for above are as follows:

3.2.1 Storage and Collection of MSW

- (a) shall provide two (2) bins to each household in MSW Supply Area, each having five (5) L capacity for segregated storage of biodegradable and non biodegradable waste.
- (b) shall arrange for minimum one containerized tricycle for every two hundred and fifty (250) Waste Generators in MSW Supply Area, each tricycle having 6 detachable containers of forty (40) L capacity.

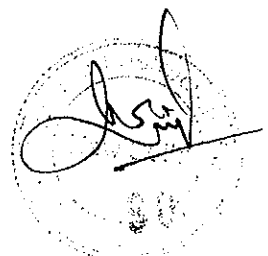
3.2.2 Secondary Storage and Transportation of MSW

The Containers for storage of waste should at minimum meet following specifications”

- (a) shall be adequate and appropriate to provide separate storage of biodegradable, non biodegradable waste and street sweeping and drain desilting waste at each Secondary Collection Point.
- (b) shall provide containers of various size e.g 1.0 cu m, 2.5 cu m, 3cu m , 4.5 cu.m 6.cu m depending on the waste to be stored.
- (c) shall provide containers of various size e.g 5.0 t, 10.0 t,16.0 t and 25 t should be used depending on the MSW to be transported.
- (d) shall ensure container should be made of material or lined with materials which will not react with, and are otherwise compatible with waste to be stored, so that ability of the container to contain the waste is not impaired.
- (e) the containers must be appropriately marked identifying their contents in line the norms prescribed by CPCB.
- (f) the containers shall be equipped with cover and closure device that forms continuous barrier over the container openings such that when cover and closure devices are secured in closed position there are no visible holes, gaps or other open spaces into the interior of the container.

3.2.3. Waste Reception Facility

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The Weighbridge facility shall be provided at each and every Transfer Station(s) and alternative locations such that MSW collection from each Cluster ULB can be unambiguously determined, Processing Facilities and Sanitary Landfill Facility.

The waste reception facilities shall primarily comprise of the following:

- (a) Heavy duty scale deck;
- (b) Concrete foundation, approach ramp, platforms, guardrail and traffic light system
- (c) Loads cells, and electronic digital weight indicator;
- (d) An approach road to permit two way traffic, metalled and of adequate length to permit the queuing of vehicles;
- (e) Site notice board displaying license conditions, hours of operation and site regulations;
- (f) Secure, lockable gates at the entrance to the site;
- (g) Cattle grid at the entrance to the waste reception area;
- (h) A weigh bridge of 20 ton capacity capable of weighing 30-35 vehicles per hour;
- (i) Weigh booking office with all amenities and preferably computer logging facilities;
- (j) By pass lane for non-waste vehicles and Emergency services.
- (k) The Concessionaire shall construct, operate and maintain a Weighbridge at the Site which should have suitable systems to determine the quantity of Municipal Solid Waste being received at the Project / Processing Site. Weighment data with the date and time, should be system generated
- (l) The Concessionaire shall have video surveillance, recording and backup facility at the project / processing facility He will also keep the backup of video data for at least 3 months. These records are to be produced on demand of Concessioning Authority.
- (m) The measurement equipment at the Receipt Point shall be operated and maintained by Concessionaire, at no cost to Concessioning Authority.
- (n) The measurement equipment at the Receipt Point shall be monitored and inspected regularly to ensure its due calibration and accuracy and any errors shall be rectified immediately.
- (o) The weight of MSW, as recorded by the measurement equipment at the Receipt Point shall be recorded on a daily basis. This daily record shall be referred to as "The Daily Weight Sheet". The Daily Weight Sheet shall be final and binding on the Parties. Concessionaire shall also be liable to provide Monthly Weight Sheets (consolidated Daily Weight Sheets for a month) to Concessioning Authority at the end of every calendar month.
- (p) Weighbridge should be periodically calibrated as per BIS/ Weight & Measures act norms.
- (q) Registration Certificate (RC) of all vehicles deployed in collection and transportation of waste has to be submitted to the concessioning authority. Any addition/deletion of vehicles in the fleet of collection and transportation has to be intimated to the Concessioning authority. The maximum carrying capacity of the vehicle will be determined from the gross carrying capacity specified in the RC.
- (r) No payment of overloading (above the approved carrying capacity of the vehicle) will be considered. Payment of MSW transported by will governed by the max carrying capacity shown in the RC. Payment will be made on the difference of Gross Weight (subject to max of laden weight mentioned in RC) less tare weight

3.2.4 Storage

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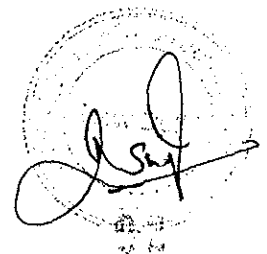
- (1) The storage area shall be designed, constructed and operated to prevent any migration of wastes or accumulated liquid out to soil groundwater or surface water at any time and should be capable of detecting and collecting releases and accumulated liquids until the collected material is removed.
- (2) The storage at Processing Facilities should minimum meet following specifications:
 - (a) Storage area must have sufficient capacity to store about 3 days of MSW and 7 days for RDF and any bye product.
 - (b) After unloading MSW on the tipping floor/pits, it must be sprayed with herbal insecticide to prevent further degradation and odour.
 - (c) The storage building shall be completely enclosed with a floor, walls, and a roof to prevent exposure to the elements (e.g precipitation, wind, run-on).
 - (d) The storage areas shall be provided with floor base free of cracks or gaps and is sufficiently impervious to contain leaks, spills and accumulated liquid.
 - (e) It should be constructed of lined material that are compatible with the wastes and must have sufficient strength and thickness to support themselves, the waste contents, any personnel and heavy equipment that operate within the unit and to prevent failure.
 - (f) The storage area shall be provided with adequate slope or is otherwise designed and operated to drain and remove any liquid.
 - (g) The storage area shall be provided with a means to protect against the formation, accumulation and ignition of vapours in the storage area.

3.2.5 Sanitary Landfill Facility

The Engineered Sanitary landfill design and construction shall be in conformation to the guidelines prescribed in Central Pollution Control Board and in accordance with "Municipal Solid Wastes (Management and Handling) Rules, 2000". The technical specifications for design of landfill shall be in line with Manual on Municipal Solid Waste Management published by CPHEEO.

A. Liner System

- (1) Liner system shall be designed, constructed and installed to prevent percolation of waste, leachate or gas to adjacent subsurface soil or ground water or surface water. The objective of design must be that site will not cause the concentration of any contaminant to exceed the maximum allowable concentration for the contaminant in the ground water at any point on any adjacent property. The maximum allowable concentration could be the background level of that constituent in the ground water or the drinking water standards prescribed by CPCB if the background level of the constituent is below the standard.
- (2) The liner must be constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydro geologic forces, physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operations.



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- (3) The liner must be placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of liner due to settlement, compression or uplift.
- (4) The system shall be designed to minimum specifications listed below:
 - (a) A primary leachate collection layer of thickness 30 cm or more and coefficient of permeability in excess of 10^{-2} cm/sec;
 - (b) A primary composite liner comprising of:
 - A HDPE geo-membrane of thickness 1.5 mm or more. The geo-membrane must have (a) Tensile Strength at yield >18 kN/m (b) Tensile Strength at break > 30 kN/m (c) Tear Resistance > 150 N and (d) Puncture Resistance >250N
 - A compacted clay layer of thickness 45 cm or more having coefficient of permeability of 10^{-7} cm/sec or less;
 - (c) Secondary leachate collection layer also called leak detection layer of thickness 30 cm or more and coefficient of permeability in excess of 10^{-3} cm/sec;
 - (d) Secondary composite liner comprising of:
 - A HDPE geo-membrane of thickness 1.5 mm or more. The geo-membrane must have (a) Tensile Strength at yield >18 kN/m (b) Tensile Strength at break > 30 kN/m (c) Tear Resistance > 150 N and (d) Puncture Resistance >250N
 - A compacted clay layer of thickness 45 cm or more having coefficient of permeability of 10^{-7} cm/sec or less
- (5) The design of liner system shall meet the requirement of adequate stability at base and along the sides of the landfill and shall have adequate strength to withstand construction loads and vehicle loads;
- (6) The synthetic liners and covers shall be inspected to ensure have tight seams and joints and the absence of tears, punctures or blisters;
- (7) Soil based and mixed liners and covers shall be free of imperfections including lenses, cracks, channels, root holes or other structural non-uniformities that may cause an increase in the permeability of the liner or cover;

B. Leachate Collection and Removal System

The leachate collection and removal system shall be designed with

- (1) A bottom slope of one percent or more;
- (2) Constructed of granular drainage material with a hydraulic conductivity of 10^{-2} cm/sec or more and thickness of thirty (30) cm or more; or constructed of synthetic or geo-net drainage materials with a transmissivity of 3×10^{-4} m²/sec or more;
- (3) Constructed of materials that are chemically resistant to the waste and the leachate expected to be generated;

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- (4) It should be of sufficient strength and thickness to prevent collapse under pressures exerted by the overlying wastes and cover materials or equipment used;
- (5) Designed and operated to minimize clogging during Term and Post Closure Period and provided with appropriate back flushing/backwashing arrangement;
- (6) Provided with sumps and pumps of sufficient size to collect and remove liquids in the sump to minimize the head on the bottom liner and from the sump to prevent liquids from backing up into the drainage layer;
- (7) Each unit shall have its own sump(s). The sump shall be provided with measuring and recording the volume of liquids present in the sump and of liquid removed;
- (8) Leachate holding tank for temporary storage before sending for treatment;
- (9) The leachate management system shall be designed to handle maximum amount of leachate expected to be generated and meet the disposal standards prescribed by CPCB for disposal of treated leachate in the surface water body as per MSW (Management & Handling) Rules, 2000.

C. Cover System:

- (1) The cover system shall be designed, constructed and installed to satisfy the following:
 - (a) Prevent infiltration of precipitation into the closed landfill
 - (b) Promote drainage of surface water accumulated on the cover
 - (c) Minimize erosion of cover
 - (d) Withstand or accommodate settlement of the cover to maintain its integrity
 - (e) Have a permeability less than or equal to the liner system
 - (f) Function with minimum maintenance for the post closure period of 20 years
- (2) The cover system shall be designed to minimum specifications listed below:
 - (a) A surface soil layer of local top soil which supports self sustaining vegetation and which has a thickness not less than 60 cm
 - (b) A drainage layer of thickness 30 cm or more having a coefficient of permeability in excess of 10^{-2} cm/sec
 - (c) A single composite barrier comprising of:
 - (i) A HDPE geo membrane of thickness 1.5 mm or more.
 - (ii) A compacted clay layer of thickness 60 cm or more having coefficient of permeability of 10^{-7} cm/sec or less.
 - (iii) A regulatory layer of thickness 30 cm having coefficient of permeability greater than 10^{-2} cm/sec with provision of gas collection system.
- (3) The design of cover system shall meet the requirement of stability of top and side slopes, able to sustain vegetative cover and shall have adequate strength to withstand load.

D. Surface Water Control System

- (1) Surface water control system shall be designed to segregate offsite surface water flow from non contaminated onsite runoff originating from non operating areas and potentially contaminated onsite runoff originating from landfill areas, material and waste storage areas and areas designed for collection, storage and treatment of leachate.

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- (2) The design should in accordance with the following:
- (a) The design of external diversion channels, ditches and conveyance structures should be sized to accommodate the peak flow generated from the higher of the 100 year design storm.
 - (b) The design of all internal drainage ditches, storm sewers and conveyance structures should be sized to accommodate the peak flow generated from a twenty five (25) year design storm.

E. Monitoring Wells

The design of Monitoring Wells shall be in accordance with

- (1) Minimum five number of wells at appropriate locations in upstream and downstream of ground water flow and depth covering the various aquifers.
- (2) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole.
- (3) The casing must be screened or perforated and packed with gravel or sand, where necessary to enable collection of groundwater samples.
- (4) The annular space (i.e. space between the borehole and well casing) above the sampling depth must be sealed to prevent contamination of groundwater.

F. Post Closure Maintenance

- (a) The Concessionaire shall undertake Post Closure Maintenance involving Cover Maintenance, Inspection, Record Keeping, Leachate Management, Environmental Monitoring, Surveillance in line with following specifications
 - (i) The green cover on the top should be always intact devoid any gullies and erosion.
 - (ii) The green cover shall always be trimmed, pruned to maintain healthy growth.
 - (iii) The site shall be provided with twenty four (24) hours surveillance system.

3.3.6 Buffer Area

- (1) A fence which completely surrounds the Processing and Sanitary Landfill Facility (s) shall be minimum 2m height.
- (2) The buffer area is the green belt or zone located on the site between the waste fill area and site boundaries. The buffer area allows for containment attenuation and provides space around the perimeter of the waste area in which various monitoring, maintenance and environmental control activities can take place.
- (3) The Sanitary Landfill Facility (s) should be designed for minimum size of buffer area complying with the regulatory requirement and sufficient to ensure that potential effects of the landfilling operation do not have any unacceptable impact outside the site. The potential effects defined here include surface runoff, litter, vectors, vermins, leachate, subsurface migration of landfill gas and aesthetic effects. The buffer shall be as specified in the conditions stipulated by SPCB/CPCB/MoEF. The native species should be selected as per MoEF/CPCB guidelines.

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3.3.7 Analytical Laboratory for Monitoring

The design of analytical laboratory shall be in conformation with Central Pollution Control Board specifications and specifications prescribed by National Accreditation Board for Laboratories (NABL). The Concessionaire shall accredit the laboratory within 1 year of COD-P&D.

3.2.8 Administration Office

The Administration Office shall be provided with following minimum specifications

- (1) Administration Office shall be design with minimum area of 1000 sqm;
- (2) Office shall be provided with reception, visitor's room, board room, conference room, cabins for managerial staff, adequate no workstations, store room for records etc.

3.2.9 Support Infrastructure

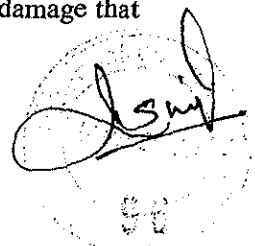
The support infrastructure and ancillary facilities should at minimum meet following specifications:

- (a) The overhead and/or underground water tank with associated pumping system shall be provided to cater to 24 hours water supply requirement.
- (b) Diesel Generator set of suitable capacity conforming to norms prescribed by MoEF shall be provided for standby power supply during power cuts and power breakdowns.
- (c) Adequate lighting including high mast and signages shall be provided at appropriate places.
- (d) Access roads and internal roads shall be designed and constructed to carry truck and heavy earth moving machinery traffic.
- (e) Garage, Vehicle Cleaning Facility, Equipment Shed, and Paved Parking Facility shall be provided of adequate size meeting relevant standards.

3.2.10 Service Level Specifications

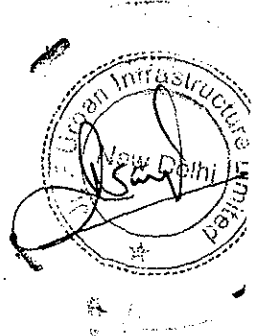
- (a) Buildings
 - (i) All elements of external and internal building fabric (including fixtures, fittings, floor, floor coverings), finishes, furniture and equipment or a services system component shall be functional, operational and satisfy the performance requirement.
 - (ii) Building fabric free from damp penetration, debris and moss growth.
 - (iii) Free from structural cracks and/ or deflection.
 - (iv) Function as intended & free from all but minor surface blemishes and wear and tear, corrosion.
 - (v) Floor/ floor covering is free from tears, scoring, cracks or any other damage that is unsightly and/ or could cause a health and safety hazard.

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- (vi) Facade beauty is maintained by timely intervention and regular painting.
- (b) Distribution System : Distribution system (including distribution equipments, protective devices, fuse switches, isolators, distribution boards, cables systems for IT, Lighting, communication, safety, alarm system).
- Ratings clearly marked,
 - Fuse elements and circuit breakers mechanism in working order,
 - Contacts and connections clean and mechanically tight,
 - No overheating during normal operating loads,
 - Cable joint boxes free from compound leaks,
 - Markings and covering notices where necessary,
 - All electrical installations to comply with IS codes,
 - Wiring, fittings, fixtures, controls and safety devices shall be properly housed and fastened securely to their intended point of anchorage and labeled.
- (c) Water Systems: Pipe network and fittings shall be fastened securely to their intended points of anchorage and there shall be no drips and leaks of water from pipe network, taps, valves and/or fittings.
- (d) Public health and drainage system :
- Shall function as intended without due noise and vibration
 - All pipe network and fittings fastened securely
 - There shall be no leaks of waste and/or foul water and /or rainwater
- (e) Fire Fighting Equipment:
- Fire Safety Systems compliant with statutory regulations and service standards at all times
 - Fire extinguisher and firefighting equipment shall be maintained as per IS code
 - Fully operational within manufacturer's recommendations
 - Hydrants, sprinklers and hoses shall be at correct operating pressure and capacity
 - Pipe network free from corrosion, leaks and drips
- (f) Horticulture: Trees, Shrubs Hedges, Grassed areas, Flower Beds trimmed, pruned and /or cut to maintain healthy growth
- (g) Site Circulation Routes including pavings, paths, driveways, roads, parking area, facility entrance:
- Sound safe and even surface with no potholes or sinkings
 - Road markings are clear and complete
- (h) External Sign Posting Secure and Sound
- Be in appropriate locations
 - Highly visible both day and night
 - Offers clear and concise information

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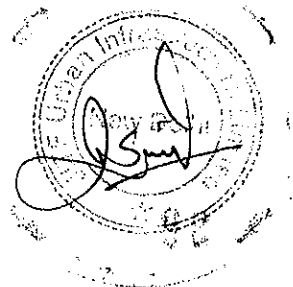
- (i) Gutter and Drains: Free from litter, leaves, weeds and extraneous material
- (j) Utilities Maintenance
 - (i) Any disruption in power supply shall be rectified in six hours. Standby power supply shall be ready to be operated and should be available 24 hours. Standby power source shall be operational, secure and tested regularly.
 - (ii) Ensure utility infrastructure like water supply, effluent disposal system, communication system is maintained in fully functioning conditions
- (k) Staffing
 - (i) There shall be adequate staff to manage the landfill facility
 - (ii) All staff have been vetted and approved for work in areas as appropriate

3.3 Construction Requirements of Project Facilities

- a. All Project Facility shall be constructed, installed and established including the basic and detailed engineering, design, completion, testing and commissioning in accordance with the provisions of this Agreement, including the Technical Specifications, IS Codes, Applicable Laws and Good Industry Practice.
- b. The Construction Works shall commence within the specified Compliance Date. The Concessionaire shall execute them in accordance with the Project Implementation Schedule and achieve Construction Completion by the Scheduled Project Completion Date, unless such time has been extended in accordance with provisions hereof.
- c. To carry out relevant tests for determining that the construction of the Project Facility is being undertaken in accordance with Technical Specifications, Applicable Laws and Good Industry Practice and for quality assurance
- d. All Construction Works shall be carried out with the skill, care and diligence to be expected of appropriately qualified and experienced professional designers, engineers and contractors with experience of similar nature of work
- e. To arrange good quality of materials as specified in IS codes such as bricks, cement, steel, aggregates, soil, bituminous and asphalt materials, chemicals, consumables and any other materials used in undertaking the Construction Works, as well as equipment, machinery, tools and ancillary materials such as shuttering and scaffolding, bearings, joint fillers and similar materials.
- f. To make arrangements for transport, loading and unloading, stacking and proper storage (including making sheds) for all materials and equipment.
- g. To set up fully equipped workshops and laboratory for checking and verifying the Construction Works.
- h. To prepare the Detailed Engineering Design and conduct Tests for civil or other engineering work to ensure the quality & soundness of the work relating to the Project.
- i. To prepare documents, accounts, papers, data, books and relevant matters relating to Construction Works.

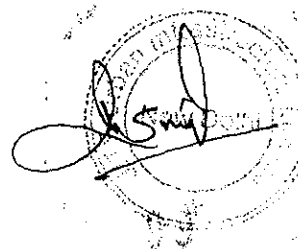
3.4 Operations and Maintenance (O&M) Requirements of Project Facilities

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- a. The Concessionaire shall in consultation with the Concessions Authority evolve not later than 60 (sixty) days before the Construction Completion Date, a manual for the operations and regular and preventive maintenance (the "O&M Manual"), and shall ensure and procure that at all times during the Operations Period, the Project Facilities are operated and maintained in a manner that it complies with the Technical Specifications. The Concessionaire shall supply, at least one month before the Operations Date, provide 5 (five) copies of the O&M Manual to the Concessions Authority.
- b. The Concessionaire shall operate and maintain the Project Facilities at its cost in sound manner and if required, modify, repair or otherwise make improvements to the Project Facilities to comply with Technical Specifications, and other requirements set forth in this Agreement, Applicable Laws, Applicable Permits and Good Industry Practice. More specifically, the Concessionaire shall be responsible for undertaking maintenance works and adhering to the safety standards in accordance with the Technical Specifications.
- c. The Concessionaire shall provide at its cost all equipment, consumables and materials necessary for undertaking the operation and maintenance of the Project Facilities. Maintenance shall include regular, routine, periodic and preventive maintenance and the replacement of equipment/consumables etc. and upkeep of the Project Facilities in good order and working condition.
- d. The Concessionaire shall maintain complete and accurate records of all equipment, materials, consumables and spare parts brought on to the Project Facilities.
- e. The Concessionaire shall ensure that its staff and personnel and its Concessions Authority's staff and personnel are fully and comprehensively trained and competent to undertake the works and provide services under this Agreement.
- f. The Concessionaire shall develop and institute within two months of the Construction Completion Date, a quality assurance system and implement the same until the end of the Term. The quality assurance system shall involve maintenance of appropriate records, documents and data, charts, samples etc. regarding the construction and operation of the Project Facility. The Concessions Authority shall have the right to inspect, periodically or at random, such records, documents and data etc. and as applicable to make copies thereof, verify the samples or take measurements. The Concessionaire agrees to provide full co-operation to the Concessions Authority.
- g. Save and except as otherwise expressly provided in this Agreement, if the Project Facilities or any part thereof shall suffer any loss or damage during the Term, from any cause whatsoever, the Concessionaire shall, at its cost and expense rectify and remedy such loss or damage in a manner so as to make the Project Facilities conform in every respect to the Technical Specifications, quality and performance as prescribed by this Agreement.
- h. The Concessionaire shall at its cost repair, rectify, replace, remove any defects, imperfections, shortcomings or such other faults, normal or fair wear and tear excepted, in the design, detailed engineering or construction and commissioning of the Project Facilities, whether latent or patent.
- i. If the Concessionaire commences any works for curing any defects or deficiencies in the Project Facilities, it shall complete such works expeditiously in accordance with Good Industry Practice.
- j. The Concessionaire shall be responsible for ensuring the safety of persons, living creatures, property and the environment in the vicinity or proximity of the Site and take steps to prevent the same being adversely affected by the operations of at the Facilities.

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- k. Subject to its rights and obligations herein, the Concessionaire shall, unless directed by any Government Authority to the contrary, provide non discriminatory services in the Cluster.
- l. The Concessionaire shall be responsible for the closure and Post Closure Activities in accordance with the Technical Specifications and the Applicable Law.

3.4.1 O&M Requirements of Source Segregation & Collection of MSW in MSW Supply Area

Concessionaire shall comply with the O&M Requirements set out in this Annexure. In doing so, Concessionaire shall encourage source segregation and ensure that the waste is collected in segregated manner from Waste Generators in MSW Supply Area and collect the User Charges as per the schedule of User Charges provided at Annexure 20.

In the design, planning and implementation of all works and functions associated with the operation and maintenance of the source segregation & collection of MSW in MSW Supply Area are maintained to the standards and specifications as set out set out in the Agreement. Concessionaire shall take all such actions and do all such things (including without limitation, organizing itself, adopting measures and standards, executing procedures including inspection procedures, and engaging NGO's, CBO's , contractors, if any, agents and employees) in such manner, as will:

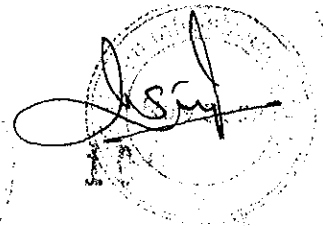
- a. ensure that source segregation and collection of in MSW Supply Area are undertaken as per MSW (Management and Handling) 2000 Rules and guidelines.
- b. encourage source segregation into dry (non- biodegradable) and wet (biodegradable) waste .
- c. ensure collection of segregated waste for all seven days in week.
- d. ensure that in identification of waste handlers, the private sweepers and rag pickers in the locality are considered on priority
- e. ensure hygienic working conditions and safety of waste handlers deployed for waste collection or part thereof;
- f. ensure that any situation which has arisen or likely to arise on account of any accident or other Emergency is responded to as quickly as possible and its adverse effects controlled/minimized.
- g. ensure that data relating to waste collection charges , defaulters and penalties are collected, recorded and available for inspection by Concessioning Authority .
- h. provide requisite training to the personnel assigned by Concessionaire to enable Concessionaire meet the O&M Requirements for ensuring source segregation and collection of MSW.

3.4.2 O&M Requirements of Secondary Collection Points in MSW Supply Area

Concessionaire shall comply with the O&M Requirements set out in this Annexure. In doing so, Concessionaire shall ensure that the Secondary Collection Points in MSW Supply Area are maintained to the standards and specifications as set out set out in the Agreement.

In the design, planning and implementation of all works and functions associated with the operation and maintenance of the Secondary Collection Points in MSW Supply Area. Concessionaire shall take all such actions and do all such things (including without limitation, organizing itself, adopting measures and standards, executing procedures including inspection

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procedures, and engaging NGO's, CBO's, contractors, if any, agents and employees) in such manner, as will :

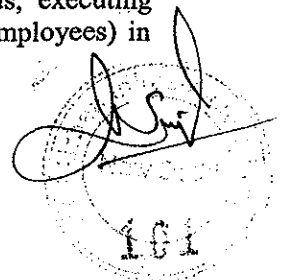
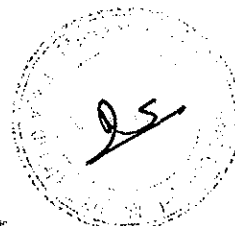
- a. ensure that operation and maintenance of Secondary Collection Points in MSW Supply Area are undertaken as per MSW (Management and Handling) 2000 Rules and guidelines.
- b. ensure the hygienic condition at Secondary Collection Points.
- c. ensure that location of Secondary Collection Points does not obstruct entrance to any building,
- d. ensure adequate space for keeping appropriate containers to deposit segregated collected MSW , street sweeping and drain de-silting waste and sufficient to allow the movement of vehicle to pick up the container.
- e. ensure that containers are designed in accordance to collect segregated collected MSW , street sweeping and drain desilting waste can be deposit .
- f. ensure that collection of MSW, street sweeping and drain desilting activities are not creating any obstruction to traffic .
- g. ensure the lifting of bio-degradable waste on daily basis and non biodegradable, street sweeping and drain desilting waste in once in every three days from Secondary Collection Points, as a minimum.
- h. ensure periodical inspection (at least once in three months) of any damage caused to the flooring, screen walls, etc. and such damages should be repaired promptly.
- i. ensure hygienic working conditions and safety of waste handlers deployed for waste collection and storage or part thereof;
- j. ensure that applicable and adequate safety measures are taken at Secondary Collection Point;
- k. ensure that the personnel assigned by Concessionaire have the requisite qualifications and experience and are given the training necessary to enable Concessionaire meet the O&M Requirements for storage of MSW at Secondary Collection Points in MSW Supply Area
- l. ensure that any situation which has arisen or likely to arise on account of any accident or other Emergency is responded to as quickly as possible and its adverse effects controlled/minimized;
- m. ensure that adverse effects on the environment and to the owners and occupiers of property and/or land in the vicinity of, Secondary Collection Points due to any of its actions, is minimized;
- n. ensure that data relating to the storage, lifting and operation and maintenance of the Secondary Collection Points in MSW Supply Area are collected, recorded and available for inspection by Concessioning Authority.

3.4.3 O&M Requirements for Transportation of MSW

Concessionaire shall comply with the O&M Requirements set out in this Annexure. In doing so, Concessionaire shall ensure that the transportation of MSW is maintained to the standards and specifications as set out set out in the Agreement.

In the design, planning and implementation of all works and functions associated with transportation of waste Concessionaire shall take all such actions and do all such things (including without limitation, organizing itself, adopting measures and standards, executing procedures including inspection procedures, and, contractors, if any, agents and employees) in such manner, as will :

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- a. ensure transportation of segregated MSW are undertaken as per MSW (Management and Handling) 2000 Rules and guidelines.
- b. ensure that transportation of waste from Secondary Collection Points is not creating any obstruction to traffic.
- c. ensure that vehicle routing avoids the zigzag movement of vehicles to the maximum extent possible.
- d. ensure vehicle and MSW tracking system through GPS chip with Quad Band GSM / GPRS transceiver.
- e. ensure transportation of MSW in covered vehicles.
- f. ensure the transportation of bio-degradable waste on daily basis and non biodegradable, street sweeping and drain desilting waste at least once in every three days, from Secondary Collection Points.
- g. ensure pollution checking, regular maintenance and cleanliness of vehicles for transportation of MSW.
- h. ensure hygienic working conditions and safety of personnel deployed for transportation of MSW or part thereof;
- i. permit unimpaired performance of statutory duties and functions of the Parties in relation to the transportation of MSW;
- j. ensure applicable and adequate safety measures in relation to transportation of MSW are taken;
- k. minimize adverse effects on the environment and to the owners and occupiers of property and/or land in carrying out transportation of MSW, due to any of its actions;
- l. ensure that any situation which has arisen or likely to arise on account of any accident or other Emergency shall be responded to as quickly as possible and its adverse effects controlled/minimized;
- m. ensure that disturbance or damage or destruction to property of third party by transportation system shall be minimized;
- n. ensure that data relating to the transportation of MSW, street sweeping and drain desilting waste, and vehicle tracking system are collected recorded and available for inspection by Concessioning Authority;
- o. ensure that the personnel assigned by Concessionaire have the requisite qualifications and experience and are given the training necessary to enable Concessionaire meet the O&M Requirements for transportation of MSW.

3.4.4 O&M Requirements of Processing Facilities

A. General

Concessionaire shall comply with the O&M Requirements set out in this Annexure. In doing so, Concessionaire shall ensure that the MSW Processing Facilities are maintained to the Technical Specifications as set out in the Construction Requirements and also meet the other requirements, if any, set out in the Agreement.

In the design, planning and implementation of all functions associated with the operation and maintenance of the MSW Processing Facilities, Concessionaire shall take all such actions and do all such things (including without limitation, organizing itself, adopting measures and standards, executing procedures including inspection procedures, and engaging contractors, if any, agents and employees) in such manner, as will:



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- a. ensure the safety of personnel deployed on and users of the MSW Processing Facilities or part thereof;
- b. ensure that sufficient odour control measures including but not limited to create buffer zone, use of herbal insecticide, cleaning of MSW pit atleast once in every 24 hours etc has been taken to remove unpleasant odour as far as practicable.
- c. permit unimpaired performance of statutory duties and functions of any party in relation to the MSW Processing Facilities
- d. ensure that applicable and adequate safety measures are taken;
- e. ensure that adverse effects on the environment and to the owners and occupiers of property and/or land in the vicinity of the MSW Processing Facilities, due to any of its actions, is minimized;
- f. ensure that any situation which has arisen or likely to arise on account of any accident or other Emergency is responded to as quickly as possible and its adverse effects controlled/minimized;
- g. ensure that disturbance or damage or destruction to property of third party by operations of the MSW Processing Facilities shall be minimized;
- h. ensure that data relating to the operation and maintenance of the MSW Processing Facilities shall be collected, recorded and available for inspection by Concessioning Authority.
- i. ensure that all materials used in the maintenance, repair and replacement of any of the MSW Processing Facilities shall meet the Construction Requirements;
- j. ensure that the personnel assigned by Concessionaire have the requisite qualifications and experience and are given the training necessary to enable Concessionaire meet the O&M Requirements of MSW Processing Facilities.

B. Final Products

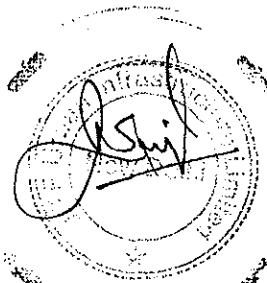
i. Compost

Concessionaire may adopt any such process and/or methods as it considers necessary for the Processing of organic contents of MSW in order to ensure that the compost produced after such product is certified for its conformity to compost quality specified under MSW Rules, 2000.

Concessionaire shall inspect the sieving equipment once every three months and carry out any maintenance necessary to minimize wear and tear.

ii. RDF

Concessionaire may adopt any such process and/or methods as it considers necessary for the conversion of MSW into RDF in order to ensure that the RDF produced after such conversion being fit for use as fuel. Concessionaire shall evolve suitable quality parameters for the product. The RDF so produced may be either used in power plant or sold as such to the nearby cement industries or any other industries situated in or around the cluster or shall be used as fuel for steam generation along with supporting fuel in compliance with applicable guidelines of MNRE, GoI for generation of renewable energy with/without use of fossil fuel of any kind.



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3.4.5 Operations and Maintenance Requirements of Disposal Facility – Sanitary Landfill Facility

A. General

Concessionaire shall comply with the O&M Requirements for Sanitary Landfill Facility (s) as set out in this Schedule. In doing so, Concessionaire shall ensure that the Sanitary Landfill Facility (s) is operated and maintained to the applicable regulations, Standards and Specifications and also meet the other requirements, if any, set out in the Agreement.

In the design, planning and implementation of all works and functions associated with the construction, operation and maintenance of the Sanitary Landfill Facility (s), Concessionaire shall take all such actions and do all such things (including without limitation, organizing itself, adopting measures and standards, executing procedures including inspection procedures, and engaging contractors, if any, agents and employees) in such manner, as will:

- a. ensure the safety of personnel deployed on and users of the Sanitary Landfill Facility (s) or part thereof;
- b. keep the equipment and machinery employed at the Sanitary Landfill Facility (s) from undue deterioration and wear;
- c. permit unimpaired performance of statutory duties and functions of any party in relation to the O&M of Sanitary Landfill Facility (s)
- d. ensure that applicable and adequate safety measures are taken;
- e. ensure that adverse effects on the environment and to the owners and occupiers of property and/or land in the vicinity of the Sanitary Landfill Facility (s), due to any of its actions, is minimised;
- f. ensure that any situation which has arisen or likely to arise on account of any accident or other Emergency is responded to as quickly as possible and its adverse effects controlled/minimised;
- g. ensure that disturbance or damage or destruction to property of third party by operations of the Sanitary Landfill Facility (s) is controlled/minimised;
- h. ensure that data relating to the construction, operation and maintenance of the Sanitary Landfill Facility(s) is collected, recorded and available for inspection by the Project Engineer/Cluster ULB's
- i. ensure that all materials used in the operation, maintenance of any of the Sanitary Landfill Facility(s) shall meet the Construction Requirements;
- j. ensure that the personnel assigned by Concessionaire have the requisite qualifications and experience and are given the training necessary to enable Concessionaire meet the O&M Requirements for Sanitary Landfill Facility (s).

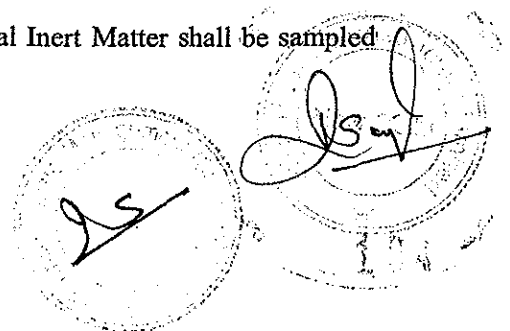
B. Operations and Maintenance Manual and O&M Plans

Concessionaire shall finalize the O&M Plan and the O&M Manual for the Sanitary Landfill Facility (s) in consultation with the Project Engineer / Cluster ULB's.

i. Sampling and Testing

Unless modified with mutual consent by the Parties, the Residual Inert Matter shall be sampled and tested in the manner as set out below:

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The Residual Inert Matter proposed to be taken to the Sanitary Landfill Facility (s) shall be placed in heaps of almost uniform size of sizeable quantity. The chemist shall take ten random samples from each of these heaps. These random samples shall then be thoroughly mixed and a single random sample taken and tested as per MSW (Management & Handling) Rules, 2000.

Concessionaire shall be solely responsible for the composition of the material disposed in the Sanitary Landfill Facility (s).

ii. Weighment

Concessionaire shall provide for a weighbridge for weighing MSW before disposal into Sanitary Landfill Facility (s)

Concessionaire shall not take any Residual Inert Matter into the Sanitary Landfill Facility without having obtained the "Fit for Landfilling" certificate from the Nodal Officer. Concessionaire shall plan his operations in a manner such that the landfill waste is taken into the Sanitary Landfill Facility (s) only in the daytime during normal operations or as mutually agreed upon between Nodal Officer and Concessionaire.

Concessionaire shall have to make arrangement for weighing of waste prior to disposal in Sanitary Landfill Facility (s) at his own cost and expense. Such weightment and transport of the Residual Inert Matter shall be done only under the direct supervision of the Nodal Officer or his authorized supervisor.

The procedure for weightment of the landfill waste and certification by the Nodal Officer or his authorized representative shall be as set out in the O&M Plan and the O&M Manual.

iii. Landfill Operation

• **Monsoon cover liner**

Concessionaire shall provide a intermediate liner or the monsoon cover liner, as per MSW Rules, 2000, to take care of the monsoon season before the onset of monsoon leaving only a temporary shed for operations during non-raining period of the day.

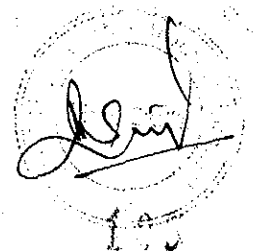
• **Daily Cell Cover**

On each day during the Term, Concessionaire shall compact the landfill waste and cover the same ("Daily Cell Cover") in the manner as specified in MSW Rules, 2000.

• **Landfill Closure and Final Cover**

- Concessionaire shall demonstrate the actual stability by considering the strength parameters of compacted inert material.
- Concessionaire shall inform the Project Engineer at least one year in advance about the exhaustion of landfill, providing the following details:
 - The estimated quantity of Landfill Waste that can be Land filled in future
 - The plan for laying the final cover ("Final Cover") for the Landfill Facility
- Concessionaire shall provide the Final Cover in accordance with MSW Rules, 2000 or amendment thereto.

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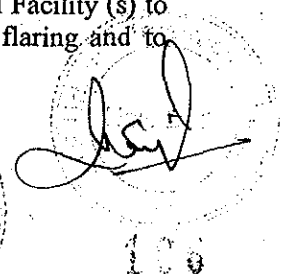
- **Vegetative cover**
 - Concessionaire shall, in accordance with MSW Rules ensure the provision of a vegetative cover after layering of the Final Cover.
 - The selection of the varieties of plants /grass to be planted shall be decided in consultation with the Project Engineer and shall form part of the Post Closure Maintenance Plan.
- iv. **Leachate Collection and Removal System ("LCRS")**
 - Concessionaire shall ensure that there is no run-on/ run-off to and from the facility.
 - Concessionaire shall ensure that all leachate drains are free from clogging and allows unobstructed flow of leachate.
 - Only treated leachate to be let out from the Site(s), which shall meet the standards prescribed under MSW Rules, 2000.
- v. **Leachate Monitoring:**
 - Concessionaire shall develop and undertake leachate monitoring program that will compliment the ground water and surface water monitoring program. The leachate monitoring shall be undertaken for the parameters at a frequency mentioned as per MSW (Management & Handling) Rules, 2000.
- vi. **Provisions for Landfill Gas Recovery / Venting System**

Concessionaire shall examine the requirement of providing Landfill Gas Recovery / Venting System in consultation with the Project Engineer and if found necessary make suitable provisions to avoid any potential hazard to the environment. The MSW Rules, 2000 and other applicable guidelines prevailing guidelines prevent the disposal of bio-degradable waste into landfills. However, based on the level of segregation achieved and waste characterizes disposed off into landfill, the requirement of gas recovery / venting system may be designed.

Concessionaire may also consider the requirements for getting CDM benefits, while planning for the above.

- vii. **Closure and Post-Closure Maintenance Plan**
 - The Concessionaire shall close the facility in manner that
 - (i) minimizes the need for further maintenance
 - (ii) controls, minimizes or eliminate, to the extent necessary to protect human health and the environment, post closure escape of pollutants constituents, leachate, contaminated runoff, or MSW decomposition products to the ground or surface waters or to the atmosphere
 - The Concessionaire shall develop and prepare closure plan and obtain the necessary approval from regulatory authorities. The closure plan shall be prepared in accordance with the specifications as per MSW (Management & Handling) Rules, 2000.
 - Complies with closure requirements of regulatory authorities and Technical Specifications.
 - Sanitary Landfill Facility (s) shall be maintained in accordance with the Post-Closure Maintenance Plan, during the Post Closure Period, at the cost and expenses of Concessionaire, with funds from Post Closure Maintenance Account.
 - Post-closure maintenance shall be in accordance with Applicable Laws and shall involve periodical inspections, of at least once every three months, of the Sanitary Landfill Facility (s) to monitor land surface care, leachate collection, and methane control by way of flaring and to maintain flaring equipment.

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- Post-closure maintenance shall also involve investigations for detection of adverse environmental impacts, if any, and implementation of measures for mitigation of the same.
- Post Closure Period of the facility shall begin after completion of closure of the unit and continue for 20 years after that date and must at the minimum involve:
 - (i) Maintenance of the integrity of the liner and cover system
 - (ii) Leachate collection, treatment and disposal
 - (iii) Monitoring of ground water and emissions
 - (iv) Provision of security
 - (v) Inspection and record keeping
 - (vi) Insurance
 - (vii) Remedial system operations (if required)

viii. Environment Monitoring System

- The Environmental Monitoring shall be carried out as stipulated in the MSW Rules, 2000, Manual on Municipal Solid Waste Management published by CPHEEO and other application regulations. The monitoring schedule, parameters and locations are to be detailed in the O&M manual to be prepared by the Concessionaire.
- Concessionaire shall provide the instruments/equipment required for carrying out the environmental monitoring tests as per the above requirements.

3.4.6 Mandatory Facilities

Concessionaire shall, unless suitably modified in the O&M Plan and/or the O&M Manual, operate and maintain the mandatory facilities in accordance with acceptable standards. The Manual shall cover the various operational aspects which could be exhaustive but shall include the following:

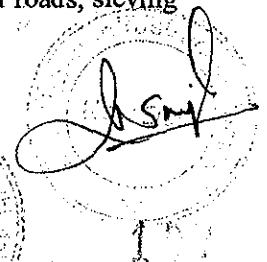
- Quality Control Laboratory
- Internal Roads
- Lighting and other electrical works
- Weigh Bridge
- Waste Receipt
- Waste Inspection
- Waste Weighing
- Waste Acceptance
- Waste Unloading
- Waste Placement and Compaction
- Landfill Machinery and their use, O&M issues etc
- Storm Water Drainage System
- Leachate Collection and Drainage System
- Leachate Treatment Plant
- Water Supply System

3.4.7 Routine Maintenance Standards

In order to ensure smooth and uninterrupted operations, routine maintenance of the Project Facilities shall include but not be limited to:

- a) prompt repairs of the weigh-bridge, windrow platforms (in case of Compost plant constructed), leachate collection drainage and treatment system, electrical items, drains, internal roads, sieving machinery, lighting and fencing;

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- b) replacement of equipment/consumables, horticultural maintenance and repairs to equipment, structures and other civil works which are part of the Project Facilities;
- c) maintaining the shape, scope, full cross-section of the storm water drainage system and leachate collection and drainage system;
- d) keeping the Project Facilities in a clean, tidy and orderly condition and taking all practical measures to prevent damage to the Project Facilities or any other property on or near the Site (s);
- e) undertaking maintenance works in accordance with the O&M Plan and O&M Manual;
- f) preventing, with the assistance of law enforcement agencies, where necessary, any unauthorized entry to and exit from and any encroachments including any encroachments on the Site (s);
- g) taking all reasonable measures for the safety of all the workmen, material, supplies and equipment brought to the Site (s). Explosives, if any, shall be stored, transported and disposed of by the Concessionaire in accordance with Applicable Permits.

The following standards in order of preference shall be adopted in consultation with the Project Engineer, unless otherwise specified:

- MSW Rules
- Manual on Municipal Solid Waste Management published by CPHEEO
- Any other standards specified by statute and Applicable Laws
- Bureau of Indian Standards (BIS)
- Any other standard acceptable international / national guidelines, procedures etc.

Concessionaire, for the purpose of routine maintenance shall, in consultation with the Project Engineer, set forth such criteria as to conform to good international standards and Good Industry Practice for sound maintenance of the Project Facilities.

Concessionaire shall regularly carry out the necessary preventive maintenance activities for the Project Facilities to ensure adherence to the Construction Requirements/ specifications.

3.4.8 Emergency Maintenance

The Emergency Response Protocol ("ERP") shall be developed by Concessionaire in line with Factories Act. This shall be a part of the O&M Manual developed by Concessionaire.

The ERP shall set out steps to be taken and measures to be adopted by Concessionaire in responding to dealing with Emergency including those situations related to vehicle accidents involving personal injuries or fatalities, property damage and force majeure as follows:

- (a) In the event of an Emergency, Concessionaire shall immediately carry out an inspection of the area affected by the Emergency. Where Emergency has necessitated closure of the Project Facilities or part thereof, Concessionaire shall promptly carry out any repair works necessary to restore the Project Facilities to safe condition and in any event shall carry out such works before the affected area of the Project Facilities is re-opened to for normal operations.
- (b) Concessionaire shall ensure that sufficient staff, plant, equipment and materials, including without limitation medical assistance are available to respond to Emergency within reasonable period at all times during the Term.

In case of Emergency, Concessionaire shall

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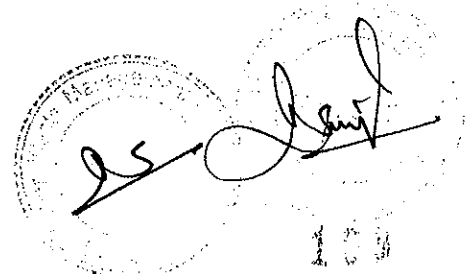
- (a) carry out such Emergency maintenance and repairs as may be required to repair the damages and where required under the supervision of the police in order to ensure that the Project Facilities are returned to normal operating standards as quickly as possible
- (b) take all necessary measures to minimize pollution in accordance with the procedure specified in the O&M Plan/ Environmental Management Plan.
- (c) Submit a report to Project engineer /Cluster ULB's from time to time.

3.4.9 Equipment Maintenance

- (a) Concessionaire shall implement and maintain an auditable asset management system for all equipment devices within the Project Facility. As minimum a system shall record the following information on each device:
 - (i) Name of equipment
 - (ii) Manufacturer and/or Supplier
 - (iii) Serial No and other unique identifier
 - (iv) Warranty and/or guarantee information
 - (v) Acquisition Date
 - (vi) Cost of Equipment
 - (vii) Installation Date
 - (viii) Life of Equipment
 - (ix) Recommended Replacement Date
 - (x) Depreciation per year
 - (xi) Servicing and/or calibration requirements and timetable
 - (xii) Associated hazards and safety bulletins and notices
 - (xiii) Current location
 - (xiv) Current condition
 - (xv) Repair and maintenance history
- (b) Concessionaire shall undertake planned and reactive maintenance of equipment to ensure that equipment is safe, accurate and working to optimum performance and to achieve maximum availability and continuity of services by maintaining standards set by equipment manufacturer
- (c) The maintenance shall include:
 - (i) Planned protective maintenance designed to keep unplanned breakdown and disruptions minimum
 - (ii) Reactive maintenance providing rectification or arranging similar system to provide continuity of services
 - (iii) Implement and maintain a planned replacement system of time/performance expired asset to maintain quality of performance and service availability
- (d) Concessionaire shall repair and maintain all equipment in accordance with manufacturer's recommendations. It shall ensure that equipments are calibrated and certified and maintain necessary records of all calibration and test exercises with certificates. It shall provide data on equipment performance etc. on request and at regular interval. Concessionaire shall maintain logbook of planned and reactive maintenance

3.4.10 Staffing and Personnel Training

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- (a) Concessionaire shall make provision of adequate staff required for construction, operation, maintenance and management of facility as prescribed in the staffing plan
- (b) Concessionaire shall ensure that all Personnel had received training related to the MSW management. At a minimum, the training should focus on effective response to emergencies. The training program must be completed 2 months from a date worker is newly employed. Training-related documents and records must be kept at the facility. These must include a job title for each person and the name of the employee filling that position, and a written job description

3.4.11 Security

Concessionaire shall make a provision of adequate security to prevent accidental entry and minimize the possibility of unauthorized entry of people or livestock onto the active portion of the facility.

- (a) A 24-hour surveillance system which continuously monitors and controls entry onto the facility (e.g. guards)
- (b) A artificial or natural barrier which completely surrounds the facility (e.g., fence), and a means to control entry to the active portion at all times via gates or entrances
- (c) A sign reading: "Danger — Unauthorized Personnel Keep Out" at each entrance to the facility. The sign must be written in English, Hindi and Punjabi. It must be legible from a distance of 25 feet. Alternate language conveying the same message may be used

3.4.12 Environmental Management Plan

Concessionaire shall develop Environmental Management Plan for mitigating the adverse impacts during construction and operation period and get Environmental Clearance from Ministry of Environment & Forest (MoEF) as per Role & Responsibilities set out in Annexure-7

3.4.13 Preparedness and Prevention

- (a) The preparedness and prevention standards are intended to minimize and prevent Emergency situations at Project Facilities. Concessionaire shall ensure that facility is operated and maintained in a manner that minimizes the possibility of a fire, explosion, or any unplanned sudden or non sudden release of Pollutants constituents to air, soil, or surface water. Concessionaire shall provide and maintain requisite equipment including fire fighting and adequate water supply, internal communication system and alarms, minimum aisle space, and provisions for contacting local authorities. Local authorities include police, fire department, hospitals, and Emergency response teams. Where more than one local authority is involved, a lead authority must be designated. Where state or local authorities decline to enter into such arrangements, the Concessionaire must document the refusal in the operating record
- (b) Concessionaire shall test and maintain all facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, to assure its proper operation in time of Emergency

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- (c) Concessionaire shall prepare and maintain Emergency preparedness plan for facility and train all the personnel working in the facility in order to respond appropriately in such situation and carry out these plans in the event of an actual Emergency.
- (d) The Emergency plan should describes arrangements with local authorities and lists names, addresses, and telephone numbers of all people qualified to act as Emergency coordinators. If more than one Emergency coordinator is listed, a primary contact must be designated. The plan must include a list of all Emergency equipment and evacuation plans, where applicable
- (e) Concessionaire shall review and amend the plan when the applicable regulations are revised, the plan fails in an Emergency, or there are changes to the facility, the list of Emergency coordinators, or the list of Emergency equipment

3.4.14 Recordkeeping and Reporting:

A. Reporting

Concessionaire shall ensure that Cluster ULB's are provided with adequate information and forewarned of any event or any other matter affecting the Project Facilities to enable them to control/minimize any adverse consequences.

The frequency and formats for the reports with respect to MSW collected, MSW received at and transported from the Respective Transfer Station(s), MSW processed, rejects generated and disposed off to Sanitary Landfill Facility, , RDF, compost, Power / biogas produced / sold - and any other relevant data like usage of supporting fuels if any, to be submitted and form part of the O&M Plan and Manual.

B. Operating Records

(a) The operating record also must include

- (i) MSW characterization results
- (ii) Details of emergencies requiring contingency plan implementation
- (iii) Inspection results
- (iv) Monitoring data
- (v) Authorisation Notices

(b) Annual Report

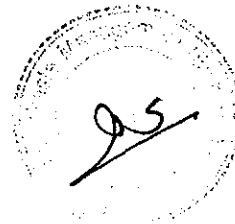
Annual Reports must be filed with the State Pollution Control Board by March 1 of each year, covering the facility's activities for the previous year

(c) Additional Reports

Other reports that must be made to the Concessioning Authority include, but are not limited to, reports of releases, fires and explosions, groundwater contamination and monitoring data, and facility closure

C. Record Availability

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All records and plans must be kept at the facility and furnished upon request, and made available at all reasonable times for inspection by Concessioneing Authority When a facility certifies closure, a copy of records of waste disposal locations and quantities shall be submitted to the Concessioneing Authority and any other competent authority if required

3.4.15 Management Information System

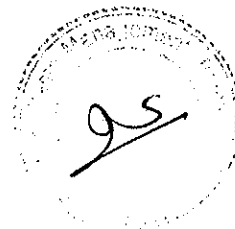
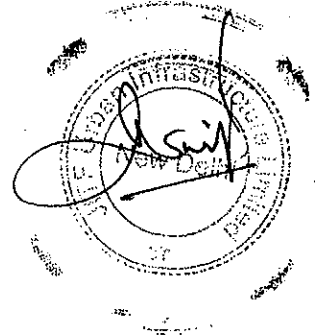
The Concessionaire shall establish the MSW Management Information System for maintaining records, waste inventory, material inventory, maintenance records, billing and accounting, sampling and analysis records, environmental monitoring. The Concessionaire shall use the statistical software like SPSS for statistical analysis of environmental monitoring data.

3.4.16 Testing and Inspection

Notwithstanding any provisions of this Agreement and without prejudice to any of the other rights vested under the provisions hereof, the Concessioneing Authority or and any Person authorised by it shall have the right during the Term at all reasonable times and upon reasonable notice to inspect the Project Facility, the documents, accounts, papers, data, books and relevant matters relating to the implementation of the Project to witness and observe the status and functioning of the Facility and to confirm compliance of the Concessionaire with the provisions of this Agreement. The Concessionaire shall co-operate in every possible manner with such persons and allow them access to every part of the Project Facility and to make copies of the documents and records.

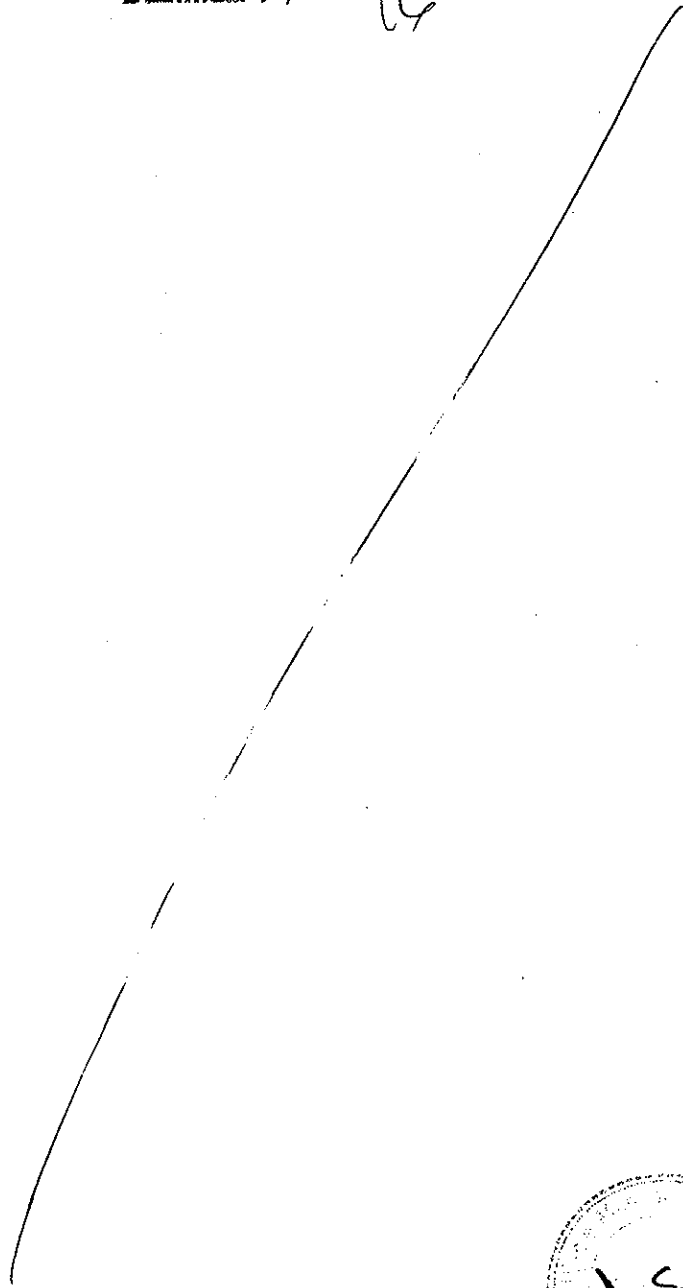
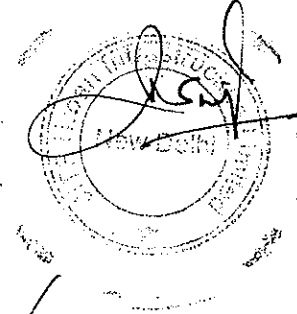
The Concessioneing Authority shall also have the right, without prejudice to the aforesaid, to carry out surprise checks on the records, operations and working of the Concessionaire, to take or cause samples of MSW etc. to be taken and to conduct or cause technical audits of the Works, including without limitation of the materials and consumables used, the stabilization and other processes carried out or as may otherwise be necessary to confirm and ensure compliance with the provisions of this Agreement, the Applicable Laws, terms of Applicable Permits, guidelines and Good Industry Practice.

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DRAFT WASTE OFFTAKE AGREEMENT

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Bathinda.



WASTEOFFTAKE AGREEMENT

BETWEEN

MUNICIPAL COUNCIL of [please insert]

AND

XYZ LIMITED

AND

MUNICIPAL CORPORATION OF BATHINDA

(as confirming party)

May 2011

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Municipal Corporation
Bathinda. 

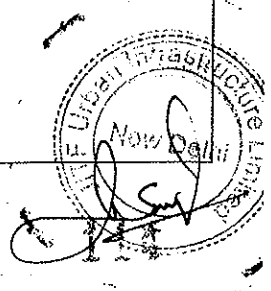
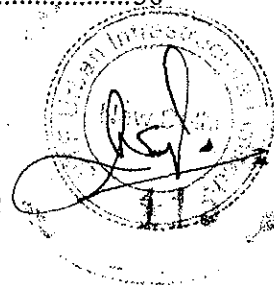


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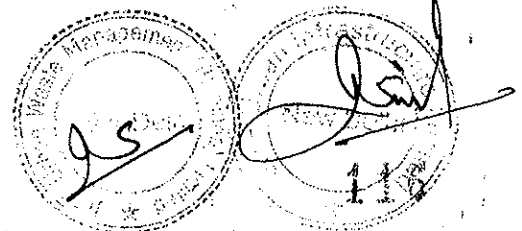
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Commissioner
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Bathinda.



THIS AGREEMENT made this ___ day of _____ 2011 at [●]

BETWEEN

[_____], a statutory body constituted under the [_____], and having its office at [●], represented by its [_____] duly authorised on its behalf (hereinafter referred to as "Authority" which expression shall unless repugnant to the context thereof, include its successors and assigns) of the **FIRST PART**;

AND

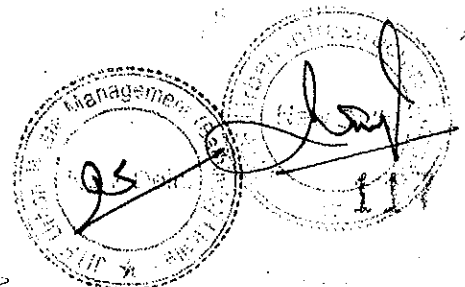
M/s JITF Urban Waste Management (Bathinda) Limited, a company incorporated under the Companies Act, 1956 and having its Registered Office at **Jindal ITF Centre, 28, Shivaji Marg, New Delhi, 110015, India**, represented by [] (hereinafter referred to as "Concessionaire", which expression shall, unless repugnant to the context or meaning thereof, mean and include its associate/group companies, successors and assigns) of the **SECOND PART**;

AND

MUNICIPAL CORPORATION OF BATHINDA a statutory body constituted under the Punjab Municipal Act of year 1976, and having its office at Near Railway Station, Bathinda, represented by [] (hereinafter referred to as the "Concessioning Authority" which expression shall unless repugnant to the context thereof, include its successors and assigns) as the confirming party to this Agreement.

The Authority, Concessionaire and the Concessioning Authority are hereinafter referred to individually as the "Party" and collectively as the "Parties".

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Bathinda. *MS*

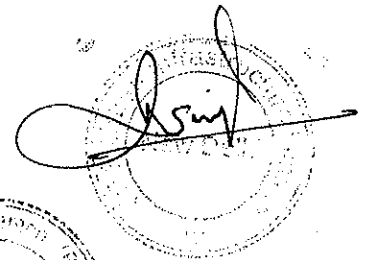
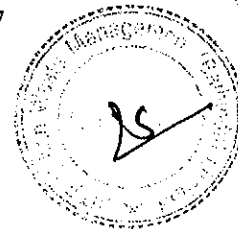


WHEREAS

- A. The Concessioneing Authority along with the ULBs mentioned at **Annexure 1** ("**Cluster ULBs**") are desirous of establishing a suitable mechanism on regional basis to scientifically manage the collection, transportation, processing and disposal of Municipal Solid Waste (MSW) generated from the residential and other areas of the entire "**Cluster**" (as defined in **Annexure 1**), with a view to meet environmental regulations and for improvement in public health and hygiene. The objective is to develop and implement a viable and environmentally sustainable MSW management system on PPP/BOOT basis, to scientifically manage MSW and gainfully utilize it to produce compost, Refuse Derived Fuel ("**RDF**") and/or power, and dispose-off the residual matter in an environmentally benign manner..
- B. For the aforesaid purpose, the Department of Local Governance, Government of Punjab ("**DoLG**"), has conducted a competitive bidding process. Following the process of competitive bidding, after evaluating the Proposals submitted by Bidders in response to its request for proposal (RFP) dated May 23, 2011 the DoLG accepted the Proposal submitted by the Selected Bidder for developing and implementing the Project and communicated its acceptance to the Selected Bidder vide Letter of Intent dated July 28, 2011(the "**Letter of Intent**" or "**LOI**")
- C. The Selected Bidder has incorporated the Concessionaire under the Companies Act, 1956, as a Special Purpose Company (SPC), pursuant to the award of the Concession, to develop and implement the Project.
- D. The Concessionaire has signed the Concession Agreement dated [] with the Concessioneing Authority, DoLG and the Selected Bidder for the development and implementation of the Project for the Cluster.
- E. As per the requirements of the Concession Agreement, the Concessionaire is required to enter into separate agreement with Other Cluster ULBs for the supply and processing of the waste. Therefore the Concessionaire hereby enters into this Waste Offtake Agreement with the Authority and Concessioneing Authority on the terms, conditions and covenants hereinafter set forth in this Agreement.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

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Bathinda.



ARTICLE 1

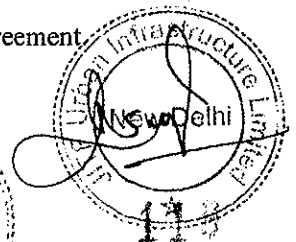
1. DEFINITIONS AND INTERPRETATION

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 ascribed to them hereunder:

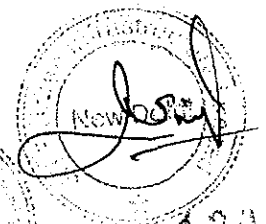
- 1.1.1. "Access Road" means the motorable approach road for access to the Site(s) from public road;
- 1.1.2. "Acceptance of Concession" shall have the meaning ascribed thereto in Article 2.1.5;
- 1.1.3. "Accounting Year" means the financial year commencing on 1st April in each year and ending on 31st March in the next year;
- 1.1.4. "Additional Cost" shall mean the additional capital expenditure and/or the additional operating costs or both as the case may be, which the Concessionaire would be required to incur as a result of Change in Law;
- 1.1.5. "Affected Party" shall mean the Party claiming to be affected by a Force Majeure Event in accordance with Article 8;
- 1.1.6. "Agreement" or "Waste Offtake Agreement" means this agreement executed between the Concessionaire, Authority and Concessioneing Authority including its schedules and Annexures and includes any amendments made hereto in accordance with the provisions hereof;
- 1.1.7. "Annexures" shall mean any of the annexures, appendices, supplements or documents annexed to this Agreement and as amended from time to time;
- 1.1.8. "Appellate Authority" shall be as defined in Annexure 13;
- 1.1.9. "Applicable Law" shall mean all laws, acts, ordinances, rules, regulations, notification and guidelines in force and effect, including MSW (M&H) Rules 2000, 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;
- 1.1.10. "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 either the Authority or by the Concessionaire in connection with this Agreement. An indicative and partial list of such Applicable Approvals and responsibility thereof has been specified in Annexure 7. It is clarified that the Concessionaire shall be responsible for procuring all such Applicable Approvals at its cost and risk that may not listed in Annexure 7 and hence are not specifically assigned to the Authority;
- 1.1.11. "Appointed Date" shall mean the date of execution of the Concession Agreement.

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- 1.1.12. "Arbitration Act" shall mean the Arbitration and Conciliation Act, 1996 of India and shall include any amendment to or any re-enactment thereof as in force from time to time;
- 1.1.13. "Associates" shall mean any company (ies) which is (are) controlled by the company concerned. For the purpose of this definition, the term "control" means 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;
- 1.1.14. "Authorisation Period" or "Term" shall mean a period commencing from Appointed Date and extending till the Transfer Date;
- 1.1.15. "Authority Supply Area" means the area covered the under municipal boundaries of the Authority;
- 1.1.16. "Base Tipping Fee(s)" refers to the Tipping Fee(s) quoted by the Selected Bidder in its Financial Proposal, as set out in Annexure 12;
- 1.1.17. "Bidder(s)" shall have the same meaning as ascribed to it under the RFP issued by DoLG.
- 1.1.18. "C&T" or "Collection and Transportation" refers to primary collection and transportation of MSW from the Authority Supply Area to the Processing Facilities Site and Project Sites after COD P&D ;
- 1.1.19. "CT&D" or "Collection Transportation and Dumping" refers to primary Door to Door Collection of MSW from Authority Supply Area, prior to COD-CTP&D, and its transportation and dumping at the site(s) designated by the Authority for the purpose.
- 1.1.20. "CT&D Period" shall mean the period commencing from Compliance Date- CT&D till COD-CTP&D during which the Concessionaire is engaged in door to door collection of MSW from Authority Supply Area and its dumping at site(s) designated for this purpose by the Authority.
- 1.1.21. "Construction & Demolition (C&D) Debris" or "Debris" means solid waste resulting from construction, re-modeling, 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 are 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, aluminum and other non-hazardous metals used in construction of structures;
- 1.1.22. "Change in Law" shall have the meaning ascribed thereto in Article 8.11;

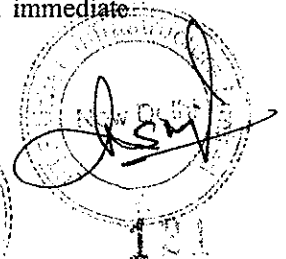
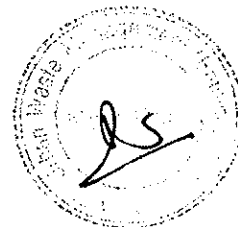
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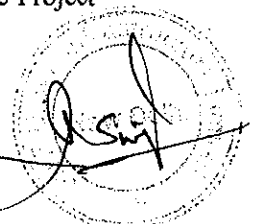
- 1.1.23. "Cluster" or "Bathinda Cluster" shall have the meaning as ascribed to it in Annexure 1;
- 1.1.24. "COD CTP&D" shall mean the date on which the Independent Expert issues the Project Facilities Completion Certificate, which shall be a date no later than 15 days from COD-P&D and upon which the Concessionaire shall commence the commercial operation of Project Facilities with respect to all the ULBs.
- 1.1.25. "CTP&D" or "Collection, Transportation, Processing and Disposal" refers to collection and transportation of MSW from Other Cluster ULBs to one of the Project Site(s), and its Processing and Disposal, as is more clearly defined in Scope of Works;
- 1.1.26. "Compliance Date-CT&D" shall be the date on which Concessionaire and Authority fulfill their Conditions Precedent for CT&D and upon which date Concessionaire is authorized to initiate the collection and transportation of MSW from Authority Supply Area.
- 1.1.27. "Composting" shall mean a controlled process involving microbial decomposition of organic matter;
- 1.1.28. "Concession" shall have the meaning as defined in Article 2.1;
- 1.1.29. "Conditions Precedent(s)" shall mean Conditions Precedent – CT&D or as defined in Article 2.2.2;
- 1.1.30. "Compliance Period" shall mean Compliance Period – CT&D as defined in Articles 2.2.4 (a)
- 1.1.31. "Contractor" shall mean any Person with whom the Concessionaire has entered into/may enter into any material contract in relation with the Construction Works and O&M Requirements;
- 1.1.32. "CPCB" shall mean the Central Pollution Control Board of Government of India
- 1.1.33. "Daily Weight Sheet" shall have the meaning given to the term in Annexure 13;
- 1.1.34. "Dead Remains" means the dead bodies, carcasses, bones or skeletal remains of animals, rodents and other living beings (other than plants)
- 1.1.35. "Dispute" shall have the meaning ascribed thereto in Article 11.1(a) hereof;
- 1.1.36. "Dispute Resolution Procedure" means the procedure for resolution of disputes set forth in Article 11;
- 1.1.37. "Door to Door Collection" means the collection of MSW from the Waste Generators at their doorstep.
- 1.1.38. "EIA" means the Environment Impact Assessment for the Project;
- 1.1.39. "Emergency" shall mean conditions or situation that is likely to endanger the safety of the individuals on or about the Project Facilities or which poses an immediate threat of material damage to any of the Project Facilities;

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- 1.1.40. "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;
- 1.1.41. "Sanitary Landfill Unit" or "Sanitary Landfill Site" means the engineered sanitary landfill site to be developed, constructed and operated by the Concessionaire at one of the Project Site(s), in conformance with the MSW Rules or any revision thereof, for disposal of Residual Inert Matter and Rejected Waste in accordance with the Scope of Works;
- 1.1.42. "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;
- 1.1.43. "Event of Default" shall have the meaning ascribed thereto in Article 9.1 ;
- 1.1.44. "Event of Default - Concessionaire" shall have the meaning ascribed thereto in Article 9B.1 (a) ;
- 1.1.45. "Event of Default – Authority" shall have the meaning ascribed thereto in Article 9B.1 (b);
- 1.1.46. "Estimated Total Project Cost" shall be as given in Data Sheet placed at Annexure 8;
- 1.1.47. "Excluded Waste" means waste material of the nature that the Project Facilities are not designed or authorised to receive, manage, process and dispose which includes (i) Hazardous Waste, (ii) Bio-Medical Waste and (iii) Dead Remains;
- 1.1.48. "First Appellate Authority" shall be as defined in Annexure 13;
- 1.1.49. "Financial Proposal" refers to the final quotation of the Selected Bidder that shall be placed at Annexure 12;
- 1.1.50. "Financial Year" shall be same as Accounting Year;
- 1.1.51. "Force Majeure" or "Force Majeure Event" shall mean an act, event, condition or occurrence as specified in Article 8;
- 1.1.52. "GoI" shall mean the Government of India;
- 1.1.53. "GoP" shall mean the Government of Punjab, and includes its successors and assigns;
- 1.1.54. "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;

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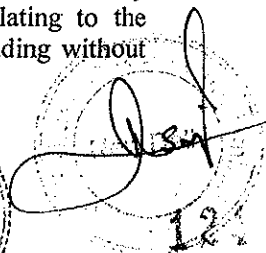
- 1.1.55. **“Government Agency”** shall mean GoI, GoP, DLG, Cluster ULBs or any state government or governmental department, commission, board, body, bureau, agency, authority, instrumentality, court or other judicial or administrative body, central, state, or local, having jurisdiction over the Concessionaire, the Site/Project Facilities 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;
- 1.1.56. **“Hazardous Waste”** shall have the meaning as defined under the Hazardous Wastes (Management and Handling) Rules, 1989 and as amended thereto;
- 1.1.57. **“Independent Expert”** means any person, body or organization with requisite technical/professional expertise in respect of any field, matter or subject relevant for the purpose of this Agreement, appointed by the Concessioneing Authority at its own cost;
- 1.1.58. **“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;
- 1.1.59. **“Land ULBs”** shall mean those ULBs in the Cluster, other than the Concessioneing Authority, that are responsible for providing Project Sites, as listed in **Annexure 5 (A)**.
- 1.1.60. **“MNRE”** means Ministry of New & Renewable Energy, GoI;
- 1.1.61. **“MSW” or “Municipal Solid Waste”** means solid waste generated by households, public services, agricultural activities, commercial establishments and industries located within the jurisdiction of Cluster ULBs, and shall include solid waste, and Organic Waste, but shall not include the Excluded Wastes;
- 1.1.62. **“MSW Rules”** means the Municipal Solid Wastes (Management and Handling) Rules, 2000 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;
- 1.1.63. **“MSW Supply Area”** means the entire area covered under municipal jurisdiction of the Concessioneing Authority.
- 1.1.64. **“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);
- 1.1.65. **“Material Breach”** shall mean 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;
- 1.1.66. **“Nodal Officer”** shall be the Executive Officer of the ULB or his representative as may be nominated/appointed by the Authority, who shall be the nodal person for supervision and monitoring of compliance by the Concessionaire with respect to the O&M Requirements, more particularly to undertake, perform, carry out the duties, responsibilities, services and activities set forth in **Annexure 10**;

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Bathinda. 05



- 1.1.67. "O&M Requirements" shall mean the requirements as to operation and maintenance of the Project Facilities set forth at **Annexure 3**;
- 1.1.68. "Operations Period" shall mean the period starting from COD-CTP&D till the date of expiry or earlier termination of the Concession Agreement
- 1.1.69. "Organic Waste" means such type of MSW that can be degraded by micro-organisms, but shall not include Excluded Wastes;
- 1.1.70. "Other Cluster ULBs" mean the Cluster ULBs except the Concessioneing Authority
- 1.1.71. "P&D" or "Processing & Disposal" refers to Processing & Disposal of MSW collected from Authority Supply Area, as is more clearly defined in Scope of Works;
- 1.1.72. "Performance Security" shall mean the bank guarantee submitted by the Concessionaire/Selected Bidder for securing its due and faithful performance of Concessionair's obligations under the Concession Agreement and West Offtake Agreements in accordance with the provisions of the Concession Agreement;
- 1.1.73. "Person" shall mean (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;
- 1.1.74. "Post Closure Activities" shall mean the activities to be undertaken by the Parties after closure of Sanitary Landfill Site;
- 1.1.75. "Post Closure Period" shall mean a period of twenty (20) years starting from the date of closure of the specific cell of the Sanitary Landfill Unit during which Post Closure Activities are to be undertaken.
- 1.1.76. "Power Plant" shall mean a power plant as may be developed in line with the policy of MNRE, GoI, as applicable from time to time;
- 1.1.77. "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;
- 1.1.78. "Processing Facilities" shall mean the infrastructure to be created for processing of MSW prior to its final disposal at Sanitary Landfill Site, as detailed in **Annexure 2**;
- 1.1.79. "Processing Facilities Site" shall mean total acres (approx) of land made available to the Concessionaire by the Concessioneing Authority under Processing Facilities Site Lease Deed, for construction of the entire Project Facilities except for the Processing Facility, details of which are placed at **Annexure 5**
- 1.1.80. "Processing Facilities Site Lease Deed" the lease deed executed between Concessionaire and the Concessioneing Authority substantially in the form set out in **Annexure 5**, pursuant to which the Concessioneing Authority shall lease to the Concessionaire, the Processing Facilities Site for a period co-terminus with Authorisation Period.
- 1.1.81. "Project Agreements" means any material contracts or agreements entered into by the Concessionaire after the execution of Concession Agreement relating to the construction, operation and maintenance of the Project Facilities, including without

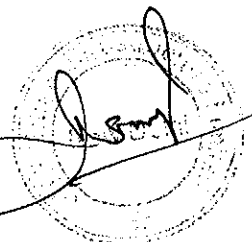
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limitation the Waste Offtake Agreement(s), Project Site Lease Deeds and Processing Facilities Site Lease Deed;

- 1.1.82. **"Project"** means collection, transportation, processing and disposal of MSW for the Bathinda Cluster and for that purpose to design, develop, finance, construct, operate and maintain the Project Facilities, under and in accordance with the Scope of Works and Technical Specifications and other terms and provisions of the Concession Agreement and Waste Offtake Agreement(s);
- 1.1.83. **"Project Development Fees"** is as defined in Article 7.2;
- 1.1.84. **"Project Facilities"** shall mean the physical infrastructure to be created by the Concessionaire to implement the Project as more particularly set out at **Annexure 2**;
- 1.1.85. **"Project Implementation Schedule"** is as set out at **Annexure 14**;
- 1.1.86. **"Project Facilities Completion Certificate"** shall mean the certificate issued by the Independent Expert on completion of construction of Project Facilities in the form and manner as set forth at **Annexure 11**;
- 1.1.87. **"Project Site(s)"** shall mean total 55.81 acres (approx) of land made available to the Concessionaire by the Land ULBs under Project Site Lease Deed(s), for construction of the entire Project Facilities except for the Processing Facility, details of which are placed at **Annexure 5** ;
- 1.1.88. **"Project Site Lease Deed(s)"** shall mean the lease deed(s) executed between Concessionaire and the Concessioneing Authority substantially in the form set out in **Annexure 5 B**, pursuant to which the Land ULBs shall lease to the Concessionaire, the Project Site for a period co-terminus with the Concession Period.
- 1.1.89. **"Proposal"** shall have the same meaning as ascribed to it under the RFP issued by DoLG.
- 1.1.90. **"Proprietary Material"** shall have the same meaning as ascribed to it under Article 12.1;
- 1.1.91. **"Public Road"** means a state or national highway or a road falling under the purview of PWD(B&R), Mandi Board or a public authority other than the Municipal Corporation/ Urban Local Body concerned.
- 1.1.92. **"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;
- 1.1.93. **"RDF Plant"** means the processing plant that will be constructed, operated and maintained as part of the processing facilities, for producing of RDF from MSW;
- 1.1.94. **"Residual Inert Matter"** means the inert matter left for final disposal in Sanitary Landfill Unit after processing of the MSW by one or more of the relevant Project Facilities;
- 1.1.95. **"Rupees or Rs"** refers to the lawful currency of the Republic of India;

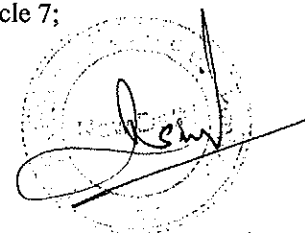
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- 1.1.96. "Scope of Works" is as defined in Annexure 3;
- 1.1.97. "Scheduled Construction Completion Date" means Scheduled Construction Completion Date – P&D or Scheduled Construction Completion Date – CTP&D, as the context may require as more particularly specified at Annexure 14;
- 1.1.98. "Secondary Collection Points" means an area mutually identified by the Authority and the Concessionaire to temporarily store the MSW collected by the Concessionaire from Authority Supply Area by way of door-to-door waste collection system, and MSW collected by way of street sweeping and drain de-silting from Authority Supply Area;
- 1.1.99. "Site" means approx [] acres of land, made available to the Concessionaire by the Authority through Site Lease Deed in accordance with the provisions of the Concession Agreement.
- 1.1.100. "Site Lease Deed" means the Lease Deed executed between Concessionaire and the Authority, pursuant to which Authority shall lease to the Concessionaire, the Site for a period co-terminus with the Concession Period.
- 1.1.101. "SPCB" shall mean State Pollution Control Board particularly Punjab Pollution Control Board;
- 1.1.102. "Selected Bidder" shall mean M/s JITF Urban Infrastructure Ltd. and M/s Ladurner Impainti S.r.l.
- 1.1.103.
- 1.1.104. "Supplementary Fuel" shall mean any fuel that can be used as a supplement to the MSW to enrich RDF in line with guidelines/policies of MNRE as issued from time to time;
- 1.1.105. "Tax" shall mean and includes all taxes, fees, cess, levies that may be payable by the Parties under Applicable Law(s);
- 1.1.106. "Technical Specifications" are as defined in Annexure 3;
- 1.1.107. "Termination" shall mean 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;
- 1.1.108. "Termination Date" shall mean the date specified in the Termination Notice as the date on which Termination occurs / comes into effect;
- 1.1.109. "Termination Notice" shall mean the notice of Termination by any of the Parties to the other Party, in accordance with the applicable provisions of this Agreement;
- 1.1.110. "Termination Payments" means the payments payable pursuant to Article 8.8 and 9.2(f) of this Agreement;
- 1.1.111. "Third Party" means any Person other than the Parties to this Agreement;
- 1.1.112. "Tipping Fee(s)" shall refer to Tipping Fee- CT&D or Tipping Fee – C&T or Tipping Fee – CTP&D, as the context may require and as defined in Article 7;

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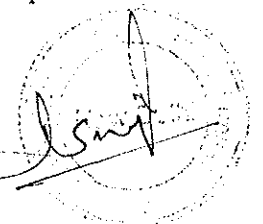


- 1.1.113. "Tipping Fee Index" refers to the index of escalation/reduction in Tipping Fee (s) during the Authorisation Period, and shall be used to compute the percentage rate of variation in Tipping Fee from the Base Tipping Fee, to be calculated for every year of the Authorisation Period, as detailed in **Annexure 22**;
- 1.1.114. "Tipping Fund" or "Tipping Fee Fund" means a fund created by the Authority in accordance with **Annexure 13**;
- 1.1.115. "Total Project Cost" means the lower of the following:
- (a) the capital cost of the Project as set forth in the Financing Documents; or
 - (b) Estimated Total Project Cost;
- 1.1.116. "Transfer Date" means the date on which this Agreement and the Authorisation hereunder expires pursuant to the provisions of this Agreement or is terminated by a Termination Notice or otherwise. In the event of Termination, Transfer Date shall be same as the Termination Date;
- 1.1.117. "Transfer Station" means the point(s) where MSW collected by the Concessionaire from Other Cluster ULBs would be stored to achieve economies of scale before further transportation to the Processing Facilities or Sanitary Landfill Unit, as applicable;
- 1.1.118. "Tests" shall mean the tests to be carried out in accordance with the Construction Requirements or the O&M Requirements and generally conform to the nature of construction and operation as per Good Industry Practice;
- 1.1.119. "User Charges" shall mean the fees chargeable from Waste Generators in line with the policy on Door-to-Door Collection of MSW, duly notified by the Authority, and placed at **Annexure 20**, for providing door-to-door MSW collection service to such Waste Generators;
- 1.1.120. "ULB" means Urban Local Body being a Municipal Corporation or a Municipal Council set up under the Punjab Municipal Corporation Act, 1976 or under the Punjab Municipal Act, 1911 ;
- 1.1.121. "Waste Generators" shall mean all residential, commercial and industrial establishments generating MSW and located within Authority Supply Area;
- 1.1.122. "Weighbridge" means the electronic weighbridge capable of performing the operations specified in **Annexure 3 of Scope of Work**.

1.2. Interpretation

- (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;

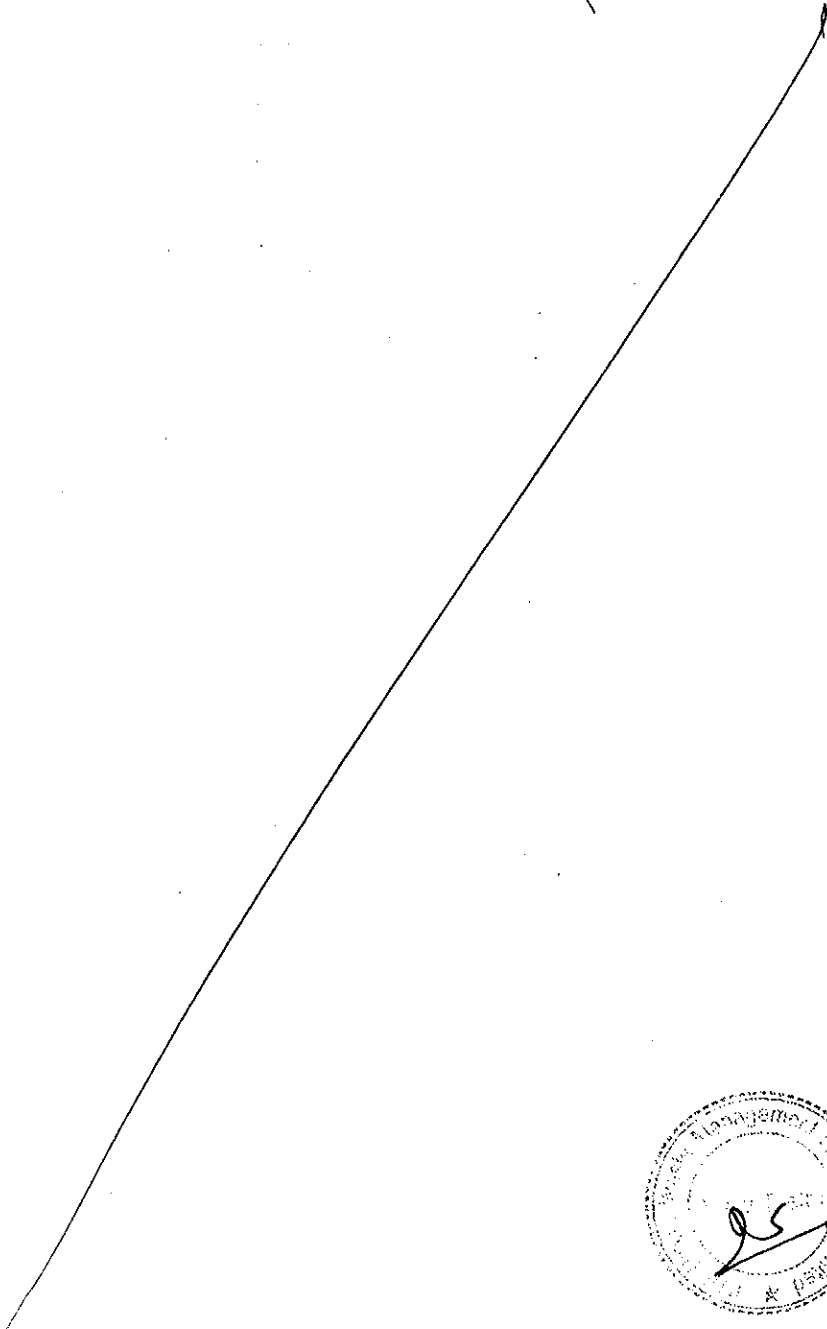
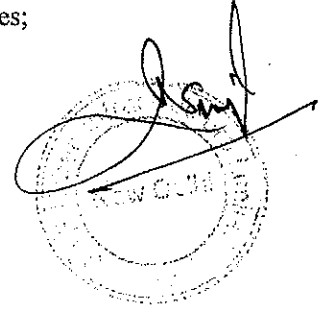
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- (ii) all words in singular shall be deemed to connote their respective plurals and vice-versa, unless the context suggests otherwise;
- (iii) the words "include" and "including" are to be construed without limitation;
- (iv) the headings of the Articles in this Agreement are merely for purposes of convenience and shall have no bearing on the interpretation of this Agreement;
- (v) the Schedules and Annexures to this Agreement form an integral part of this Agreement and shall be interpreted accordingly;
- (vi) any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both such days or dates;

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ARTICLE 2

2. THE AUTHORISATION AND CONDITIONS PRECEDENT

2.1. THE AUTHORISATION

2.1.1 Grant of Authorisation

Subject to and in accordance with the terms and conditions set out in this Agreement, the Authority hereby irrevocably grants to the Concessionaire, and the Concessionaire hereby accepts exclusive right and authority, during the Authorisation Period, to operate and maintain the Project with respect to the MSW collected and transported from the Authority Supply Area and to exercise and / or enjoy the rights, powers, benefits, privileges and entitlements granted under this Agreement.

2.1.2 Rights Associated with the Grant of Concession

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

- a) With respect to the MSW from Authority Supply Area carry out CT&D during CT&D Period and carry out CTP&D during the Operation Period
- b) upon achieving COD CTP&D of Project Facilities, to manage, operate and maintain the same, with respect to the MSW from Authority Supply Area, either itself or through such Person as may be selected by it;
- c) to use, appropriate, process entire MSW from the Authority Supply Area and dispose-off the Residual Inert Matter and Rejected Waste;
- d) to exclusively collect User Charges from Waste Generators within the Authority Supply Area, and appropriate/retain and utilize the same at its own discretion;
- e) Transportation of horticulture and C&D waste in accordance with specific guidelines/policy of the Authority with regards to such waste and at the rates prescribed under such guidelines/policy.
- f) to apply for and receive the fiscal incentives and benefits (as provided under Article 7.10 (b))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;
- g) to exclusively hold, possess, control the Site, in accordance with the terms of the Concession Agreement and Site Lease Deed, for the purposes of the due implementation of the Project;
- h) to use the unutilised space available at the Site for display of advertisements under Applicable Laws against payment of applicable Taxes such as advertisement tax;
- i) 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

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infrastructure that may be existing on Secondary Collection Points and Sites with reference to MSW management in Authority Supply Area;

- j) With respect to the MSW from Authority Supply Area, to suspend C&T of MSW, transportation of MSW from Transfer Stations, processing of MSW, and disposal of MSW, if required, for undertaking maintenance or repair of the Project Facilities subject to the provisions under **Annexure 18**.

2.1.3 Authorisation Period

The Authorisation is granted to the Concessionaire for the Authorisation Period which shall terminate upon the expiry of the Authorisation due to efflux of time or upon earlier Termination of this Agreement as per terms of this Agreement. The Authorisation Period shall commence from the Appointed Date and shall be co-terminus with the Concession Period.

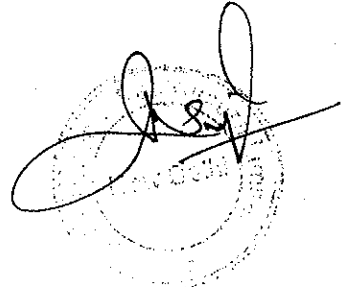
2.1.4 Renewal of Concession

In the event of extension of the Concession Period by the Concessing Authority, the Authority shall agree to renew or extend the Authorisation after the expiry of the initial Authorisation Period, for another period equal to the Concession Period.

2.1.5 Acceptance of Authorisation

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

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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.

2.2.2 Conditions Precedent for CT&D (CP-CT&D)

2.2.2.1 Conditions Precedent for Authority-CT&D (CP-CT&D Authority)

The obligations of the Concessionaire hereunder for Collection Transportation & Dumping ("CT&D") are subject to the satisfaction in full of the following Conditions Precedent of the Authority. The Authority shall have:

- a. notified door-to-door MSW collection policy in the Authority Supply Area;
- b. finalised and allocated Secondary Collection Points in the Authority Supply Area in consultation with the Concessionaire;
- c. allocated / demarcated site for dumping of MSW till the time processing and disposal facilities are established as a part of the Project. Such dumping of MSW shall be at risk and responsibility of the Authority, till the Project achieves COD - CTP&D. It is hereby clarified that dumping shall not include any collection or transportation of MSW;
- d. created a "Tipping Fund" as per requirements of Annexure 13, only in case of Positive Tipping Fee quoted by the Selected Bidder,;
- e. deposited Positive Tipping Fee in "Tipping Fund" as per requirements of Annexure 13;
- f. appointed Nodal Officer and Independent Expert as per Article 4;

2.2.2.2 Conditions Precedent for Concessionaire - CT&D (CP-CT&D Concessionaire)

The obligations of the Authority hereunder for CT&D are subject to the satisfaction in full of the following Conditions Precedent of the Concessionaire. The Concessionaire shall have

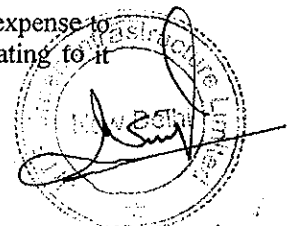
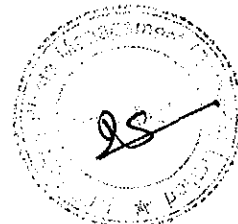
- a. finalised and taken over Secondary Collection Points in the Authority Supply Area in consultation with the Authority;
- b. Procured bins for source segregated storage of MSW at Household Level, Containers/Bins for storage of MSW, street sweeping and Drain desilting waste Secondary Collection Points in Authority Supply Area.
- c. facilitated appointment of Independent Expert as per Article 4;
- i. confirmed that all the representations and warranties of the Concessionaire/Selected Bidder set forth in the Proposal of the Selected Bidder and in this Agreement are true and correct.

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

2.2.3 Satisfaction of Conditions Precedent

- a. Each Party shall make all reasonable endeavors at its respective cost and expense to procure the satisfaction in full of the Conditions Precedent - CT&D relating to it

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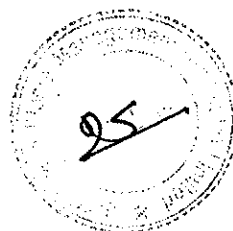
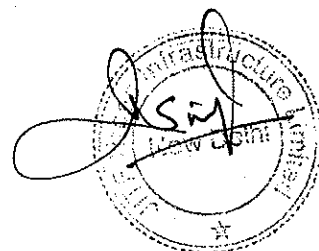
within a period of 60(sixty) days from the execution of this agreement (the "Compliance Period- CT&D").

- b. The later of the date within such time when the Authority or the Concessionaire fulfils its Conditions Precedent (unless the Authority waives the same for the Concessionaire) shall be the date from which the relevant and respective obligations of the Parties hereunder shall commence ("Compliance Date – CT&D").

2.2.4 Non-Compliance with Conditions Precedent

- a. In the event the Conditions Precedent for Concessionaire have not been satisfied within the stipulated time and the Authority has not waived, fully or partially, such conditions relating to the Concessionaire, the Concessionaire shall be liable to pay a an amount equivalent to 0.1% of total amount of the Performance Security per day for each day of delay, subject to maximum of 20% of the total amount of the Performance Security. If the Concessionaire does not pay the amount in accordance with this provision within 7 days from notice to this effect by the Authority, the Authority shall have the right to encash the Performance Security with such amount payable by the Concessionaire.
- b. If the amount of penalty payable by the Concessionaire under Clause 2.2.2 (a) exceeds 20% of the total amount of the Performance Security, 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 Authority shall have the right to encash the Performance Security by an amount equivalent to 20% of the total amount of the Performance Security. Further, the Authority shall not be liable in any manner whatsoever to the Concessionaire or Persons claiming through or under it.
- c. In the event the Conditions Precedent for Authority have not been satisfied within the stipulated time, then the Concessionaire shall have the option of either: (i) mutually extend the time period for satisfaction of the Conditions Precedent for Authority, which shall not be beyond a period of 120 (One Hundred and Twenty) days from Appointed Date or (ii) terminate this Agreement.

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ARTICLE 3

3. SITE(S)

3.1. Access to Site

- a. The Authority shall hand over or cause to be handed over to the Concessionaire the physical possession of the Site on an "as is where is basis", by executing the Site Lease Deed together with the necessary rights of way/way leaves free from Encumbrances, and along with the right, authority and license to implement the Project there at in accordance with the provisions of the Concession Agreement.
- b. The Concessionaire use the Site only for the purposes of implementing the Project and purposes incidental thereto as permitted under the Concession Agreement and Site Lease Deed.

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