
Nagar Nigam Dehradun

GOVERNMENT OF UTTARAKHAND

Request for Proposal

for

**Door to Door Collection, Secondary Storage &
Transportation of Waste (C&T) Solid Waste
Management System**

in

**Rehabilitate, Upgrade, Operate, Manage and
Transfer (RUOMT) mode**

at

Dehradun

Due on : August 31, 2017

Disclaimer

The information contained in this Request for Proposal (“RFP”) Document or subsequently provided to Bidder, whether verbally or in documentary form by or on behalf of the Nagar Nigam Dehradun, Government of Uttarakhand (“Government Representatives”) or any of their employees or advisors or Uttarakhand Urban Development Directorate or Uttarakhand Public Private Partnership Cell, is provided to the Bidder on the terms and conditions set out in this RFP Document and any other terms and conditions subject to which such information is provided.

This RFP Document is not an agreement and is not an offer or invitation by the Government Representatives to any party other than the Applicants who are qualified to submit the Proposal (Bidders). The purpose of this RFP Document is to provide the Bidder with information to assist the formulation of their proposals. This RFP Document does not purport to contain all the information each Bidder may require. This RFP Document may not be appropriate for all persons, and it is not possible for the Government Representatives, their employees or advisors or Urban Development Directorate or Uttarakhand Public Private Partnership Cell to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP Document. Each Bidder should conduct its own investigations and analysis and should check the accuracy, reliability and completeness of the information in this RFP Document and where necessary obtain independent advice from appropriate sources.

The Government Representatives, their employees, advisors and Uttarakhand Public Private Partnership Cell make no representation or warranty and shall incur no liability under any law, statute, rules or regulations as to the accuracy, reliability or completeness of the RFP Document. Some information and details are being given as per the already partially executed project by the previous concessionaire. Due diligence should be applied in examining the existing equipments, vehicles, bins, infrastructure etc fully or partially executed in the project.

The Government Representatives may in their absolute discretion, but without being under any obligation to do so, update, amend or supplement the information in this RFP Document.

Contents of RFP Document

Part I	Instructions to Bidders
Part II	Draft Concession Agreement

Part I

Instructions to Bidders

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1. Bidding Procedure

A. General

1.1. Scope of Proposal

- 1.1.1.** Nagar Nigam Dehradun, Government of Uttarakhand, (here in after referred to as “Nagar Nigam Dehradun ” or “NND”) invites detailed proposals (Key Submissions, Technical Proposal and Financial Proposal, together referred to as ‘Proposal’) from Bidders who fulfill pre-qualification criteria indicated in clause 1.24.2, for Rehabilitation, Upgrade, Operate, Manage and Transfer (RUOMT) of: Door to Door Collection, Secondary Storage & Transportation of Waste (C&T) Solid Waste Management System (here in after referred to as “The Project”) at Dehradun.
- 1.1.2.** The Proposals would be evaluated on the basis of the evaluation criteria set out in this RFP Document (“Evaluation Methodology”) in order to identify the successful Bidder for the Project (“Successful Bidder”). The Successful Bidder would then have to enter into a concession agreement with Nagar Nigam Dehradun and perform the obligations as stipulated there in, in respect of the Project.
- 1.1.3.** Nagar Nigam, Government of Uttarakhand are keen to improve Solid Waste Management (SWM) in the city in terms of Municipal Solid Waste (Management & Handling) Rules-2000/SWM Rules 2016, and Swachh Bharat Mission (SBM) involving private sector to provide SWM services using his own money, tools, manpower, vehicles & equipment through 10 years contracts on Government Support basis.
- 1.1.4.** Terms used in this RFP Document which have not been defined herein shall have the meaning ascribed there to in the Draft Concession Agreement.

1.2. Eligible Bidders

- 1.2.1.** Bidders who fulfill the pre qualification criteria indicated in clause are eligible to submit Technical and Financial Proposal in response to this RFP Document. Bidders shall acknowledge receipt of this RFP Document and notify their intention to bid for the Project in the format provided as Appendix 1.
- 1.2.2.** Bidders shall provide such evidence of their continued eligibility to the satisfaction of Nagar Nigam Dehradun, as Nagar Nigam Dehradun may reasonably request.
- 1.2.3.** A Power of Attorney for signing of Proposals needs to be furnished as per Appendix - 11 A.

- 1.2.4.** In the case of a Consortium, the Members should submit a Power of Attorney in favour of the Lead Member as per format provided in Appendix-11B.
- 1.2.5.** In case the Bidder is a Consortium, it shall, in addition to forming an Special Purpose Vehicle (SPV), comply with the following additional requirements:
- a) Number of members in a consortium shall not exceed 3 (three) and the lead member must score atleast 75% of the total technical capability criteria score of consortium,
 - b) Subject to the provisions of sub-clause (a) above, the Application should contain the information required for each member of the Consortium;
 - c) Members of the Consortium shall nominate one member as the lead member (the “Lead Member”), who shall have an equity share holding of at least 26% (twenty six per cent) of the paid up and subscribed equity of the SPV. The nomination(s) shall be supported by a Power of Attorney, as per the format at Appendix-11, signed by all the other members of the Consortium;
 - d) The Application should include a brief description of the roles and responsibilities of individual members, particularly with reference to financial, technical and O&M obligations;
 - e) An individual Bidder cannot at the same time be member of a Consortium. Further, a member of a particular Bidder Consortium cannot be member of any other Bidder Consortium;
 - f) The members of a Consortium shall form an appropriate SPV to execute the Project, if awarded to the Consortium;
 - g) Members of the Consortium shall enter into a binding Joint Bidding Agreement, substantially in the form specified at Appendix-12 (the “Jt. Bidding Agreement”), for the purpose of making the Application.
 - h) The Jt. Bidding Agreement, to be submitted along with the Proposal, shall, inter alia:
 - i. Convey the intent to form an SPV with shareholding/ ownership equity commitment(s) in accordance with this RFP, which would enter into the Concession Agreement and subsequently perform all the obligations of the Concessionaire in terms of the Concession Agreement, in case the concession to undertake the Project is awarded to the Consortium;

- ii. Clearly outline the proposed roles and responsibilities, if any, of each member;
- iii. Commit the minimum equity stake to be held by each member;
- iv. Commit that each of the members, whose experience will be evaluated for the purposes of this RFP, shall subscribe to 26% (twenty six per cent) or more of the paid up equity of the SPV and shall further commit that each such member shall, for a period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than: (i) 26% (twenty six per cent) of the paid up equity share capital of the SPV; and (ii) 5% (five per cent) of the Total Project Cost.
- v. Members of the Consortium undertake that they shall collectively hold at least 51% (fifty one per cent) of the paid up equity of the SPV at all times until the end of two years commercial operation of the Project.
- vi. Include a statement to the effect that all members of the Consortium shall be liable jointly and severally for all obligations of the Concessionaire in relation to the Project until the Financial Close of the Project is achieved in accordance with the Concession Agreement.
- vii. Except as provided under this RFP and the Bidding Documents, there shall not be any amendment to the Jt. Bidding Agreement without the prior written consent of the NDD.

1.3. Additional Requirements for Proposals Submitted by a Consortium

- (a) Wherever required, the Proposal shall contain the information required for each of the member of the Consortium;
- (b) The Proposal shall be signed by the duly Authorised Signatory of the Lead Member and shall be legally binding on all the members of the Consortium;
- (c) All witnesses and sureties shall be persons of status and probity and their full names and addresses shall be stated below their signature. All signatures in the Proposal documents shall be dated.

1.4. Change in Composition of the Bidder

- 1.4.1. Any change in composition of the Bidder or the Consortium after the Pre Qualification stage would be at the sole discretion of

Nagar Nigam Dehradun and with prior written permission of Nagar Nigam Dehradun.

1.5. Number of Proposals

- 1.5.1. Each Bidder shall submit only one (1) Proposal for the Project in response to this RFP Document. Any entity, which submits or participates in more than one Proposal for the Project will be disqualified and will also cause the disqualification of Consortium in which it is a member.

1.6. Proposal Preparation Cost

- 1.6.1. The Bidder shall be responsible for all the costs associated with the preparation of its Proposal and its participation in the bidding process. Nagar Nigam Dehradun will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of bidding.

1.7. Contents of RFP Document

- 1.7.1. The RFP Document consists of Parts as listed below and would include any addenda issued in accordance with Clause 1.9.

Part I	Instructions to Bidders
Part II	Draft Concession Agreement

1.8. Clarifications

- 1.8.1. Bidders requiring any clarification on the RFP Document may notify Nagar Nigam Dehradun in writing or by facsimile within such date as specified in the Schedule of Bidding Process. Based on its sole discretion, Nagar Nigam Dehradun may forward to all Bidders, copies of Nagar Nigam Dehradun's response, including a description of the enquiry but without identifying its source.

1.9. Amendment of RFP Document

- 1.9.1. At any time prior to the Proposal Due Date, Nagar Nigam Dehradun may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP Document by the issuance of Addenda.
- 1.9.2. Any Addendum thus issued will be sent in writing to all the Bidders who have received and acknowledged the RFP Document and will be binding upon them. Bidders shall promptly acknowledge receipt thereof to Nagar Nigam Dehradun.
- 1.9.3. In order to afford Bidders reasonable time in which to take an Addendum into account, or for any other reason, Nagar Nigam Dehradun may, at its own discretion, extend the Proposal Due

Date.

B. Preparation and Submission of Proposal

1.10. Language and Currency

1.10.1. The Proposal and all related correspondence and documents shall be written in the English language. Supporting documents and printed literature furnished by the Bidder with the Proposal may be in any other language provided that they are accompanied by an appropriate translation into English. Supporting materials that are not translated into English may not be considered. For the purpose of interpretation and evaluation of the Proposal, the English language translation shall prevail.

1.10.2. The currency for the purpose of the Proposal shall be the Indian Rupee (INR).

1.11. Bid Security

1.11.1. Proposals would need to be accompanied by a Bid Security for an amount of Rs 15.00 Lakhs only (Rs Fifteen Lakhs only) in the form of a **bank guarantee issued by a nationalized bank or a scheduled bank in India** in favour of Nagar Nigam Dehradun. Bid Security can also be in form of a demand draft or FDR in favour of Nagar Nigam Dehradun payable at Dehradun.

1.11.2. The Bid Security would be required to be extended if so required by Nagar Nigam Dehradun.

1.11.3. The Bid Security shall be returned to unsuccessful Bidders within a period of thirty (30) days from the date of announcement of the Successful Bidder. The Bid Security submitted by the Successful Bidder shall be released upon furnishing of the Performance Security in the form and manner stipulated in the Draft Concession Agreement.

1.11.4. The Bid Security shall be forfeited in the following cases:

- a) If the Bidder withdraws its Proposal except as provided in Clause 1.20;
- b) If the Bidder withdraws its Proposal during the interval between the Proposal Due Date and expiration of the Proposal Validity Period; and
- c) If the bidder's bid fails sustainability test done by NND
- d) If the Successful Bidder fails to provide the Performance Security within the stipulated time or any extension thereof provided by Nagar Nigam Dehradun.

1.12. Validity of Proposal

1.12.1. The Proposal shall indicate that it would remain valid for a period not less than nine (9) months from the Proposal Due Date

(Proposal Validity Period). Nagar Nigam Dehradun reserves the right to reject any Proposal that does not meet this requirement.

1.12.2. Prior to expiry of the original Proposal Validity Period, Nagar Nigam Dehradun may request the Bidders to extend the period of validity for a specified additional period. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder agreeing to the request will not be allowed to modify its Proposal, but would be required to extend the validity of its Bid Security for the period of extension and comply with **Clause 1.11** of this document in all respects.

1.12.3. The Successful Bidder shall extend the Proposal Validity Period till the date of execution of the Draft Concession Agreement.

1.13. Project Inspection / Site Visit

1.13.1. Bidders may carry out Project Inspection/Site Visit, present condition of already existing equipment, vehicles, infrastructure etc at any time at their cost.

1.14. Bidder's Responsibility

1.14.1. The Bidder is expected to examine carefully the contents of all the documents provided. Failure to comply with the requirements of RFP Document will be at the Bidder's own risk.

1.14.2. It would be deemed that prior to the submission of Proposal, the Bidder has:

- a. made a complete and careful examination of requirements, and other information set forth in this RFP Document;
- b. received all such relevant information as it has requested from Nagar Nigam Dehradun ; and
- c. made a complete and careful examination of the various aspects of the Project including but not limited to:

- I. the Project site
- II. existing facilities, vehicles, equipments and structures
- III. space availability
- IV. water availability
- V. the conditions of the access roads and utilities in the vicinity of the Project Site
- VI. conditions affecting transportation, access, disposal, handling and storage of the materials
- VII. clearances obtained by Nagar Nigam Dehradun for the Project; and
- VIII. All other matters that might affect the Bidder's performance under the terms of this RFP Document.

1.14.3. Nagar Nigam Dehradun shall not be liable for any mistake or error or neglect by the Bidder in respect of the above.

1.15. Pre-Proposal Meeting

- 1.15.1. To clarify and discuss issues with respect to the Project and the RFP Document, Nagar Nigam Dehradun may hold Pre-Proposal meeting/s.
- 1.15.2. Prior to the Pre-Proposal meeting/s, the Bidders may submit a list of queries and propose deviations, if any, to the Project requirements and/or the Draft Concession Agreement. Bidders must formulate their responses and forward the same to Nagar Nigam Dehradun at least seven (7) days prior to the meeting. Nagar Nigam Dehradun may amend the RFP Document based on inputs provided by Bidders that may be considered acceptable in its sole discretion.
- 1.15.3. Bidders may note that Nagar Nigam Dehradun will not entertain any deviations to the RFP Document at the time of submission of the Proposal or thereafter. The Proposal to be submitted by the Bidders will be unconditional and unqualified and the Bidders would be deemed to have accepted the terms and conditions of the RFP Document with all its contents including the Draft Concession Agreement. **Any conditional Proposal shall be regarded as non-responsive and would be liable for rejection.**
- 1.15.4. Dehradun Nagar Nigam will endeavour to hold the meeting as per Schedule of Bidding Process. The details of the meeting will be separately communicated to the Bidders.
- 1.15.5. Attendance of the Bidders at the Pre-Proposal meeting is not mandatory. However, subsequent to the meeting, Dehradun Nagar Nigam may not respond to queries from any Bidder who has not attended the Pre-Proposal meeting.
- 1.15.6. All correspondence / enquiries should be submitted to the following in writing by fax /post / courier:
- ATTN. OF: Municipal Commissioner
ADDRESS: Nagar Nigam Dehradun
Patel Road, Near Doon Hospital
Dehradun -248001, Uttarakhand.
- 1.15.7. No interpretation, revision, or other communication from Nagar Nigam Dehradun regarding this solicitation is valid unless in writing and is signed by Authorized signatory, Nagar Nigam Dehradun or its authorized representative. Nagar Nigam Dehradun may choose to send to all Bidders, written copies of Nagar Nigam Dehradun's responses, including a description of the enquiry but without identifying its source to all the Bidders.
- 1.16. **Format and Signing of Proposal**
- 1.16.1. Bidders would provide all the information as per this RFP Document and in the specified formats. Nagar Nigam Dehradun reserves the right to reject any Proposal that is not in the specified

formats.

1.16.2. The Proposal should be submitted in three parts:

Part 1: Key Submissions, which would include:

- I. Covering Letter cum Project Undertaking as per **Appendix- 2**
stating the Proposal Validity Period
- II. Anti-Collusion Certificate as per **Appendix- 3**
- III. Bid Security in the form of Bank Guarantee as per **Appendix- 4** or demand draft
- IV. Historical contract Non-performance **Appendix- 5**
- V. Pending Litigation **Appendix- 6**
- VI. Financial data **Appendix- 7**
- VII. Power of Attorney for Signing of Proposal **Appendix - 11A**
- VIII. Power of Attorney for Lead Member of Consortium **Appendix-11B**
- IX. Joint Bidding Agreement **Appendix 12**
- X. Other reference documents mentioned in 1.24.2

Part 2: Technical Proposal as per format set out in Appendix- 8 and 9

Part 3: Financial Proposal as per the format set out in Appendix-10

1.16.3. The Bidder shall prepare one original of the documents comprising the Proposal as described in Clause 1.17, clearly marked **“ORIGINAL”**. In addition, the Bidder shall make one copy of the Proposal, clearly marked **“COPY”**. In the event of any discrepancy between the original and the copy, the original shall prevail.

1.16.4. If the Proposal consists of more than one volume, Bidder must clearly number the volumes and provide an indexed table of contents.

1.16.5. The Proposal and the copy shall be typed or printed in indelible ink and the Bidder shall initial each page. All the alterations, omissions, additions, or any other amendments made to the Proposal shall be initialed by the person/s signing the Proposal.

1.17. Sealing and Marking of Proposals

1.17.1. The Bidder shall seal the Key Submissions, Technical Proposal and the Financial Proposal in separate envelopes, duly marking the envelopes as **“KEY SUBMISSIONS”**, **“TECHNICAL PROPOSAL”** and **“FINANCIAL PROPOSAL”**. These envelopes shall then be sealed in an outer envelope.

1.17.2. The original and the copy of the Proposal shall be provided in separate envelopes, duly marking the outer envelopes as

“ORIGINAL” and “COPY”.

1.17.3. Each envelope shall indicate the name and address of the Bidder
(of the Lead Member, in case of a Consortium).

1.17.4. The envelopes shall clearly bear the following identification:

**“Proposal for Door to Door Collection, Secondary Storage & Transportation of
Waste (C&T) Solid Waste Management System in Rehabilitate, Upgrade,
Operate, Manage and Transfer (RUOMT) Mode”**

“To be opened by Tender Opening Committee only”

and

“Submitted by

Name, Address and Contact Phone No. of the Applicant”

1.17.5. The envelope shall be addressed to:

ATTN. OF: Municipal Commissioner
ADDRESS: Nagar Nigam Dehradun
Patel Road, Near Doon
Hospital Dehradun -248001,
Uttarakhand.

1.17.6. If the envelope is not sealed and marked as instructed above, the Proposal may be deemed to non-responsive and would be liable for rejection. Nagar Nigam Dehradun assumes no responsibility for the misplacement or premature opening of such Proposal submitted.

1.18. Proposal Due Date

1.18.1. Proposals should be submitted before 1500 hours IST on the Proposal Due Date mentioned in the Schedule of Bidding Process, to the address provided in Clause 1.17.5 in the manner and form as detailed in this RFP Document. Applications submitted by either facsimile transmission or telex will not be acceptable.

1.18.2. Nagar Nigam Dehradun, at its sole discretion, may extend the Proposal Due Date by issuing an Addendum in accordance with Clause 1.8.

1.19. Late Proposals

1.19.1. Any Proposal received by Nagar Nigam Dehradun after 1500 hours IST on the Proposal Due Date will be returned unopened to the Bidder.

1.20. Modification and Withdrawal of Proposals

- 1.20.1. The Bidder may modify or withdraw its Proposal after submission, provided that written notice of the modification or withdrawal is received by Nagar Nigam Dehradun before the Proposal Due Date. No Proposal shall be modified or withdrawn by the Bidder after the Proposal Due Date.
- 1.20.2. The Bidder's modification or withdrawal notice shall be prepared, sealed, marked and delivered in accordance with the provisions of Clause 1.17 with outer envelopes additionally marked.
- 1.20.3. "MODIFICATION" or "WITHDRAWAL" and also "KEY SUBMISSIONS" or "FINANCIAL PROPOSAL" as appropriate.
- 1.20.4. Withdrawal of a Proposal during the interval between the Proposal Due Date and expiration of the Proposal Validity Period would result in forfeiture of the Bid Security in accordance with Clause 1.11.4 of this document.
- 1.21. **Tests of responsiveness**
 - 1.21.1. Prior to evaluation of Proposals, Nagar Nigam Dehradun will determine whether each Proposal is responsive to the requirements of the RFP Document. A Proposal shall be considered responsive if
 - a) It is received by the Proposal Due Date.
 - b) It is signed, sealed, and marked as stipulated in Clause 1.17.
 - c) It contains the information and documents as requested in the RFP Document.
 - d) It contains information in formats specified in the RFP Document.
 - e) It mentions the proposal validity period as set out in Clause 1.12.
 - f) It provides the information in reasonable detail. ("Reasonable Detail" means that, but for minor deviations, the information can be reviewed and evaluated by Nagar Nigam Dehradun without communication with the Bidder). Nagar Nigam Dehradun reserves the right to determine whether the information has been provided in reasonable detail.
 - g) There are no inconsistencies between the Proposal and the supporting documents.
 - 1.21.2. A Proposal that is substantially responsive is one that conforms to the preceding requirements without material deviation or reservation. A material deviation or reservation is one
 - a) which affects in any substantial way, the scope, quality, or performance of the Project, or
 - b) which limits in any substantial way, inconsistent with the RFP Document, Nagar Nigam Dehradun's rights or the Bidder's obligations under the Draft Concession Agreement, or

- c) Which would affect unfairly the competitive position of other Bidders presenting substantially responsive bids

1.21.3. Nagar Nigam Dehradun reserves the right to reject any Proposal which in its opinion is non-responsive and no request for modification or withdrawal shall be entertained by Nagar Nigam Dehradun in respect of such Proposals.

1.21.4. Conditional proposal shall not be considered. Any bid found to contain conditions attached, will be rejected.

1.22. Confidentiality

1.22.1. Information relating to the examination, clarification, evaluation and recommendation for the short listed Bidders shall not be disclosed to any person not officially concerned with the process. Nagar Nigam Dehradun will treat all information submitted as part of Proposal in confidence and will ensure that all who have access to such material treat it in confidence. Nagar Nigam Dehradun will not divulge any such information unless it is ordered to do so by any Government authority that has the power under law to require its disclosure.

1.23. Clarifications

1.23.1. To assist in the process of evaluation of Proposals, Nagar Nigam Dehradun may, at its sole discretion, ask any Bidder for clarification on its Proposal. The request for clarification and the response shall be in writing or by facsimile. No change in the substance of the Proposal would be permitted by way of such clarifications.

1.24. Proposal Evaluation

1.24.1. To assist in the examination, evaluation, and comparison of Proposals, Nagar Nigam Dehradun may utilise the services of consultant/s or advisor/s, Urban Development Directorate, Uttarakhand Public Private Partnership Cell (UPPPC).

1.24.2. Before opening and evaluation of the technical proposals, bidders are expected to meet the following pre-qualification criteria. Bidders failing to meet these criteria or not submitting requisite proof for supporting pre-qualification criteria are liable to be rejected before the technical proposal level.

Sl.No	Criteria	Whether Met	Reference Details
1	The Bidder should be an organization registered in India under The Company's Act 1956/2013 or which undertakes to incorporate as such prior	Yes / No	Certificate of Incorporation / other relevant document

	to execution of the concession agreement and is registered with the Income Tax Authorities and the Service Tax Authorities and operating for the last three years		
2	The Bidder should have net worth of Rs.4.00 Crores as on 31st March 2017.	Yes / No	Audited Profit /Loss Statement and Balance Sheet
3	The Bidder should have a minimum average turnover of Rs. 8.00 Crores in the last three years (FY14-15, FY15-16 and FY16-17).	Yes / No	Audited Profit /Loss Statement and Balance Sheet (Only for FY 16-17 Un-Audited/Provisional Profit & Loss Statement and Balance sheet would be acceptable)
4	The Bidder should have at least three (3) years experience in operating and managing Integrated Solid Waste Management Project, which includes door to door collection of municipal solid waste or transportation of municipal solid waste. Only Operational Facilities which have completed minimum 12 months of operation with daily waste handling of 100 MT/Day minimum, shall be taken into account	Yes / No	Appropriate Certificate of Municipal Corporations or Urban Local Bodies Or any other clients for operational projects. The operational performance record should also be attached.
5	Non-performance of any contract did not occur within the last five (5) years prior to the deadline for bid submission, based on all information on fully settled disputes or litigation. Bidder must meet this requirement	Yes/No	Please see Appendix 5
6	All pending litigation shall in total not represent more than 10%, (ten percent) of the Bidder's /Lead Member's net worth and shall be	Yes/No	Please see Appendix 6

treated as resolved against the Bidder. Bidder must meet this requirement.		
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- 1.24.3.** In Stage I of Proposal Evaluation, the Key Submissions submitted by the Bidders shall be checked for responsiveness with the requirements of the RFP Document. The evaluation of Technical Proposal of a Bidder shall be taken up only after the contents of the Key Submissions are found to meet the requirements of this RFP Document. Nagar Nigam Dehradun reserves the right to reject the Proposal of a Bidder without opening the Technical Proposal if the contents of Key Submissions are not substantially responsive with the requirements of this RFP Document.
- 1.24.4.** After checking the responsiveness of the Key submission, the Technical proposals will be opened.
- 1.24.5.** The minimum qualifying marks of the Technical Evaluation is 75 as mentioned in 4.2
- 1.24.6.** The bidders, shortlisted after qualifying the minimum Technical evaluation marks, shall be subject to physical verification by visit of technical team to some of the projects. After satisfactory report of the technical team only the bidder shall be finally qualified for stage II. For verification of stage I, NND/ UDD/ UPPP Cell officials may do the site visit and or documents verification can be done, electronically or physically.

1.25. Evaluation of the Financial Proposal

- 1.25.1.** In Stage II, the Financial Proposals of all the Bidders who pass the Stage I evaluation will be opened in the presence of the Bidders' representatives who choose to attend. The Bidders' representatives who choose to be present shall be required to sign and record their attendance.
- 1.25.2.** The offers of the Bidder on the Government financial support required as per the format prescribed in Appendix 10, shall be used for financial evaluation.
- 1.25.3.** The Financial Proposal of all the Bidders shall be evaluated based on the following formula:

Financial Support required from Nagar Nigam Dehradun =Capital Grant (Subject to maximum of Rs. 3.00 Cr) + Overall Tipping Fee
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- 1.25.4.** The Financial Support of the Bidders shall be evaluated in accordance with the provisions of Clause 4.4

- 1.25.5.** The bidder offering the lowest overall financial Support required from the Government would be declared Successful.
- 1.25.6.** In the event that two or more Bidders secure the same overall bid, Nagar Nigam Dehradun may:
- (a) invite fresh Proposals from the Bidders; OR
 - (c) declaring the bidder securing highest technical marks amongst the bidders securing same overall bid, as preferred bidder
- OR
- (d) take any such measure as may be deemed fit in its sole discretion or annulment of the bidding process.
- 1.25.7.** Nagar Nigam Dehradun shall also test the financial bids for sustainability in order to avoid aggressively low bids which would not be sustainable for the project concession period. Bidders shall be asked to present their business model to justify such low bids and same may be analyzed by technical experts. The decision to do so shall rest with NND and no counter claims from the bidders shall be entertained on this account.
- 1.25.8.** Nagar Nigam Dehradun may either choose to accept the Proposal of the Preferred Bidder or invite him for negotiations.
- 1.25.9.** Upon acceptance of the Financial Proposal of the Preferred Bidders with or without negotiations, Nagar Nigam Dehradun shall declare the Preferred Bidder as Successful Bidder.
- 1.26. Notifications**
- 1.26.1.** Nagar Nigam Dehradun will notify the Successful Bidder by facsimile and by a letter that its Proposal has been accepted.
- 1.27. Nagar Nigam Dehradun's Right to Accept or Reject Proposal**
- 1.27.1.** Nagar Nigam Dehradun reserves the right to accept or reject any or all of the Proposals without assigning any reason and to take any measure as it may deem fit, including annulment of the bidding process, at any time prior to award of Project, without liability or any obligation for such acceptance, rejection or annulment.
- 1.27.2.** Nagar Nigam Dehradun reserves the right to invite revised Financial Proposals from Bidders with or without amendment of the RFP Document at any stage, without liability or any obligation for such invitation and without assigning any reason.
- 1.27.3.** Nagar Nigam Dehradun reserves the right to reject any Proposal if:

(a) at any time, a material misrepresentation is made or uncovered;

OR

(b) The Bidder does not respond promptly and thoroughly to requests for supplemental information required for the evaluation of the Proposal.

This shall lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium would be disqualified / rejected. If such disqualification / rejection occur after the Financial Proposals have been opened and the Preferred Bidder gets disqualified / rejected, then Nagar Nigam Dehradun reserves the right to:

(a) either invite the next Bidder (with lowest capital support) to match the Financial Proposal submitted by the highest Bidder;

OR

(b) take any such measure as may be deemed fit in the sole discretion of Dehradun Nagar Nigam, including annulment of the bidding process.

1.28. Acknowledgement of Letter of Award (LOA)

1.28.1. Within two (2) weeks from the date of issue of the LOA, the Preferred Bidder shall acknowledge the receipt of LOA.

1.29. Execution of Concession Agreement

1.29.1. The Successful Bidder shall execute the Concession Agreement within six (6) weeks of the issue of LOA or such time as indicated by Nagar Nigam Dehradun.

1.29.2. The successful bidder shall form an SPV with 100% equity of its own and subject to minimum 5% of total project cost, for the project and concession agreement shall be signed with the SPV only.

1.29.3. Nagar Nigam Dehradun will promptly notify other Bidders that their Proposals have been unsuccessful and their Bid Security will be returned as promptly as possible in any case not later than 30 (thirty) days from the date of announcement of the Successful Bidder.

1.30. Performance Security

1.30.1. The Successful Bidder shall furnish Performance Security of Rs 75,00,000.00 (Rs Seventy Five Lakhs only) by way of an irrevocable Bank Guarantee issued by a scheduled nationalised bank in favour of Nagar Nigam Dehradun, as required under the Concession Agreement.

- 1.30.2.** The Performance Security shall be in the form of an irrevocable Bank Guarantee in favour of Nagar Nigam Dehradun, as per the format set out in the Draft Concession Agreement. The Performance Security would be valid initially for three (3) years and renewable every year thereafter, during the entire project term.
- 1.30.3.** The Performance guarantee shall be forfeited and en-cashed in the following cases:
- a. If the Successful Bidder withdraws from the project midway during the project term
 - b. Any other act or acts of the successful bidder which renders the project un-operational and Dehradun Nagar Nigam establishes sufficient reasons to forfeit the Performance Guarantee.
 - c. Any Concessionaire event of default leading to termination
 - d. If the bidder fails to meet the service levels as agreed.
- 1.31. Cost of RFP document**
- 1.31.1.** The RFP document can be downloaded from <http://www.nagarnigamdehradun.com> or www.upppc.org. The cost of RFP document is Rs 10,000.00 (Rs Ten Thousand Only). The Proposals must accompany with cost of RFP document in the form of a bank draft in favour of “Nagar Nigam Dehradun” of Rs 10,000.00 (Rs Ten Thousand Only). The Bidders may also obtain a hard copy of the RFP from the office of Senior Health Officer/Project Cell, Nagar Nigam Dehradun. The Bidders purchasing the hard copy of the RFP must attach the copy of Receipt along with the Proposal.

2. Schedule of Bidding Process

Nagar Nigam Dehradun would endeavour to adhere to the following schedule:

Activity Description	Date
Issue of RFP	July 8, 2017
Site Visits for interested Parties	July 14, 2017
Last date of receiving queries	July 17, 2017
Pre-bid meeting at Nagar Nigam, Dehradun Office	July 20, 2017
Proposal Due Date	August 31, 2017
Opening of Pre qualification & Technical Bids	August 31, 2017
Physical Verification of projects by NND Technical	TBC
Opening of Financial Bids	TBC

Contact Details for Information:

1) Mr. Ravi Pandey, EE & SWM Nodal (UDD)
Mobile No. 09837256961

2) Dr. Kailash Gunjiyal, Sr. MOH, Nagar Nigam, Dehradun
Mobile No. 075002 80838

3. Scope of the Project

3.1. Project Background

- 3.1.1. Ministry of Urban Development Department, Government of India vide their Order # K-14012/2/2006-JnNURM Dated 29/05/2008 had approved the Dehradun municipal solid waste management project of Rs.24.60Cr on the recommendation of Central Sanctioning and Monitoring Committee (CSMC) in its 51th meeting held on Dated 16/05/2008. Under the said order the state government was entitled to get 80% of the capital cost as grant from Government of India and remaining 20% contribution was from the State.
- 3.1.2. The project was bid out as integrated solid waste management (combining the waste collection & processing activities) and was awarded to M/s SPML Infrastructure Ltd., Gurgaon in year 2010-11.
- 3.1.3. The concessionaire took over the collection and transportation activities of entire 60 wards within 12 months. Due to delays in getting Environmental Clearance from the MoEF&CC, and little other reason, the concessionaire terminated the contract 2013.
- 3.1.4. Now the NND proposes to Rehabilitate, Upgrade, Operate, Manager and Transfer (RUOMT) of Integrated Solid Waste Management System, Uttarakhand in PPP mode.
- 3.1.5. The Scope of work for PPP Partner are :
 - a) Door to Door Collection of Municipal Solid Waste (MSW) from all residential and non residential premises situated in wards of the City and Transportation of MSW collected there from to the processing facility or disposal facility as may be directed by the authority till such time new processing facility is constructed and operationalized.
 - b) Collection of Waste from all the DP bins placed at various locations in the city by Nagar Nigam.
 - c) Establishment of Secondary Waste Storage Depots and placing of suitable covered bins in wards for Secondary Storage of street sweeping by municipal sanitation workers, operation and maintenance of Secondary Waste Storage Depots in all Wards, Transportation of MSW from all the secondary waste storage depots, via transfer stations to the SLF or to any site as may be directed by the authority till the time the SLF is constructed and operationalized.
 - d) Providing round the clock SWM services during major festivals and Melas.

- e) The PPP Partner shall provide necessary manpower, tools, equipment, and vehicles for the services on round the clock basis.
- f) The PPP Partner shall provide minimum numbers of vehicles, equipment, manpower: The PPP Partner shall submit along with his bid (RFP) clear norms of deployment of vehicle, equipment, tools and manpower, not lower than the norms already mentioned in the RFP, for the discharge of the obligations mentioned in the RFP documents.
- g) Permits & Clearances: Permits and clearance shall be obtained as per but not limited to MSW rules 2000/SWM Rules 2016, Plastic Waste (Management & Handling) Rules 2011, The Environment Protection Act 1986, The Air (Prevention and Control) Pollution 1981 and Water (Prevention and Control) Pollution 1974 as amended from time to time.
- h) Keeping in mind trend of increase in the urban population, the PPP Partner should plan to handle atleast 5% additional Waste each year during the Contract Period and should scale up the capacity over the concession period to meet the Key Performance Indicators
- i) PPP Partner shall setup smart SWM Collection & Transportation system including a central control room at Nagar Nigam Dehradun.

3.1.6. Time Frame for execution of work

The PPP Partner shall mobilize man power, financial resources, vehicles, equipment for the execution of the project in phases as under.

a) Phase 1

- i. In Phase 1 Concessionaire is expected to take over operations of Door to Door MSW Collection & Transportation from NND on as is where is basis.
- ii. As mentioned in clause 3.1 Concessionaire and NND shall complete joint inventory of the existing vehicles, equipment and all other project assets to decide the final list of project assets to be handed over to the concessionaire.
- iii. The concessionaire must complete the process of recruiting the necessary manpower for taking over the operations within 30 days from LOA and within 15 days from the signing of this agreement.
- iv. The concessionaire must make all preparations to setup a Basic SWM Control Room at NND's premises before taking over the operations.
- v. The concessionaire must take over the operations of MSW

-
- Door to Door Collection on or before 30th day from the date signing of this agreement.
- vi. Phase 1 of implementation will last upto maximum 60 days of signing this contract or commencement of Phase 2, whichever is earlier.
 - vii. In Phase 1 Concessionaire must :
 - ☐ Collect MSW from all the households, other establishments & designated public places as was being done by NND prior to signing of the agreement.
 - ☐ Transport all the collected MSW to Sheeshambara Processing Plant or a location designated by NND.
 - ☐ Ensure weighing of all collected MSW at various designated points and finally at the processing plant.
 - ☐ Setup & Operate SWM Control Centre at NND premises
 - ☐ Conduct the household mapping for Smart SWM System
 - ☐ Upgrade the existing vehicles, equipment and/or add new equipment & vehicles for Smart SWM System.
 - ☐ Complete Setup of Smart SWM System with Smart SWM Control Centre
 - ☐ Ensure that everyday minimum 200 MT MSW is delivered to Sheesambara Processing Plant or location designated by the NND.
 - ☐ Start setting up Workshop at designated location
 - viii. In Phase 1 Concessionaire Effective tipping fee shall be as 80% of the quoted tipping fee and shall be paid from the date of taking over of the operations
- b) Phase 2**
- i. Phase 2 shall begin when following conditions are met :
 - ☐ Smart SWM System & Smart SWM Control Centre are commissioned by the Concessionaire.
 - ☐ All necessary & approved upgradation of vehicles & equipment are completed for existing project assets by the concessionaire.
 - ☐ All necessary new equipment, vehicles & project assets are procured and ready for deployment.
 - ii. Phase 2 must begin within 60 days from the signing of the agreement.
 - iii. Upon acceptance of commencement of Phase by NND the concessionaire shall be eligible to charge 90% of quoted tipping fee.
- c) Phase 3**
- i. Phase 3 shall begin when following conditions are met :
 - ☐ Completion of Construction & Commissioning of Mini Transfer Stations at following locations :
 - a. Kargi
 - b. IT Park
 - c. Kaulagarh
 - ☐ All necessary vehicles and equipment for operation of Mini Transfer Stations are procured

- Mini Transfer stations have completed due testing and are certified by Project Engineer as complete.
- Completion of Construction & commissioning of Workshop at designated location
- ii. Phase 3 must begin within 180 days from the signing of the agreement.
- iii. Phase 3 will be the actual operations period of the project.
- iv. Upon acceptance of commencement of Phase by NND the concessionaire shall be eligible to charge 100% of quoted tipping fee.

The PPP Partner shall carry out various activities described in Phase I to III simultaneously to ensure completion of the task assigned on time.

3.1.7. Preventing mixing of Bio-Medical Waste with Municipal Solid Waste

Collection of Bio-medical waste is not within the purview of this Project and it is supposed to be handled as per Bio-medical waste (Management and Handling) Rules 1998. The Bidder is therefore under no obligation to, treat, or dispose of Bio-medical waste. However, in the event of finding Biomedical waste disposed off unscientifically alongside MSW or mixed with MSW, the Concessionaire shall notify the same to the Authority who shall arrange to pick up such waste in the manner as deemed appropriate. The PPP partner shall not pick up and Process such waste as it may contaminate compost or any other product derived from the Waste.

3.1.8. Other Non-conforming Waste(Construction Debris etc.)

PPP Partner shall not transport non-conforming waste like construction debris etc. to waste processing plant. Such waste should be handled separately with the consent of Nagar Nigam Dehradun. Non-conforming waste shall not be counted for payment of financial support from Nagar Nigam Dehradun.

3.1.9. Use of Proven technology

The PPP Partner shall have the liberty to adopt suitable technology or combination of technologies which are permissible as per MSW Rules, 2000 / SWM Rules 2016 as amended from time to time for processing bio- degradable and non bio-degradable wastes and upscale during the Concession Period with the prior approval for deriving larger benefits without causing any harm to the neighbourhood, health and environment of the City and without putting any additional burden on the Authority.

3.1.10. The PPP Partner shall use vehicles; equipment and machinery, which meet the standard emission norms, prescribed the competent authority from time to time.

3.2. Project Coverage Area

3.2.1. The proposed project will be for the entire area under Nagar Nigam

Dehradun which is approximately 67.00 Sq Km. (Map enclosed at Schedule 1)

3.2.2. Wardwise population data as per census 2011 is as below :

Zone	Ward Nos.	Households	Populatio
Brahampuri	44	3005	15416
Brahampuri	45	1483	6745
Brahampuri	46	2344	11870
Brahampuri	47	2458	11904
Brahampuri	48	2315	9807
Brahampuri	49	2140	10024
Brahampuri	50	2124	10318
Brahampuri	51	5128	13343
Brahampuri	54	2232	10313
Brahampuri	55	2122	10596
Kishan Nagar	8	2182	9136
Kishan Nagar	11	1571	7026
Kishan Nagar	12	1595	6994
Kishan Nagar	13	1354	6358
Kishan Nagar	14	1759	8814
Kishan Nagar	15	1240	5341
Kishan Nagar	18	1190	5326
Kishan Nagar	25	1895	10234
Kishan Nagar	29	2836	13928
Kishan Nagar	30	2357	11385
MKP	17	1370	6128
MKP	22	1731	8241
MKP	23	1111	5295
MKP	24	1472	6727
MKP	35	3406	15439
MKP	39	2316	11017

MKP	40	1351	7507
MKP	41	1160	5607
MKP	42	3496	16412
MKP	43	1897	8985
Race Course North	16	1417	6827
Race Course North	26	1788	8523
Race Course North	27	1776	7632
Race Course North	31	3618	16301
Race Course North	32	3032	12632
Race Course North	33	1546	7141
Race Course North	34	1921	8384
Race Course North	36	2598	10782
Race Course North	37	2862	13330
Race Course North	38	1609	7482
Rajpur	1	2392	10640
Rajpur	2	3308	15038
Rajpur	3	2852	12435
Rajpur	4	1704	7402
Rajpur	5	1785	7862
Rajpur	6	1934	8635
Rajpur	7	1868	8745
Rajpur	9	1496	7265
Rajpur	10	1505	7273
Rajpur	28	1692	7612
Tilak Road	19	1926	8687
Tilak Road	20	1612	7374
Tilak Road	21	2044	10237
Tilak Road	52	3260	13735
Tilak Road	53	1989	7804
Tilak Road	56	1554	6751
Tilak Road	57	2208	10140

Tilak Road	58	1854	8445
Tilak Road	59	2119	8650
Tilak Road	60	2150	9578
Total	60	126059	569578

- 3.2.3.** City also attracts large floating population of workers and tourists. Currently accurate estimates are not available for this floating population. Floating Population Data should be taken into account by the bidders and data can be sourced relevant entities.
- 3.2.4.** PPP partner shall be prepared to handle additional areas in future as and when delimitation exercise is taken up to include other areas in Nagar Nigam Dehradun.
- 3.2.5.** Nagar Nigam Dehradun may enter into agreement with nearly ULBs, villages and institutions to collect additional waste at designated points for transportation to processing facility. Nagar Nigam Dehradun may ask PPP Partner to also conduct door to door collection of municipal solid waste from such additional areas against same user charges or mutually agreed user charges as the case maybe.

3.3. Current System of Solid Waste Management

3.3.1. Door to Door Collection of MSW

Nagar Nigam Dehradun is currently operating door to door collection of MSW with the help of outsourced labour and its own staff. This waste is being sent to Sahastradhara road Trenching ground at the moment but within a few months it will all be transported to Integrated Waste processing plant at Sheeshambara.

a) Current Staff

There are 289 outsourcing workers including (helper, driver, riksha driver, mechanic, collection agent, chaukidar, parking incharge and project manager) currently managing door to door collection, transportation of waste to nearest garbage centre and afterward disposal to the trenching ground through DP and CP vehicles.

Type of Workers	Total
Office, Workshop & Parking	17
Driver- DP, HYVA, Compactor, Tata 407	22
Tata Ace Driver	54
Rickshaw Chalak	82
Helper	65
Work in Nagar Nigam	11
Collection Agent	39

Total	290
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b) Vehicle & equipment

Nagar Nigam Dehradun currently has following vehicles and equipment available for collection of Transportation of Waste:

Type of Vehicles	Total No	Working No	Under Repairs	To be Repaired
D P Truck	13	8	2	3
Compactor Hyva	4	4		
Tractor Trolly	1			1
Dumper Truck	4	3		
Tata 407	3	1		2
Bullloader	1			
Tata ACE	77	43	34	

c) Waste Collection Estimates

Nagar Nigam has not been able to setup weighing mechanism for SWM collection at this stage. A rough of waste collection & transportation has been prepared by Nagar Nigam Dehradun as below :

Type of Collection	Vehicle Type Used	Total Numbers in Operation	No of Trips/day	Waste Collected Per trip (MT)	Total Waste Transported (MT/D)
Door to Door Collection service	Tata Ace	50	2	0.6	60
From Transfer point to Disposal Site	D P Truck	9	5	4.5	202.5
From 90 Waste Bins to Disposal Site	4 Compact or/Hyva	90		0.5	45
From Various Open Drop points to Disposal Site	Tractor Trolly	14	3	1	42
From Various points to Disposal Site	Dumper Truck	4	3	3	36
Estimated Total Waste Transported to Disposal Site					325.5

d) Waste Categorization

As per data from DPR for Solid Waste Management project for JNNURM (2007) the waste categories were reported as:

Items/Year	2007 Waste	Percentages
Biodegradable waste	139	54
Recyclables	64	25

Inert materials	51	20
Construction waste reaching landfill	3	1

3.3.2. Parking & Workshop

(i) **Parking:** Current vehicle parking lot at following location will be handed over to the Concessionaire:

Location	Near Apolo International School, Sahastradhara Road, Dehradun
Size	40 Ft x 25 ft
Capacity	60 Heavy Vehicles
Others	1 office 12ft x 12 ft

(ii) **Workshop:** Currently NND workshop is operational at following location:

Location	Near Apolo International School, Sahastradhara Road, Dehradun
Size	120 Ft x 60 ft
Capacity	30 Heavy Vehicles + 10 Machines

Concessionaire will be allowed to use part of the existing workshop area for Phase 1 & 2 by setting up temporary facilities and bringing its own manpower.

Concessionaire shall be given land for workshop near Rispana Bridge on Haridwar Road, (*Or another suitable location selected by NND*) measuring approximately 1500 SQM, by NND to setup the permanent workshop. Concessionaire must setup this workshop at its own cost with equipment list as mentioned in Part II Draft Concession Agreement Schedule 4.

3.3.3. Other existing Contracts

(i) **Underground Dustbins:** Nagar Nigam Dehradun has also entered into contract with another agency for setting up, operation & management of underground dustbins at 80 locations in the city. This contractor shall collect all the MSW from underground dustbins and transport directly to processing plant. Contract consists of supply, installation, operation & management for 5 years by the vendor. NND may allow the Concessionaire to collect the waste from these underground bins also in case of termination or change in the contract of the existing contractor.

(ii) **Integrated Waste Processing Plant at Sheeshambara :** An integrated waste processing plant project is underway at Sheeshambara under PPP mode. PPP Partner for C&T operation is expected to interface with this partner as final transportation destination.

3.4. Concession Period

- 3.4.1.** The concession period of the project is proposed as Ten (10) years from signing of the agreement and extendable for another 5 years based on satisfactory performance.

3.5. Project Components

- 3.5.1.** The various components of proposed project of Integrated Solid Waste Management system are :

- (i) Door to Door Waste Collection & Transportation
- (ii) User Charge Collection
- (iii) Setting up & operating Smart SWM collection & Transportation System
- (iv) Setting up & Operating Solid Waste Management Control Room at Nagar Nigam
- (v) Construction, Operation & Maintenance of Mini Transfer Stations at 3 locations
- (vi) Construction, Operation & Maintenance of Workshop at designated location

3.5.2. Waste Collection & Transportation:

- a. Waste collection & transportation shall include door to door MSW collection, aggregation at secondary storage points and/or transfer stations and final transportation to MSW processing facility at Sheeshambara. Nagar Nigam Dehradun shall provide all existing vehicle, equipment etc.to PPP Partner for this purpose. PPP partner must procure any additional or replacement vehicle, equipment and other infrastructure at its own cost and maintain the complete infrastructure for entire concession period. All the manpower related to the operation shall be responsibility of the PPP Partner.
- b. Based on the assessment of the existing deficiencies and mandatory requirement as per MSW Rules 2000 / SWM Rules 2016
 - (i) Organize house-to-house collection of municipal solid wastes through motorized small vehicle, collection on regular pre-informed timings and scheduling by using bell ringing of musical vehicles (without exceeding permissible noise levels).
 - (ii) Devising collection of waste from slums and squatter areas or locality including hotels, restaurants, office complexes and commercial areas.
 - (iii) Wastes from slaughter houses, meat and fish markets, fruit and vegetable markets, which are biodegradable in nature, shall be managed to make use of such waste.
 - (iv) Biomedical waste and industrial waste shall not be mixed with municipal solid waste and such wastes shall follow the rules separately specified for the purpose.
 - (v) Collected waste from residential and other areas shall be transferred to community bin by hand driven containerized cart or other small vehicles.

(vi) Horticulture and construction or demolition waste or debris shall be separately collected and disposed of following proper norms.

(vii) Waste (garbage, dry leaves) shall not be burnt.

c. Complete infrastructure should be upgraded to fit into the Smart SWM system deigned for this purpose.

d. Type of Vehicles & Equipment to be used :

(i) All the existing vehicles & equipment as mentioned in para 3.3 will be handed over to PPP Partner on as is where is basis.

(ii) PPP partner shall procure any additional vehicle & equipment at its own cost. An indicative list has been provided at Schedule 4 of Draft Concession Agreement

(iii) The vehicle tracking system & door to door route mapping (with each household collected waste weight monitoring system as desirable component) should be used to monitor the proper and optimum use of the vehicles and to avoid any misuse or underutilization of vehicles.

3.5.3. User Charge Collection

- a. PPP partner shall also undertake the user charge collection on behalf of Nagar Nigam Dehradun and ensure collection maximization. It is assumed that better service quality of PPP partner shall improve the User Charge Collection.
- b. Any default in user charge collection shall be duly reported for action by Nagar Nigam.
- c. The PPP partner must ensure zero pilferage of user charge collection. Any pilferage will be considered an event of default by private partner and shall result in imposition of penalty or termination of agreement as the case maybe..
- d. User charge collection system should be computerized and well connected to Smart SWM system to ensure that waste collection, customer feedback, customer satisfaction, payment default issues could be linked and analyzed.

3.5.4. Setting up & operating Smart SWM collection & Transportation System :

- a. PPP partner shall design, build, finance, operate and maintain a Smart SWM system to ensure :
 - that all components of waste management system are interlinked using latest technology like GIS mapping based route management, GPS tracking, customer management, asset management;
 - real time tracking & monitoring of entire system is

- achieved;
 - Efficiency of entire system is enhanced leading to cost savings in the long run;
 - Improved customer response and improved service delivery
- b. PPP partner shall ensure proven and open standard technologies are used for this purpose.
- c. PPP partner shall ensure that all data security, privacy, business continuity, disaster recovery related aspects are duly addressed in the proposed system.
- d. PPP partner must demonstrate that majority of the proposed technologies and systems are currently in use in their existing projects.
- e. PPP partner must include the crowdsourcing technologies to improve stakeholder engagement in SWM system.

3.5.5. Setting up & operating Smart SWM Control Room at Nagar Nigam Dehradun

- a. PPP partner, as part of Smart SWM system, shall build a central control room at the Nagar Nigam Dehradun or at a mutually agreed place wherein all the components of the SWM system could be visually seen and monitored in real time.
- b. It shall have necessary infrastructure like large visual displays to show maps, routing, collection status, current vehicle positions etc.
- c. It shall have necessary communication infrastructure to receive customer complaints, operational team communication etc. and also capability to respond in real time.

3.6. Capital Grant

3.6.1. NND shall provide capital grant upto maximum of Rs. 3.50 Crore for the project.

3.6.2. Capital Grant shall be disbursed to the Concessionaire through designated escrow account in following manner:

i)	After achieving Financial Closure	10%
iii)	Completion of complete Civil Work, erection of Plant Machineries and other supporting infrastructures for Mini Transfer Stations & Procurement of Waste Transport Vehicles	40%
iv)	Completion of Construction Workshop	25%
iv)	Commencement of Operations of Mini Transfer Stations	15%

v)	Commencement of Operations of Workshop	10%
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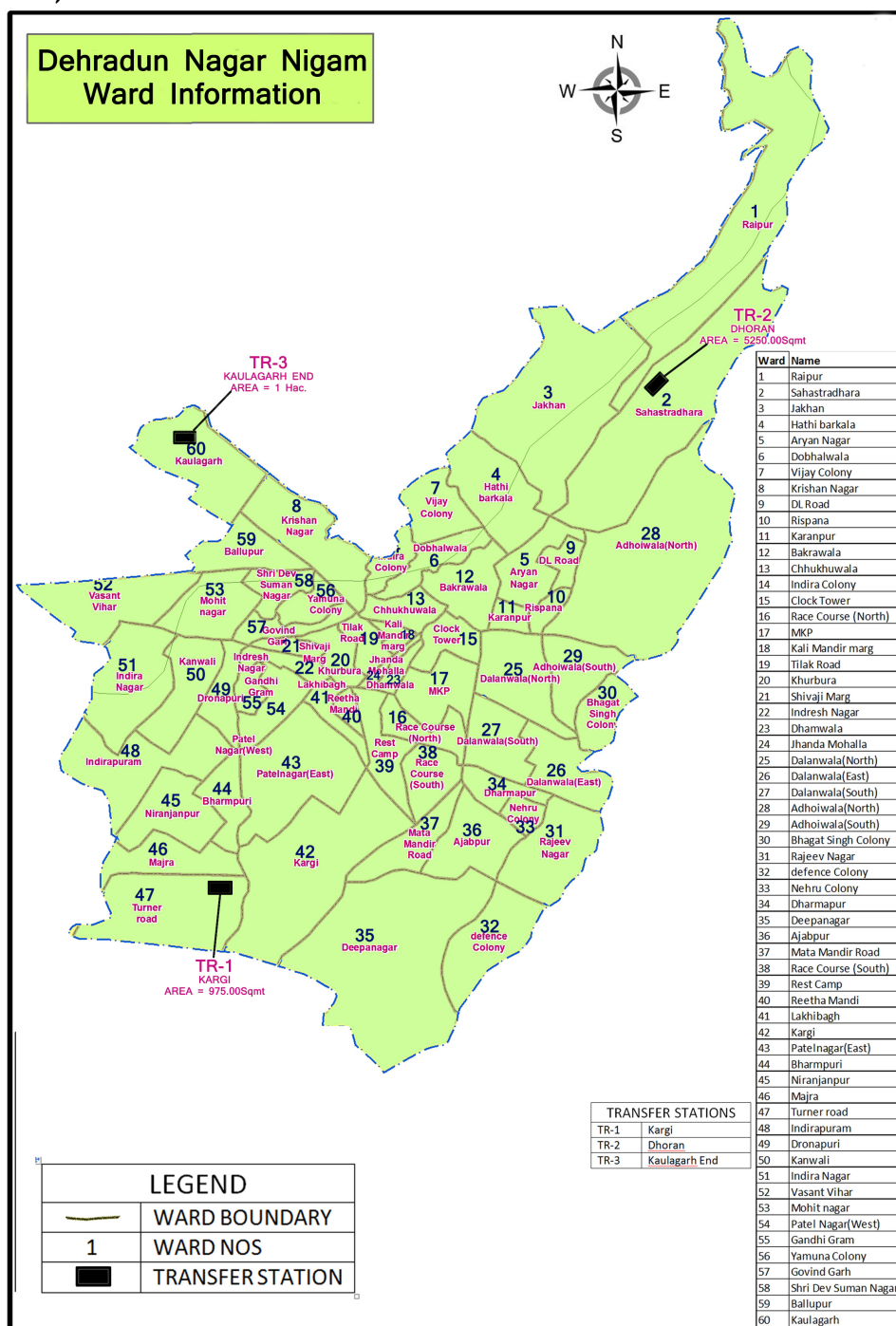
- 3.6.3.** Capital grant expenditure shall be subject to terms and conditions as specified in the Draft Concession Agreement
- 3.6.4.** Capital Grant shall be subject to maximum amount for the following components only (As per technical proposal & approved DPR of the bidder) as given below :
- i. Mini Transfer Stations
 - ii. Workshop
 - iii. Waste Transport Vehicles
- 3.6.5.** Bidder must indicate the maximum value of grants in financial proposal for each of the component and indicate in further breakdown of subcomponent values in the technical proposal. A minor variation among the components & subcomponents maybe acceptable, subject to NND's approval, at DPR stage but subject to ceiling of quoted capital grant in financial proposal.
- 3.7. User Charges**
- (i) Rates of user fees are as per Schedule 10.
 - (ii) All the collected user charges shall be deposited in Escrow Account.
 - (iii) Such Collected User Charges shall be used for paying the tipping fee fully or partially as the case maybe.
- 3.8. Escrow Account**
- 3.8.1.** NND shall setup an escrow account to ensure funds availability for this project. All the user charges, Capital Grant, payments from Nagar Nigam Dehradun, other related project revenues of NND shall be brought into this account. Details related to escrow account maybe seen in the draft concession agreement.
- 3.9. Mechanism of Payment**
- Mechanism of payment shall be as described in Schedule 2 of the concession agreement.
- 3.10. Land Availability**
- Nagar Nigam Dehradun will be able to make following land parcels available at various locations in the city :
- a) for secondary storage/compacting stations/transfer stations for MSW :
 - (i) Kargi, Haridwar By-pass road
 - (ii) Canal Road, Rispana Bridge near IT Park
 - (iii) Kaulagarh
 - b) for Workshop :
 - (i) Near Rispana Bridge on Haridwar Road
 - c) for Parking :
 - (i) Existing Parking land on Sahastradhara Road

3.11. Detailed Terms of Contract

Draft Concession Agreement, Part II of this RFP should be see for detailed terms of contract.

3.12. Maps & Locations

a) Wards & Mini Transfer Station Locations



b) Location & Likely routes to Waste Processing Plant at Sheeshambara



4. Methodology of Technical Bid

- 4.1. The bidder's technical capability would be evaluated on the basis of the following:

Previous Experience of the bidder in operating and managing Integrated Solid Waste Management Project which includes door to door collection of municipal solid waste or transportation of municipal solid waste :

- a) Based on the number of years
- b) Based on the Quantity of Waste handled per MT.
- c) Based on the number of completed projects as on 31st March 2017
- d) Detailed Technical Proposal for the project

- 4.2. The minimum Qualifying marks of the technical evaluation is 75

- 4.3. Evaluation of Technical proposal

The technical proposal for the Project would be evaluated on the following basis:

- 4.3.1. Previous Experience of the bidder in operating and managing Integrated Solid Waste Management Project which includes door to door collection of municipal solid waste or transportation of municipal solid waste

- a) Based on the number of years :

Description	Max Marks
a) Less than 3 = 0 b) 3-4 = 10 c) More than 5 = 15	15

In case of part year, only the completed years will be counted. For example five (5) years and eight (8) months will be counted as five (5) years.

- b) Based on the Quantity of Waste handled / MT

Description	Max Marks
Waste Collected Unit = MT/Day a) Less than 100 = 0	30

b) 100 - 200	= 10	
c) 200 - 250	= 15	
d) 251 - 300	= 20	
e) 301 - 350	= 25	
f) More than 350	= 30	

Project(s) would include operation & management of waste collection from urban areas. Only projects with Minimum 100 MT/day per day (average of the latest year of operation) shall be considered eligible.

Project wise matrix would be prepared to arrive at average quantity. The overall marks would be given on the average quantity.

c) Based on the number of Projects

Description	Max Marks
No of projects	15
a) Less than 1 = 0	
b) 1 = 5	
c) 2 = 10	
d) More than 2 = 15	

Eligible projects : Successful Setting up or Operations & Management of project handling waste of minimum waste of 100 MT/Day for last 2 years in any of the followings:

- I. Integrated Solid Waste Management involving Processing and Disposal Components
- II. Composting from MSW
- III. MSW Landfill

4.3.2. Detailed Technical Proposal : 40 Marks

Bidders are required to create & submit Detailed Technical Proposal for the project, which must address following aspects:

a. Smart SWM System

- (i) Project Component Detailing based on provided scope of work, shared data and project site visits by the bidder
- (ii) Details of proposed system showing how it will handle the project components, defined scope of work and future expansions
- (iii) Showing how proposed technologies are:
 - Being used in existing projects and performance improvement outcomes.
 - New innovations proposed
- (iv) Details and design of SWM control room
- (v) Improvements/Upgrades required in existing vehicles equipment

-
- (vi) Components for smooth interface with Waste Processing Plant operator
 - (vii) Data Security, privacy, disaster recovery, business continuity aspect of the system
 - (viii) Proven technology related clarifications

b. Project Implementation Plan

- (i) Taking over existing infrastructure & Up-gradation plan
- (ii) Proposed hardware with clear specifications
- (iii) Implementation plan for new construction etc.
- (iv) Manpower planning
- (v) Phase wise project implementation plan

c. User charge collection

- (i) User Charge Collection Estimates
- (ii) Proposed methods for improving user charge collections.
- (iii) Estimates showing coverage of tipping fee by user charge collection

d. Projected Additional Investment assessment, specifications, plans & estimated costs

All the technical proposal shall be studied and evaluated on the basis of following:

- Level of detailing & accuracy of the proposal
- Technical & financial Feasibility of proposal
- Financial Affordability for Nagar Nigam
- Correctness of costing estimates
- Overall feasibility of the proposal
- Overall Cost reduction & efficiency improvement strategies
- Any other technical aspects decided by the bid evaluation team

Each of the bidders shall be asked to make detailed presentations to defend their project proposals.

Note :

1. Technical Proposal is key document for the project and all bidders are advised to undertake proper due diligence in preparing the same. Final DPR approval shall be based on this document only. Bidder must incorporate indicative costs and fairly detailed BOQ in the technical proposal to address project requirements for next 15 years.

2. Bidders must show as to how their technical proposal will meet the project requirement of Collecting MSW from all the sources in the city and transporting the same to Waste Processing Plant. This will be a key criterion for marking technical proposals.

4.3.3. All the bidders are required to ensure that any of technical experience

cited in the proposal above shall be accompanied by duly certified documents from competent authority.

4.4. Evaluation of Financial Proposals

4.4.1. The offers of the Bidder on the Government financial support required as per the format prescribed in Appendix 10 shall be used for financial evaluation.

4.4.2. NND shall provide the Capital Support for project upto maximum of Rs.. 3.50 Crores approximately and it shall be expendable on construction of 3 mini transfer stations, workshop & waste transportation vehicles only. *Any financial proposal quoting capital grant more than the maximum value of Rs. 3.50 crore shall be disqualified.*

4.4.3. The Financial Proposal of all the Bidders shall be evaluated based on the following formula :

Financial Support required from Nagar Nigam Dehradun = Capital Grant(Subject to maximum of R. 3.50 Cr.) +Overall (Tipping Fee

Overall Tipping Fee = {Present value of the amount of (Tipping Fee (Rs per MT) x 150 x 365) for 10 years}

4.4.4. The present value of **Processing Incentive** or **Royalty Fees** quoted by the Bidder shall be discounted at 16% would be used for final evaluation.

4.4.5. For bid evaluation purposes the **Processing Incentive** or **Royalty Fees** shall be increased by 5% annually to calculate the present value.

4.4.6. The present value (PV) of **Tipping Fee** would be computed as

$$PV_T = T_1 \times Q / (1.16)^1 + T_2 \times Q / (1.16)^2 + T_3 \times Q / (1.16)^3 + T_4 \times Q / (1.16)^4 + \dots + T_n \times Q / (1.16)^n$$

T1, T2, T3, T4 and Tn are the **Tipping Fee** Rs per MT required during year1, year 2, and up to year 10.

$$Q = 150 \times 365$$

4.4.7. The Bidder offering the lowest financial Support required from the Government would be declared Successful.

4.4.8. In the event that two or more Bidders secure the same overall bid, Nagar Nigam Dehradun may:

- (a) invite fresh Proposals from the Bidders;
OR

-
- (b) declaring the bidder securing highest technical marks amongst the bidders securing same overall score, as preferred bidder

OR

- (c) take any such measure as may be deemed fit in its sole discretion or annulment of the bidding process.

4.4.9. Nagar Nigam Dehradun may either choose to accept the Proposal of the Preferred Bidder or invite him for negotiations.

4.4.10. Upon acceptance of the Financial Proposal of the Preferred Bidders with or without negotiations, Nagar Nigam Dehradun shall declare the Preferred Bidder as Successful Bidder.

4.4.11. Nagar Nigam Dehradun will notify the Successful Bidder by facsimile and by a letter that its Proposal has been accepted.

Appendix 1

Format for Acknowledgement of RFP Document and Notification of Intent to Submit Proposal

Date: To

Municipal Commissioner
Nagar Nigam Dehradun
Patel Road, Near Doon Hospital
Dehradun -248001, Uttarakhand.

Dear Sir,

Re: Proposal for Rehabilitate, Upgrade, Operate, Manage and Transfer (RUOMT) mode Door to Door Collection, Secondary Storage & Transportation of Waste (C&T) Solid Waste Management System at Dehradun (the “Project”)

The undersigned hereby acknowledges and confirms receipt of all the Parts (Part I and Part II) of the Request for Proposal (RFP) Document for the captioned project from Nagar Nigam Dehradun and conveys its intention to submit a Proposal for the Project, under **Rehabilitate, Upgrade, Operate, Manage and Transfer (RUOMT) mode.**

.....
Name of the Bidder

.....
Signature of the Authorised
Person

.....
Name of the Authorised
Person

Note:

- § On the Letterhead of the Bidder or Lead Member of Consortium.
- To be signed by the Lead Member in case of a Consortium.
- § The acknowledgement should be sent within 2 weeks of receipt of the RFP Document

Appendix 2

Format for Covering Letter Cum Project Undertaking

To,

Municipal Commissioner
Nagar Nigam Dehradun
Patel Road, Near Doon Hospital
Dehradun -248001, Uttarakhand.

Dear Sir,

Re: Proposal for Rehabilitate, Upgrade, Operate, Manage and Transfer (RUOMT) mode Door to Door Collection, Secondary Storage & Transportation of Waste (C&T) Solid Waste Management System at Dehradun (the “Project”)

We have read and understood the Request for Proposal (RFP) Document in respect of the Project provided to us by Nagar Nigam Dehradun . We hereby submit our Proposal for the captioned project.

We are enclosing our Proposal in one (1) original plus one (1) copy, with the details as per the requirements of the RFP Document, for your evaluation.

We confirm that our Proposal is valid for a period of nine (9) months from (Proposal Due Date)

We hereby agree and undertake as under:

Notwithstanding any qualifications or conditions, whether implied or otherwise, contained in our Proposal we hereby represent and confirm that our Proposal is unqualified and unconditional in all respects and we agree to the terms of the Draft Concession Agreement, a draft of which also forms a part of the RFP Document provided to us.

Dated thisDay of, 2017.

.....
Name of the Bidder

.....
Signature of the Authorised
Person

.....
Name of the Authorised Person

- Note: • *On the Letterhead of the Bidder or Lead Member of Consortium.*
☐ *To be signed by the lead member, in case of a consortium.*

Appendix 3

Format for Anti-Collusion Certificate

Anti-Collusion Certificate

We hereby certify and confirm that in the preparation and submission of this Proposal, we have not acted in concert or in collusion with any other Bidder or other person/s and also not done any act, deed or thing which is or could be regarded as anti-competitive.

We further confirm that we have not offered nor will offer any illegal gratification in cash or kind to any person or agency in connection with the instant Proposal.

Dated thisDay of, 2017.

.....
Name of the Bidder

.....
Signature of the Authorised
Person

.....
Name of the Authorised Person

Note:

- *To be executed by all the Members in case of Consortium.*

APPENDIX 4

(Proforma of Bank Guarantee for Bid Security)

B.G. No. Dated:

1. In consideration of you, Dehradun Nagar Nigam having its office at Nagar Nigam Dehradun , Patel Road, Near Doon Hospital, Dehradun - 248001, Uttarakhand (hereinafter referred to as the “ Nagar Nigam Dehradun ” or “NND”, which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the Bid of _____ [a Company registered under provision of the Companies Act, 1956/2013] and having its registered office at _____ [and acting on behalf of its Consortium] (hereinafter referred to as the “Bidder” which expression shall unless it be repugnant to the subject or context thereof include its/their executors administrators, successors and assigns), for the **Door to Door Collection, Secondary Storage & Transportation of Waste (C&T) Solid Waste Management System at Dehradun under Rehabilitate, Upgrade, Operate, Manage and Transfer (RUOMT) mode** (hereinafter referred to as “the Project”). Pursuant to the RFP Document dated ***** issued in respect of the Project and other related documents (hereinafter collectively referred to as “Bidding Documents”), we [Name of the Bank] having our registered office at _____ and one of its branches at _____ (hereinafter referred to as the “Bank”), at the request of the Bidder, do hereby in terms of Clause 1.11 of the RFP Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfillment and compliance of the terms and conditions of the Bidding Documents (including the RFP Document) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the NND an amount of Rs. 15,00,000/- (Rupees Fifteen Lakhs only) as bid security (hereinafter referred to as the “Bid Security”) as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to fulfill or comply with all or any of the terms and conditions contained in the said Bidding Documents.
2. Any such written demand made by the NND stating that the Bidder is in default of the due and faithful fulfillment and compliance with the terms and conditions contained in the Bidding Documents shall be final, conclusive and binding on the Bank.
3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the claim of the NND is disputed by the Bidder or not merely on the first demand from the NND stating that the amount claimed is due to the NND by reason of failure of the Bidder to fulfill and comply with the terms and conditions contained in the Bidding Documents including failure of the said Bidder to keep its Bid open during the Bid validity period as set forth in the said Bidding Documents for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee.

However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. 15,00,000/- (Rupees Fifteen Lakhs only).

4. This Guarantee shall be irrevocable and remain in full force for a period of 270 (two hundred and seventy) days from the Bid Due Date inclusive of a claim period of 60 (sixty) days or for such extended period as may be mutually agreed between the NND and the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.
5. We, the Bank, further agree that the NND shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfillment and compliance with the terms and conditions contained in the Bidding Documents including, inter alia, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding Documents, and the decision of the NND that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the NND and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other Authority.
6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.
7. In order to give full effect to this Guarantee, the NND shall be entitled to treat the Bank as the principal debtor. The NND shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Documents or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of Letter of Award by the Bidder or the period for fulfillment and compliance with all or any of the terms and conditions contained in the said Bidding Documents by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding Documents or the securities available to the NND, and the Bank shall not be released from its liability under these presents by any exercise by the NND of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of the NND or any indulgence by the NND to the said Bidder or by any change in the constitution of the NND or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.
8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.
9. We undertake to make the payment on receipt of your notice of claim on us addressed to [name of Bank along with branch address] and delivered at our above branch who shall be deemed to have been duly authorised to receive the said notice of claim.
10. It shall not be necessary for the NND to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall

be enforceable against the Bank, notwithstanding any other security which the NND may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealised.

11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the NND in writing.
12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.

Signed and Delivered by _____ Bank

By the hand of Mr./Ms _____, its _____ official.

(Signature of the Authorised Signatory) (Official Seal)

and authorised

APPENDIX 5

Historical Contract Non-Performance

[The following table shall be filled in for the bidder]

Please tick either (A) or furnish details in case of (B)

Bidder's Legal Name: [insert full name]

Date: [insert day, month, year]

Non-Performing Contracts in accordance with section 1.24.2 (Sl.No 5)- Pre Qualification Criteria			
A. Contract non-performance did not occur during last five(5) years specified in section 1.24.2 - Pre Qualification Criteria			
B. Contract(s) not performed during last five(5) years specified in section 1.24.2 - Pre Qualification Criteria			
Year	Non performed portion of contract	Contract Identification	Total Contract Amount (current value, INR equivalent)
<i>[insert year]</i>	<i>[insert amount and percentage of total project cost]</i>	<i>Contract Identification: [indicate complete contract name/ number, and any other identification]</i> <i>Name of project sponsor: [insert full name]</i> <i>Address of project sponsor : [insert street/</i>	<i>[insert amount]</i>

APPENDIX 6
Pending Litigation

[The following table shall be filled in for the bidder]

Please tick either (A) or furnish details in case of (B)

Bidder's Legal Name: [insert full name]

Date: [insert day, month, year]

A. No pending litigation in accordance with section 1.24.2 - Pre Qualification Criteria

B. Pending litigation in accordance with section 1.24.2 - Pre Qualification Criteria

Year	Outcome Value and as Percentage of Total Assets	Contract Identification	Total Contract Amount (current value, INR equivalent)
<i>[insert year]</i>	<i>[insert Value and percentage of total assets]</i>	Contract Identification: <i>[indicate complete contract name, number, and any other identification]</i> Name of Project Sponsor: <i>[insert full name]</i> Address of Project Sponsor: <i>[insert street/city/country]</i> Matter in dispute: <i>[indicate main</i>	<i>[insert amount]</i>

APPENDIX 7 Financial Data

[The following table shall be filled in for the bidder]

Bidder's Legal Name: [insert full name]

Date: [insert day, month, year]

All Figures in INR

Description	Year I	Year II	Year III
Total Assets (TA)			
Total Liabilities (TL)			
Net Worth (NW)			
Current Assets (CA)			
Current Liabilities (CL)			
Total Revenue (TR)			
Profits Before Taxes (PBT)			

General Instructions:

1. Net Worth
 - For Company = (Paid-up Capital fund + Reserves) - (Revaluation reserves + Miscellaneous expenditure not written off)
 - For Partnership Firm = Aggregate of partners' capital account + Reserves - Aggregate of drawings by partners - Aggregate of advances to partners - (Revaluation reserves + Miscellaneous expenditure not written off)
2. The financial year would be the same as followed by the Bidder for its annual report. Year I will be the latest completed financial year for which the audited balance sheet is available (FY15-16). Year 2 shall be the year immediately preceding Year 1.
3. The Bidder shall provide the audited annual financial statements as required for this RFP Document. Failure to do so would be considered as a non-responsive bid.
4. The Bidder should clearly indicate the calculations and references in the financial statements in arriving at the above numbers in an attached worksheet.

APPENDIX 8 A

Similar Project Experience

[The following table shall be filled in for the Applicant]

Bidder's Legal Name: [insert full name]

Date: [insert day, month, year]

[Identify contracts that demonstrate continuous similar projects experience over the past 3 (Three) years pursuant to Clause 1.24.2 & Pre-Qualification Criteria. & Qualification Criteria 4.3 (a)]

List contracts chronologically, according to their commencement (starting) dates.]

S No	Starting Month / Year	Ending Month / Year	Contract Identification	Role of Applicant
	[indicate month/ year]	[indicate month/ year]	<p>Project name: [insert full name]</p> <p>Brief Description of the Project performed by the Bidder: [describe works performed briefly]</p> <p>Total Investment in the Project: [insert amount in INR equivalent]</p> <p>Equity Contribution of the bidder, if any: [insert in value and percentage]</p> <p>Name of Project Sponsor: [indicate full name]</p> <p>Address: [indicate street/number/town or city/country]</p> <p>Project Size: Please furnish relevant information for evaluation as per section 4.</p> <p>Contract Signing Date :</p>	[insert "Sole Developer" or "Consortium Member"]

Supporting Documents Required

- i. Copy of agreement with Municipal Body or any other client for the relevant years which clearly mentions the quantum of waste being supplied to the compost and RDF plants, OR
- ii. Certificate from the Municipal Body or Pollution Control Board or any other client, OR
- iii. Certificate from an independent auditor

NOTE: USE ADDITIONAL SHEETS FOR PROVIDING DETAILS

APPENDIX 8 B
Project Performance Data Sheet

[The following table shall be filled in for the Applicant]

Bidder's Legal Name: [insert full name]

Date: [insert day, month, year]

Quantity of Waste Collected (Clause 4.3 (b))

Information	Details					
Project Name						
Project Authority						
Project Awarded						
Project Commercial Operation Date						
Role In the project						
Equity in the project						
Project Capacity Details for Waste Processing						
Waste Processing Summary		2016-17	2015-16	2014-15	2013-14	2012-13
	Waste Collected for the Year (MT)					
	Average Collected Per Day (MT/Day					

APPENDIX 9

Detailed Technical Proposal

Bidders are required to create & submit Detailed Technical Proposal for the project, which must address following aspects:

a. Smart SWM System

- (ix) Project Component Detailing based on provided scope of work, shared data and project site visits by the bidder
- (x) Details of proposed system showing how it will handle the project components, defined scope of work and future expansions
- (xi) Showing how proposed technologies are:
 - Being used in existing projects and performance improvement outcomes.
 - New innovations proposed
- (xii) Details and design of SWM control room
- (xiii) Improvements/Upgrades required in existing vehicles equipment
- (xiv) Components for smooth interface with Waste Processing Plant operator
- (xv) Data Security, privacy, disaster recovery, business continuity aspect of the system
- (xvi) Proven technology related clarifications

b. Project Implementation Plan

- (vi) Taking over existing infrastructure & Up-gradation plan
- (vii) Change Management Plan
- (viii) Proposed hardware with clear specifications
- (ix) Implementation plan for new construction etc.
- (x) Manpower planning
- (xi) Phase wise project implementation plan
- (xii) Operation & Maintenance Plan

c. User charge collection

- (iv) User Charge Collection Estimates
- (v) Proposed methods for improving user charge collections.
- (vi) Estimates showing coverage of tipping fee by user charge collection

d. Risk Assessment and mitigation plan

e. Change Management plan

f. Projected Additional Investment assessment, specifications, plans & estimated costs

Note:

- The bidder may be invited to make a presentation on approach, methodology and project plan to judge their understanding of the

project.

- Technical Proposal is key document for the project and all bidders are advised to undertake proper due diligence in preparing the same. Final DPR approval shall be based on this document only. Bidder must incorporate indicative costs and fairly detailed BOQ in the technical proposal to address project requirements for next 15 years.
- Bidders must show as to how their technical proposal will meet the project requirement of Collecting MSW from all the sources in the city and transporting the same to Waste Processing Plant. This will be a key criterion for marking technical proposals.

Activity Schedule (Part of Appendix - 9)

Sr : No	Activity	M												
		1	2	3	4	5	6	7	8	9	10	11	12	N
1														
2														
3														
4														
5														
6														
7														
8														
9														
10														
11														
12														
13														
14														
15														
16														
17														
18														
N														

- 1 Indicate all main activities of the assignment, including project delivery other benchmarks such as government approvals.
- 2 Duration of activities shall be indicated in the form of a bar chart.

APPENDIX 10
Format for Financial Proposal

Date:

To,

Municipal Commissioner
Nagar Nigam Dehradun
Patel Road, Near Doon Hospital
Dehradun -248001, Uttarakhand.

Re: Proposal for Rehabilitate, Upgrade, Operate, Manage and Transfer (RUOMT) mode Door to Door Collection, Secondary Storage & Transportation of Waste (C&T) Solid Waste Management System at Dehradun (the “Project”)

We are pleased to submit our Financial Proposal for Rehabilitate, Upgrade, Operate, Manage and Transfer (RUOMT) mode Door to Door Collection, Secondary Storage & Transportation of Waste (C&T) Solid Waste Management System at Dehradun (the “Project”).

Government Financial Support	
Capital Grant (Rs. Crore)	
(Rs in figures)	
(Rs in words)	
Tipping Fee (Rs. / MT) Year 1 (for the first year)	
(Rs in figures)	
(Rs in words)	

Breakup of Capital Grant :

The breakup of Capital Grant quoted above is as under :

Sr. No.	Capital Grant	Amount in Figures	Amount in Words

1.	Mini Transfer Stations		
2.	Workshop		
3.	Waste Transport Vehicles		
	Total¹		

Note : Year 1 shall start from First Day of Operations Period as defined in Concession Agreement.

¹ The maximum Capital Support to be provided by NND shall in any case not exceed Rs. 3.50 Crore and any financial bid quoting more than this maximum value shall be disqualified.

APPENDIX -11

Format for Power of Attorney for Signing of Application (On a Stamp Paper of relevant value) Power of Attorney

Know all men by these presents, we (name and address of the registered office) do hereby constitute, appoint and authorise Mr / Ms..... (name and residential address) who is presently employed with us and holding the position of as our attorney, to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to our bid for the Project envisaging Door to Door Collection, Secondary Storage & Transportation of Waste (C&T) Solid Waste Management System at Dehradun under Rehabilitate, Upgrade, Operate, Manage and Transfer (RUOMT) mode (the “Project”) including signing and submission of all documents and providing information / responses to Nagar Nigam Dehradun representing us in all matters before Nagar Nigam Dehradun , and generally dealing with Nagar Nigam Dehradun in all matters in connection with our bid for the said Project.

We hereby agree to ratify all acts, deeds and things lawfully done by our said attorney pursuant to this Power of Attorney and that all acts, deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by us.

For

(Signature)

(Name, Title and Address)

Accepted

.....
(Signature)

(Name, Title and Address of the Attorney)

Note:

§ *To be executed by the Bidder*

§ *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure.*

§ *In case the Application is signed by a Partner/ authorised Director of the Applicant, a certified copy of the appropriate resolution/ document conveying such authority may be enclosed in lieu of the Power of Attorney.*

APPENDIX 11B
Power of Attorney for Lead Member of Consortium

Whereas the Nagar Nigam Dehradun, Government of Uttarakhand has invited applications from eligible bidders for Door to Door Collection, Secondary Storage & Transportation of Waste (C&T) Solid Waste Management System at Dehradun under Rehabilitate, Upgrade, Operate, Manage and Transfer (RUOMT) mode (the “Project”)

Whereas,,, and..... (collectively the “Consortium”) being Members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Proposal (RFP) and other connected documents in respect of the Project,
 AND

Whereas, it is necessary for the Members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium’s bid for the Project and its execution.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS

We, having our registered office at,
 M/s. having our registered office at,
 M/s. having our registered office at, and
 M/s. having our registered office at,

(hereinafter collectively referred to as the “Principals”) do hereby irrevocably designate, nominate, constitute, appoint and authorise M/s. having its registered office at, being one of the Members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the “Attorney”).

We hereby irrevocably authorise the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and, in the event the Consortium is awarded the concession/contract, during the execution of the Project and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the pre-qualification of the Consortium and submission of its bid for the Project, including but not limited to signing and submission of all applications, bids and other documents and writings, participate in bidders and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the bid of the Consortium and generally to represent the Consortium in all its dealings with the Authority, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium’s bid for the Project and/ or upon award thereof till the Concession Agreement is entered into with the Authority.

AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us/ Consortium.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF, 20____

For

(Signature)

.....

(Name & Title)

For

(Signature)

.....

(Name & Title)

For

(Signature)

.....

(Name & Title)

Witnesses:

1.

2.

.....

(Executants)

(To be executed by all the Members of the Consortium)

Notes:

The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, lay down by the applicable law and the charter documents of the executants(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.

Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.

For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed The Hague Legislation Convention, 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate.

APPENDIX 12

Joint Bidding Agreement

(To be executed on Stamp paper of appropriate value)

THIS JOINT BIDDING AGREEMENT is entered into on this the day of, 2015

AMONGST

1. {..... Limited, a company incorporated under the Companies Act, 1956} and having its registered office at (hereinafter referred to as the “First Part” which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

2. {..... Limited, a company incorporated under the Companies Act, 1956} and having its registered office at (hereinafter referred to as the “Second Part” which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

5. {..... Limited, a company incorporated under the Companies Act, 1956 and having its registered office at (hereinafter referred to as the “Third Part” which expression shall, unless repugnant to the context include its successors and permitted assigns)}

AND

4. {..... Limited, a company incorporated under the Companies Act, 1956 and having its registered office at (hereinafter referred to as the “Fourth Part” which expression shall, unless repugnant to the context include its successors and permitted assigns)}\$

The above mentioned parties of the FIRST, SECOND, {THIRD and FOURTH} PART are collectively referred to as the “Parties” and each is individually referred to as a “Party”

WHEREAS

Nagar Nigam Dehradun, Government of Uttarakhand, represented by _____ and _____ having its office at _____ Dehradun, Uttarakhand hereinafter referred to as “NND”, which expression shall, unless repugnant to the context or meaning thereof include its administrators, successors or assigns has

invited applications (the Applications”) by its Request for Proposal No. dated(the “RFP”) for short-listing of bidders Door to Door Collection, Secondary Storage & Transportation of Waste (C&T) Solid Waste Management System at Dehradun under Rehabilitate, Upgrade, Operate, Manage and Transfer (RUOMT) mode, (the “Project”) through public private partnership.

The Parties are interested in jointly bidding for the Project as members of a Consortium and in accordance with the terms and conditions of the RFP document and other bid documents in respect of the Project, and

It is a necessary condition under the RFP document that the members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Application.

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretations

- a) In this Agreement, the capitalised terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the RFP.

2. Consortium

- a) The Parties do hereby irrevocably constitute a consortium (the “Consortium”) for the purposes of jointly participating in the Bidding Process for the Project.
- b) The Parties hereby undertake to participate in the Bidding Process only through this Consortium and not individually and/ or through any other consortium constituted for this Project, either directly or indirectly or through any of their Associates.

3. Covenants

- a) The Parties hereby undertake that in the event the Consortium is declared the Successful Bidder and awarded the Project, it shall incorporate a special purpose vehicle (the “SPV”) under the Indian Companies Act, 1956/2013 for entering into a Concession Agreement with the Authority and for performing all its obligations as the Concessionaire in terms of the Concession Agreement for the Project.

4. Role of the Parties

The Parties hereby undertake to perform the roles and responsibilities as described below:

- a) Party of the First Part shall be the Lead member of the Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding Process and until the Appointed Date under the Concession Agreement when all the obligations of the SPV shall become effective;

-
- b) Party of the Second Part shall be the Technical Member of the Consortium;
 - c) Party of the Third Part shall be the Financial Member of the Consortium;
 - d) Party of the Fourth Part shall be the Operation and Maintenance Member/ Other Member of the Consortium.

5. Joint and Several Liabilities

- a) The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the RFP and the Concession Agreement, till such time as the Financial Close for the Project is achieved under and in accordance with the Concession Agreement.

6. Shareholding in the SPV

- a) The Parties agree that the proportion of shareholding among the Parties in the SPV shall be as follows:
 - ☐ First Party:
 - ☐ Second Party:
 - ☐ Third Party:
 - ☐ Fourth Party:
- b) The Parties undertake that a minimum of 26% (twenty six per cent) of the subscribed and paid up equity share capital of the SPV shall, at all times till the second anniversary of the date of commercial operation of the Project, be held by the Parties of the First, {Second and Third} Part whose experience and net worth have been reckoned for the purposes of qualification and short-listing of Bidders for the Project in terms of the RFP
- c) The Parties undertake that each of the Parties specified in Clause 6 (b) above shall, at all times between the commercial operation date of the Project and the second anniversary thereof, hold subscribed and paid up equity share capital of SPV equivalent to at least 5% (five per cent) of the Total Project Cost.
- d) The Parties undertake that they shall collectively hold at least 51% (fifty one per cent) of the subscribed and paid up equity share capital of the SPV at all times until two (2) years of the commercial operation date of the Project.
- e) The Parties undertake that they shall comply with all equity lock-in requirements set forth in the Concession Agreement.
- f) The Parties undertake that the O&M Member shall subscribe and hold at least 10% (ten per cent) of the subscribed and paid up equity shares in the SPV in terms of the Concession Agreement.

7. Representation of the Parties

Each Party represents to the other Parties as of the date of this Agreement that:

-
- (a) Such Party is duly organised, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;
 - (b) The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member is annexed to this Agreement, and will not, to the best of its knowledge:
 - i. require any consent or approval not already obtained;
 - ii. violate any Applicable Law presently in effect and having applicability to it;
 - iii. violate the memorandum and articles of association, by-laws or other applicable organisational documents thereof;
 - iv. violate any clearance, permit, concession, grant, license or other governmental authorisation, approval, judgement, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
 - v. create or impose any liens, mortgages, pledges, claims, security interests, charges or Encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;
 - (c) This Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it.
 - (d) There is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Affiliates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfilment of its obligations under this Agreement.

8. Termination

- a) This Agreement shall be effective from the date hereof and shall continue in full force and effect until the Financial Close of the Project is achieved under and in accordance with the Concession Agreement, in case the Project is awarded to the Consortium.
- b) However, in case the Consortium is either not pre-qualified for the Project or does not get selected for award of the Project, the Agreement will stand terminated in

case the Bidder is not pre-qualified or upon return of the Bid Security by the Authority to the Bidder, as the case may be.

9. Miscellaneous

This Joint Bidding Agreement shall be governed by laws of India.

The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the Authority.

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

SIGNED, SEALED AND DELIVERED

For and on behalf of :

LEAD MEMBER by:

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of :

SECOND PART by:

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of :

THIRD PART by:

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of :

FOURTH PART by:

(Signature) (Signature)

(Name) (Name)

(Designation) (Designation)

(Address) (Address)

In the presence of:

1)

2)

Notes:

1. The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, lay down by the Applicable Law and the charter documents of the executants(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
2. Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as resolution / power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member.
3. For a Joint Bidding Agreement executed and issued overseas, the document shall be legalised by the Indian Embassy and notarised in the jurisdiction here the Power of Attorney has been executed.

Appendix 13

List of attachments with the bid

S No	Description
1.	Acknowledgement of RFP Document and Notification of Intent to Submit Proposal
2.	Covering Letter cum Project Undertaking
3.	Anti-Collusion Certificate
4.	Bid Security
5.	Financial Proposal
6.	Technical Proposal
7.	Format for Power of Attorney for Signing of Application
10.	Other requirements as per clause 1.24.2 (Pre Qualification Criteria)
11a	Power of Attorney for Signing of Application
11b	Power of Attorney for Lead Member of Consortium
12	Joint Bidding Agreement
13	Other additional documents mentioned in 1.24.2 and other clauses in the RFP document

Part II

Draft Concession Agreement

Draft Concession Agreement

between

**Nagar Nigam Dehradun, Government of Uttarakhand
(‘NND’) acting through**

(designation of authorised officer)

and

(Concessionaire)

For

**Door to Door Collection, Secondary Storage & Transportation of Waste (C&T)
Solid Waste Management System**

at Dehradun

under Rehabilitate, Upgrade, Operate, Manage and Transfer (RUOMT) mode

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This **CONCESSION AGREEMENT** made on this ----- (*insert date*) day of ----
----- (*insert month*), ----- (*insert year*) at ----- (*insert place of execution*),

BETWEEN

Nagar Nigam Dehradun , Government of Uttarakhand, having its registered office at _____, Dehradun - 248001, hereinafter referred to as “the Concessioneing Authority” or “NND” which expression shall unless repugnant to the context include the successors and assigns, on the one part

AND

-----, (name of the Successful Bidder), having its registered office at _____, hereinafter referred to as “Concessionaire” which expression shall unless repugnant to the context include the successors and permitted assigns, on the other part.

WHEREAS,

- A. The Ministry of Environment and Forest (MoEF), Government of India (Gol), has formulated the Municipal Solid Wastes (Management and Handling) Rules, 2000 / Solid Waste Management Rules 2016 (“MSW Rules”), which makes it mandatory for every municipal authority to implement a scientific solid waste management system wherein the MSW is collected in an efficient way with source segregation and the same is duly processed and the residual inert/ non-biodegradable solid wastes disposed in a Sanitary Landfill.
- B. Solid Waste Management project for Dehradun was initiated as a part of the JnNURM scheme. A Detailed Project Report (DPR) was prepared for the Solid Waste Management at Dehradun project which was sanctioned under JnNURM scheme in May 2008.
- C. NND with an objective of providing Municipal Solid Waste Management (MSWM) services offering Door to Door Collection, Secondary Storage and Transportation (C&T) of Municipal Solid Waste generated in the city, decided to set up Solid Waste Management System at Dehradun on Rehabilitate, Upgrade, Operate, Manage and Transfer (RUOMT) basis.
- D. NND had, carried out extensive project preparation works in connection with the Project and subsequently invited proposals, through a competitive bid process from eligible parties for implementing the Project. In response thereto, NND received proposals from several parties including the Concessionaire for implementing the Project.
- E. Pursuant thereto, after evaluating the aforesaid proposals, NND accepted the proposal submitted by the Concessionaire and issued

Letter of Acceptance No. (insert Letter No.) dated to the Concessionaire requesting the Concessionaire to execute the Concession Agreement, which the Concessionaire has acknowledged by its Letter No. dated .

- F. {The selected bidder/ Consortium has since promoted and incorporated the Concessionaire as a limited liability company under the Companies Act 2013, and has requested the Authority to accept the Concessionaire as the entity which shall undertake and perform the obligations and exercise the rights of the selected bidder/ Consortium under the LOA} including the obligation to enter into this Concession Agreement pursuant to the LOA for executing the Project.
- G. {By its letter dated, the Concessionaire has also joined in the said request of the selected bidder/ Consortium to the Authority to accept it as the entity which shall undertake and perform the obligations and exercise the rights of the selected bidder/ Consortium including the obligation to enter into this Concession Agreement pursuant to the LOA. The Concessionaire has further represented to the effect that it has been promoted by the selected bidder/ Consortium for the purposes hereof.}
- H. The Authority has agreed to the said request of the {selected bidder/Consortium} and the Concessionaire, and has accordingly agreed to enter into this Concession Agreement with the Concessionaire for execution of the Project on [RUOMT] basis, subject to and on the terms and conditions set forth hereinafter.

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

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS :-

DEFINITIONS AND INTERPRETATION

ARTICLE 1

1.1. Definitions

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

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

“Affected Party” shall mean the Party claiming to be affected by a Force Majeure Event in accordance with Article 8.1.

“Agreement” shall mean this Agreement, and includes any amendments hereto made in accordance with the provisions hereof.

“Applicable Law” shall mean all laws in force and effect, as of the date hereof, and which may be promulgated or brought into force and effect hereinafter in India including judgments, decrees, injunctions, writs or orders of any court of record, as may be in force and effect during the subsistence of this Agreement and applicable to the Project/the Concessionaire.

“Applicable Permits” shall mean all clearances, permits, authorisations, consents and approvals required to be obtained or maintained by the Concessionaire under Applicable Law, in connection with the Project during the subsistence of this Agreement.

“Appointed Date” shall mean the date of this Agreement.

“Arbitration Act” shall mean the Arbitration and Conciliation Act, 1996 and shall include any amendment to or any re-enactment thereof as in force from time to time.

“Assured Waste Collection Quantity” shall mean the assured quantity of MSW required to be collected by the Concessionaire in accordance with Clause 5.10.

“Authorization” means any approval, consent, exemption, filling, license, authorization, permit, registration or waiver, and any renewal or variation of any of them howsoever described, necessary to fulfill obligations of the Concessionaire under this Agreement.

“Authorized Representative” : means, in respect of a Party, any person designated (whether by same or as the holder of a specified position or office) as such by such Party by notice in writing given to the other Party including, in the case of a person designated by name, a specimen signature of that person certified by the Party issuing the notice;

“Bio -medical Waste” shall have the meaning ascribed to it under the Biomedical Wastes (Management & Handling) Rules, 1998 and any amendments thereof.

“Book Value” means the value of the capital expenditure incurred on the Project as per the books of the Concessionaire, net of depreciation charged on the basis of straight line method and amortized equally over the Operations Period, duly verified and certified by an independent auditor in accordance with IGAAP.

“Change in Law” shall have the meaning ascribed thereto in Clause 8.7.

“COD” or “Commercial Operations Date” shall mean the date on which the Project Engineer has issued the Provisional Completion Certificate or the Completion Certificate for the Project Facility, in accordance with the provisions of this Agreement.

“Completion Certificate” shall mean the certificate issued by Project Engineer certifying, that:

- (i) the Concessionaire has constructed the Project Facility in accordance with the Construction Requirements; and
- (ii) the Concessionaire has obtained all approvals necessary for commercial operations of the Project Facility.

“Concession” shall have the meaning ascribed thereto in Clause 2.1 of this Agreement.

“Concession Period” shall have the meaning ascribed thereto in Clause 2.2.

“Concessionaire’s Equipment” means all machinery, equipment, apparatus and other things (other than Temporary Works) required for the execution and completion of the Works and the remedying of any defects, but does not include Plant, Materials, or other things intended to form or forming part of the Permanent Works.

“Conforming Waste” shall mean ,

- a. any MSW that conforms to the specifications of conforming waste set forth in MSW Rules
- b. any other MSW mutually agreed by Parties to be Conforming Waste from time to time

“Consortium”² shall mean the consortium consisting of (i) _____ and (ii) _____ formed/acting pursuant to the Memorandum of Understanding dated _____ entered into by them, for the purpose of submitting their proposal for undertaking the Project through M/s _____, a special purpose company formed and incorporated by them in India.

² In case the Successful Bidder is a Consortium

"Construction Documents" means all approved plans, manuals, drawings (including as built drawings), calculations, computer software (programs), samples, patterns and models prepared and used for construction of Project Facility.

"Construction Period" shall mean the duration of construction of Project Facilities commencing from the Appointed Date to the date of issue of Completion Certificate.

"Construction Requirements" shall mean Construction Requirements as set out in Schedule 3.

"Construction Works" shall mean all works and things required to be undertaken by the Concessionaire in accordance with the Construction Requirements.

"Contractor" shall mean any Person with whom the Concessionaire has entered into/may enter into any of the Project Agreements.

"Cure Period" shall have the meaning ascribed thereto in Clause 9.2(a)(iii) of this Agreement.

"Dehradun" or "Dehradun Municipal Limits" means the whole urban area falling within the jurisdiction of the NND as the Government of Uttarakhand may by notification specify from time to time and includes, inter-alia, all sixty (60) municipal wards under jurisdiction of NND.

"Drawings" shall mean all of the drawings including working drawings for the Project Facility, designs, calculations and documents pertaining to the Project in accordance with the Construction and O&M Requirements and shall also include the drawings of Mini Transfer Stations.

"Emergency" shall mean a condition or situation that is likely to endanger the safety of the individuals on or about the Project Facility including the safety of the users thereof or which poses an immediate threat of material damage to the Project.

"Encumbrance" shall mean any encumbrance such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations and shall include without limitation any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Project, physical encumbrances, claims for any amounts due on account of taxes, cesses, electricity, water and other utility charges and encroachments on the Project Facility .

"Environmental Laws" means all Laws pertaining to the protection of natural resources, the environment, the health and safety of the public, according to Environment (Protection) Act, 1986, The Air (Prevention and Control of Pollution) Act, 1981, The Water (Prevention and Control of Pollution) Act,

1974 and any other central, state or local law, regulation, rule, ordinance or order from government.

“Financial Close” shall mean fulfillment of all conditions precedent to the initial availability of funds under the financing documents/agreements.

“Financing Documents” shall mean collectively the documents evidencing Lenders’ commitment to finance the Project.

“Financial Year” shall mean the period commencing from April 1 of any given year to March 31 of the succeeding year.

“Force Majeure” or **“Force Majeure Event”** shall mean an act, event, condition or occurrence as specified in Article 8.

“Good Industry Practice” shall mean the exercise of that degree of skill, diligence, prudence and foresight in compliance with the undertakings and obligations under this Agreement which would reasonably and ordinarily be expected of a skilled and an experienced person engaged in the implementation, operation and maintenance or supervision or monitoring thereof of any of them of a project similar to that of the Project.

“Government Agency” shall mean Government of India, any state government or governmental department, commission, board, body, bureau, agency, authority, instrumentality, court or other judicial or administrative body, central, state, or local, having jurisdiction over the Concessionaire, the Project Site or any portion thereof, or the performance of all or any of the services or obligations of the Concessionaire under or pursuant to this Agreement.

“Handback Requirements” shall have the meaning ascribed thereto in Schedule 9.

“Hazardous Waste” shall have the meaning as defined under the Hazardous Wastes (Management and Handling) Rules, 1989 and as amended thereto.

“Lenders” shall mean financial institutions, banks, funds and trustees for bond holders or debenture holders, who provide funds to the Concessionaire for financing the cost of construction of the Project Facility or any part thereof.

“Materials” means things of all kinds (other than Plant) to be provided and incorporated in the Permanent Works by the Concessionaire, including the supply-only items (if any) which are to be supplied by the Concessionaire as specified in the Agreement.

“Material Adverse Effect” shall mean a material adverse effect on (a) the ability of the Concessionaire to exercise any of its rights or perform/discharge any of its duties/obligations under and in accordance with the provisions of this Agreement and/or (b) the legality, validity, binding nature or enforceability of this Agreement.

“Material Breach” shall mean a breach by either Party of any of its obligations under this Agreement which has or is likely to have a Material Adverse Effect on the Project and which such Party shall have failed to cure.

“MSW Rules” : shall mean the Municipal Solid Wastes (Management and Handling) Rules, 2000/ Solid Waste Management Rules 2016 and includes any amendments thereto.

“Municipal Solid Waste” or “MSW” : shall have the meaning ascribed to it in the MSW Rules.

“Non-Conforming Waste” : means any MSW which is not a Conforming Waste as set forth in the Clause 7.1.2.

“O&M Requirements” shall mean the requirements as to operation and maintenance of the Project Facility as set forth in Schedule 6.

“Operations Period” shall mean the period commencing from COD and ending at the expiry of the Concession /Termination.

“Parties” shall mean the parties to this Agreement and **“Party”** shall mean either of them, as the context may admit or require.

“Performance Security” shall mean the guarantee for performance of its obligations to be procured by the Concessionaire in accordance with Clause 5.1.

“Permanent Works” means the permanent works to be designed and executed in accordance with the Construction Requirements.

“Person” shall mean (unless otherwise specified or required by the context), any individual, company, corporation, partnership, joint venture, trust, unincorporated organization, government or Government Agency or any other legal entity.

“Plant” means machinery and apparatus intended to form or forming part of the Permanent Works, including the supply-only items (if any) which are to be supplied by the Concessionaire as specified in the Agreement.

“Preliminary Notice” shall mean the notice of intended Termination by the Party entitled to terminate this Agreement to the other Party setting out, inter alia, the underlying Event of Default.

“Project” shall mean Rehabilitation, Upgrade, Operate, Manage and Transfer (RUOMT) of: Door to Door Collection, Secondary Storage & Transportation of Waste (C&T) Solid Waste Management System in accordance with the provisions of this Agreement.

“Project Agreements” shall mean collectively this Agreement, O&M

Contract, and any other material contract (other than Financing Documents) entered into or may hereafter be entered into by the Concessionaire in connection with the Project.

“Project Assets” : shall mean the Project Equipments and Project Vehicles used during the Concession Period for the Project.

“Project Equipments” : shall mean all the equipments required for door to door collection, primary storage, secondary storage, transportation of waste & part of SWM System under this project, provided by NND to Concessionaire or procured by the concessionaire for the project Concession Period for the Project in accordance with provisions of this Agreement and Schedule 4.

“Project Engineer” shall mean a reputed Person being a firm, company or a body corporate appointed in accordance with Article 4 for supervision and monitoring of compliance by the Concessionaire with the Construction Requirements and O&M Requirements and to undertake, perform, carry out the duties, responsibilities, services and activities set forth in **Schedule 5**.

“Project Facility” shall mean collectively the project assets, equipments, door to door collection, secondary storage, transportation vehicles or any other facility which are required to be constructed, built, installed, erected or provided by the Concessionaire on the Project Site in accordance with the Construction Requirements and O&M Requirements.

“Project Facility Area” shall mean an area of land within Project Sites, more fully described in Schedule 1.

“Project Requirements” shall mean collectively the Construction Requirements, and O&M Requirements or any of them as the context may admit or require.

“Project Site” shall mean and include an area covering land at various locations in Dehradun more fully shown and described in Schedule 1.

“Project Vehicles” : shall mean all vehicles (motorized or non-motorized) provided by NND to Concessionaire or procured by concessionaire in accordance with provisions of this Agreement.

“Provisional Completion Certificate” means the Completion Certificate that may be issued by the Project Engineer pending completion of the Punch List items in accordance with Clause 5.4.

“Punch List” shall have the meaning ascribed thereto in Clause 5.4.

“Remuneration” shall mean all fees, costs, charges and expenses payable to the Project Engineer in accordance with the terms of his appointment.

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

“SPCD” or “Scheduled Project Completion Date” shall be as described in clause 5.4.5.

“SBI PLR” shall mean prime lending rate of State Bank of India.

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

“Temporary Works” means all temporary works of every kind (other than Concessionaire’s Equipment) required for the execution and completion of the Works and the remedying of any defects.

“Termination” shall mean early termination of the Concession, pursuant to Termination Notice or otherwise in accordance with the provisions of this Agreement but shall not, unless the context otherwise requires, include expiry of this Agreement due to efflux of time in the normal course.

“Termination Date” shall mean the date specified in the Termination Notice as the date on which Termination occurs.

“Termination Notice” shall mean the notice of Termination by either Party to the other Party, in accordance with the applicable provisions of this Agreement.

“Tests” shall mean the tests to be carried out in accordance with the Construction Requirements or the O&M Requirements and if not expressly specified in either of the said requirements, as instructed by the Project Engineer, in accordance with this Agreement.

“Tipping Fee ” : shall mean the amounts payable by NND to Concessionaire in accordance with Clause 7.1 and as quoted by the Bidder in its Financial Proposal.

“Works” means the Permanent Works and the Temporary Works or either of them as appropriate.

“User Charges” means the charges/ fees payable by the generators of the MSW in accordance with the notification issued by the Authority and described in Schedule 11.

1.2. Interpretation

In this Agreement, unless the context otherwise requires,

- a) any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies to, or is capable of being applied to any transactions entered into hereunder;
- b) references to Applicable Law shall include the laws, acts, ordinances, rules, regulations, notifications, guidelines or bylaws which have the force of law;
- c) the words importing singular shall include plural and vice versa, and

- words denoting natural persons shall include partnerships, firms, companies, corporations, joint ventures, trusts, associations, organizations or other entities (whether or not having a separate legal entity);
- d) the headings are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;
 - e) the words "include" and "including" are to be construed without limitation;
 - f) any reference to day, month or year shall mean a reference to a calendar day, calendar month or calendar year respectively;
 - g) any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both such days or dates;
 - h) any reference to any period of time shall mean a reference to that according to Indian Standard Time (IST).
 - i) the Schedules to this Agreement form an integral part of this Agreement as though they were expressly set out in the body of this Agreement;
 - j) any reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to that agreement, deed, instrument, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference;
 - k) references to recitals, Articles, sub-articles, clauses, or Schedules in this Agreement shall, except where the context otherwise requires, be deemed to be references to recitals, Articles, sub-articles, clauses and Schedules of or to this Agreement;
 - l) any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Agreement from or by any Party or by Project Engineer shall be valid and effectual only if it is in writing under the hands of duly authorised representative of such Party or Project Engineer in this behalf and not otherwise;
 - m) references to "Construction" includes investigation, design, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental thereto
 - n) the damages payable by either Party to the other of them as set forth in
 - o) this Agreement, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty or liquidated damages (the "Damages")

Concession

ARTICLE 2

2.1. Grant of Concession

Subject to and in accordance with the terms and covenants set forth in this Agreement, the Concessioneing Authority hereby grants and authorizes the Concessionaire to carry out:

- a. Door to Door Collection, Secondary Storage, Transportation (C&T) of Municipal Solid Waste ("MSW") as briefly described in the Scope of Work .
- b. Design, engineer, procure, finance, modify, construct, operate, maintain and transfer the Project Facilities; and
- c. Exercise and/or enjoy the rights, powers, benefits, privileges, authorizations and entitlements as set forth in this Agreement (hereinafter collectively referred to as "the Concessionaire").
- d. Notwithstanding anything to the contrary stated in this Agreement the Concessionaire shall not sub-let/sub-contract any of the Concessionaire's obligations under this Agreement except with prior written consent of the Authority.

2.2. Concession Period

The Agreement hereby granted is for a period of 10 (Ten) years from the, Appointed Date with an option to further extend the Concession Period by 5 (Five) years based on satisfactory performance of concessionaire and by mutual consent of the Parties of this Agreement or until earlier Termination thereof in accordance with the terms of this Agreement ("Concession Period").

Provided, in the event of Termination, the Concession Period shall mean and be limited to the period commencing from the Appointed Date and ending with the Termination Date.

Technical Committee and Expert Committee shall review the contract performance 6 months before the end of the concession period to assess the overall contract performance and recommend extension of the concession period if performance is found satisfactory.

2.3. Acceptance of Concession

In consideration of NND agreeing to permit the Concessionaire to receive User Charges, and any other amounts, and the rights, privileges and benefits conferred upon by the Concessioneing Authority and other good and valuable consideration expressed herein, the Concessionaire hereby accepts the Concession and agrees and undertakes to perform/discharge all of its obligations in accordance with the provisions hereof.

Project Site & Equipment

ARTICLE 3

3.1. Handover of Project Site & Equipment

- 3.1.1. NND & Concessionaire shall conduct a joint survey, within 7 days of the of all the existing vehicles & equipment being handed over to concessionaire and prepare a joint inventory list.
- 3.1.2. NND shall, within of 15 (fifteen) days from the Appointed Date, handover to the Concessionaire, vacant and peaceful physical possession of the Project Site for the purpose of the Construction, operation & maintenance of :
 - i. Mini Transfer Stations
 - ii. Workshop Facility for Vehicle Maintenance
 - iii. Secondary storage depots
 - iv. All the project vehicles scheduled for handover to concessionaire

Upon the Project Site being handed over pursuant to the preceding para, the Concessionaire shall, subject to the provisions of Article 5, have the right to enter upon, occupy and use the same and to make at its costs, charges and expenses such investigation, development and improvements in the Project Site as may be necessary or appropriate to implement the Project in accordance with the provisions of this Agreement.

3.2. Rights, Title and Use of the Project Site

- a) The Concessionaire shall have the right to the use of Project Site in accordance with the provisions of this Agreement and for this purpose it may regulate the entry and use of the same by third parties.
- b) The Project Site including the Project Facility developed thereon belongs to NND and shall continue to be the property of NND.
- c) The Concessionaire shall not part with or create any Encumbrance on the whole or any part of the Project Site, save and except as set forth and permitted under this Agreement.
- d) The Concessionaire shall not without the prior written approval of NND use the Project Facility for any purpose other than for the purpose of the Project and purposes incidental or ancillary thereto.
- e) The Concessionaire shall allow access to and use of the Project Site for laying/ installing/ maintaining telegraph lines, electric lines or for such other public purposes as NND may specify.

Provided that such access or use shall not result in a Material Adverse Effect and that NND shall, in the event of any physical damage to the Project Site/ Project Facility/ on account thereof, ensure that the Project Site/ Project Facility is promptly restored at its cost and expenses.

Provided further, that to the extent such access and use allowed by

the Concessionaire affects the performance of any of its obligations hereunder, the Concessionaire shall not be deemed or construed to be in breach of its obligations nor shall it incur/ suffer any liability on account thereof.

- f) The Concessionaire shall be at liberty to:
- i. demolish the existing structures within the Project Site subject to adherence to Project Requirements, Applicable Laws and Applicable Permits, and
 - ii. use, sell or dispose in accordance with Applicable Laws and Applicable Permits, the material obtained as a result of demolition under clause(i) above.
 - iii. to repair the existing bins, hopper, compactors and hyvas as per their planning, but within the jurisdiction of NND area.

3.3. Peaceful Possession

NND, as Concessioneing Authority, hereby warrants that:

- a) The Project Site together with the necessary right of way/ way-leaves
 - i. has been acquired through the due process of law
 - ii. belongs to and is vested in NND and that NND has full powers to hold, dispose of and deal with the same consistent, inter alia, with the provisions of this Agreement and that the Concessionaire shall, in respect of the Project Site, have no liability regarding any compensation payment on account of rehabilitation/ resettlement or land acquisition of any Persons affected thereby.
- b) The Concessionaire shall, subject to complying with the terms and conditions of this Agreement, remain in peaceful possession and enjoyment of the Project Site or part thereof until expiry of the Concession Period/ completion of Handback Requirements. In the event, the Concessionaire is obstructed by any Person claiming any right, title or interest in or over the Project Site or any part thereof or in the event of any enforcement action including any attachment, distraint, appointment of receiver or liquidator being initiated by any Person claiming to have any interest in/charge on the Project Site or any part thereof, NND shall, if called upon by the Concessionaire, defend such claims and proceedings and also keep the Concessionaire indemnified against any consequential loss or damages which the Concessionaire may suffer, on account of any such right, title, interest or charge.

3.4. Applicable Permits

The Concessionaire shall obtain and maintain all Applicable Permits in such sequence as is consistent with the requirements of the Project.

Project Engineer

ARTICLE 4

4.1. Procedure for Appointment

The Authority shall appoint a consulting engineering firm from a panel of firms or bodies corporate, constituted by the Authority substantially in accordance with the selection criteria set forth in **Schedule-5**, to be the independent consultant under this Agreement (the “**Project Engineer**”). The appointment shall be made no later than 15 (ninety) days from the date of this Agreement and shall be for a period of 3 (three) years. On expiry or termination of the aforesaid period, the Authority may in its discretion renew the appointment, or appoint another firm from a fresh panel constituted pursuant to **Schedule-5** to be the Project Engineer for a term of 3 (three) years, and such procedure shall be repeated after expiry of each appointment.

4.2. Payments to Project Engineer

- a) All fees, costs, charges and expenses payable to the Project Engineer in accordance with the terms of its appointment (collectively “the Remuneration”) shall be borne by the Concessionaire. But the payment shall be done by the NND, every month upto 7th day, the payment for the fee of Project Engineer shall be paid to NND by the concessionaire upto 5th of the month.
- b) The Project Engineer shall, simultaneous to submission of its invoice to the NND for payment of the Remuneration (hereinafter referred to as “Project Engineer Invoice”), submit a copy of the same to Concessionaire.
- c) In case of non-receipt of payment from Concessionaire, the fee shall be paid to Project Engineer and same shall be adjusted from the next tipping fee payment to Concessionaire.
- d) The Concessionaire shall make payment to the NND within above period.

4.3. Replacement of the Project Engineer

- a) The Parties may replace the Project Engineer in any of the following circumstances by giving a 30 days written notice :
 - i. If, NND or the Concessionaire has reason to believe that the Project Engineer has not discharged its duties in a fair, appropriate and diligent manner;
 - ii. if, in accordance with the terms of its appointment the Project Engineer resigns or notifies its intention not to continue as the Project Engineer;
 - iii. any other circumstance which in the opinion of the Parties warrants replacement of the Project Engineer.
- b) Subject to the attendant circumstances and unless the Parties otherwise agree, the procedure laid down in Clause 4.1 shall, as far as possible, be adhered to for replacement of the Project Engineer and the replacement shall be so effected as to maintain

continuity in the supervision and monitoring of the Construction Requirements and O&M Requirements.

Concessionaire's Obligations

ARTICLE 5

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

5.1. Performance Security

- a) The Concessionaire shall, for due and punctual performance of its obligations hereunder relating to the Project, deliver to NND, simultaneously with the execution of this Agreement, a bank guarantee from a scheduled bank acceptable to NND, in the form as set forth in Schedule 7, ("Performance Security") for a sum of Rs. _____/- (Rupees _____ Lakhs only). Till such time the Concessionaire provides to Concessioneing Authority the Performance Security pursuant hereto, the Bid Security shall remain in full force and effect. The Performance Security, if in the form of a bank guarantee shall be valid for an initial period of 36 (thirty six) months and shall be renewed 30 (thirty) Days prior to expiry of each year, for an additional term of 36 (thirty six) months. It is clarified that the Concessionaire shall be liable to restore the Performance Security to the full amount in case of part encashment of the same by the Concessioneing Authority. This shall be done within 30 (thirty) Days of any such part encashment. Failure of the Concessionaire to provide a valid Performance Security and/or restore and maintain the Performance Security in accordance with this clause shall entitle the Concessioneing Authority to forthwith terminate this Agreement and also if relevant, to forfeit the Bid Security.
- b) The Performance Security shall be kept valid for throughout the Concession Period from the Appointed Date.

Provided that if the Agreement is terminated due to any event other than a Concessionaire Event of Default, the Performance Security if subsisting as of the Termination Date shall, subject to NND's right to receive amounts, if any, due from the Concessionaire under this Agreement, be duly discharged and released to the Concessionaire.

5.2. Financing Arrangement

The Concessionaire shall at its cost, expenses and risk make such financing arrangement as would be necessary to implement the Project and to meet all of its obligations under this Agreement, in a timely manner.

5.3. Drawings, Technical Specifications & Detailed Project Report

5.3.1. Preparation of Drawings, Technical Specifications & Detailed Project Report

- a) The Concessionaire shall prepare Detailed Project Report, Technical Specifications & Drawings for the following aspects of the project :

- i. Smart SWM Collection System
 - ii. Smart SWM Control Room
 - iii. Upgradation of vehicles, equipment & project assets
 - iv. Construction of Mini Transfer Stations at 3 locations
 - v. Setting up of the workshop at designated location
 - vi. Addition of new equipment, vehicles and project assets
- b) This DPR should be in line with the Technical Proposal submitted at the bid stage. Improvement of the technical proposal will be acceptable but it shall not impact project quality & efficiency negatively or propose any increase of quote tipping fee.
- c) DPR should also be in line with the NND's proposed land parcels for the project and any additional land requirement will not be acceptable.
- d) DPR should be submitted within 15 days from date of contract signing.

5.3.2. Review by NND

- a) The Concessionaire shall promptly and in such sequence as is consistent with the Project Requirements, submit a copy of DPR, Technical Specifications & Drawings to the NND.
- b) By forwarding the Drawings to the NND pursuant to the preceding sub-clause (a), the Concessionaire shall be deemed to have represented that it has verified and determined that the DPR, Technical Specifications & Drawings forwarded are in conformity with the Project Requirements.
- c) Within 7 days of receipt of the DPR, Technical Specifications & Drawings, the Project Engineer shall review the same taking into account, inter alia, comments of NND, if any, thereon, and convey its comments/ observations to the Concessionaire on the conformity of submissions with Project Requirements. If the comments/ observations of the Project Engineer indicate that the submissions are not in conformity with the Project Requirements, such submissions shall be revised by the Concessionaire to the extent necessary and resubmitted to Project Engineer for further review. The Project Engineer shall give its observations and comments, if any, within 7 days of receipt of such revised submissions, which shall be taken into account by the Concessionaire while finalizing the DPR, Technical Specifications & Drawings.
- d) If, within the period stipulated in the preceding sub-clause (c), the Project Engineer does not respond to the submissions to it by the Concessionaire, the Concessionaire shall be entitled to proceed with the construction of the Project Facility on the basis of such Submissions submitted by it to the Project Engineer.
- e) Notwithstanding any review or failure to review by or the comments/ observations of the Project Engineer or NND, the Concessionaire shall be solely responsible for the adequacy of the DPR, Technical Specifications & Drawings and their conformity with the Project Requirements, and shall not be relieved or absolved in any manner whatsoever of any of its obligations hereunder.
- f) The Concessionaire shall be responsible for delays in meeting the

Project Requirements caused by reason of any DPR, Technical Specifications & Drawings not being in conformity with the Project Requirements, and shall not be entitled to seek any relief in that regard from NND.

- g) The Concessionaire shall in consultation with the Project Engineer finalize an Implementation Schedule for the Project in accordance with the Project Requirements and conditions of this contract.
- h) Within 15 days of issue of the Completion Certificate or Provisional Completion Certificate, as the case may be, the Concessionaire shall furnish to NND three copies of "as built" Drawing of the Construction & Other Project related Works which have been completed as on COD, in a manner as set out in Project Requirements.

5.4. Project Implementation

5.4.1. Phased Implementation

Project implementation shall be completed by Concessionaire in following Phases :

d) Phase 1

- i. In Phase 1 Concessionaire is expected to take over operations of Door to Door MSW Collection & Transportation from NND on as is where is basis.
- ii. As mentioned in clause 3.1 Concessionaire and NND shall complete joint inventory of the existing vehicles, equipment and all other project assets to decide the final list of project assets to be handed over to the concessionaire.
- iii. The concessionaire must complete the process of recruiting the necessary manpower for *taking over the operations within 30 days from receiving of Letter of Award and no later than 15 days from signing of this agreement*. There is a pool of workers available with the current contractor for door to collection and Concessionaire shall give preference to eligible workers from this pool for recruitment.
- iv. The concessionaire must make all preparations to setup a Basic SWM Control Room at NND's premises before taking over the operations.
- v. The concessionaire must take over the operations of MSW Door to Door Collection on or before 30th day from the date signing of this agreement.
- vi. Phase 1 of implementation will last upto maximum 60 days of signing this contract or commencement of Phase 2, whichever is earlier.
- vii. In Phase 1 Concessionaire must :
 - ☐ Collect MSW from all the households, other establishments & designated public places as was being done by NND prior to signing of the agreement.
 - ☐ Transport all the collected MSW to Sheeshambara Processing Plant or a location designated by NND.
 - ☐ Ensure weighing of all collected MSW at various

- designated points and finally at the processing plant.
- ☐ Setup & Operate SWM Control Centre at NND premises
- ☐ Conduct the household mapping for Smart SWM System
- ☐ Upgrade the existing vehicles, equipment and/or add new equipment & vehicles for Smart SWM System.
- ☐ Complete Setup of Smart SWM System with Smart SWM Control Centre
- ☐ Start setting up Workshop at designated location
- ☐ Ensure that every day minimum 200 MT MSW is delivered to Sheeshambara Processing Plant or location designated by the NND.
- ☐ Atleast one (1) Approved MSW weighing mechanism within NND's municipal jurisdiction to weigh all the vehicles destined for MSW Processing Site at Sheeshambara. This must be ready before commencing of taking over of Door to Door collection & transportation.
- viii. In Phase 1 Concessionaire Effective tipping fee shall be as 80% of the quoted tipping fee and shall be paid from the date of taking over of the operations
- e) Phase 2**
 - i. Phase 2 shall begin when following conditions are met :
 - ☐ Smart SWM System & Smart SWM Control Centre are commissioned by the Concessionaire.
 - ☐ All necessary & approved upgradation of vehicles & equipment are completed for existing project assets by the concessionaire.
 - ☐ All necessary new equipment, vehicles & project assets are procured and ready for deployment.
 - ii. Phase 2 must begin within 60 days from the signing of the agreement.
 - iii. Upon acceptance of commencement of Phase by NND the concessionaire shall be eligible to charge 90% of quoted tipping fee.
- f) Phase 3**
 - i. Phase 3 shall begin when following conditions are met :
 - ☐ Completion of Construction & Commissioning of Mini Transfer Stations at following locations :
 - a. Kargi
 - b. IT Park
 - c. Kaulagarh
 - ☐ All necessary vehicles and equipment for operation of Mini Transfer Stations are procured
 - ☐ Mini Transfer stations have completed due testing and are certified by Project Engineer as complete.
 - ☐ Completion of Construction & commissioning of Workshop at designated location
 - ii. Phase 3 must begin within 180 days from the signing of the agreement.
 - iii. Phase 3 will be the actual operations period of the project.
 - iv. Upon acceptance of commencement of Phase by NND the

concessionaire shall be eligible to charge 100% of quoted tipping fee.

5.4.2. Other Preparations for Project Implementation by the Concessionaire

- a) Concessionaire must get approval of Detailed Project Implementation plan, incorporating all the milestones of Phase 1 & Phase 2, from NND within 7 days of signing of this agreement.
- b) Concessionaire will ensure that it has necessary manpower and organization in place before taking over operations of Phase 1.
- c) Concessionaire must ensure that necessary Escrow accounts are opened within 7 days from signing of this agreement.
- d) Concessionaire must make all necessary financing arrangements for project implementation within 30 days of signing of this agreement.

5.4.3. Additional Project Assets

- a) NND may also handover following other project assets to Concessionaire during the course of the project :
 - i. Underground Dust Bins & related vehicles
 - ii. Under Dispute Transfer Station at Kargi
- b) NND may plan some additional mini transfer stations and related assets in new locations and the same shall be handed over to the concessionaire for operation & management after construction.
- c) NND shall allow Concessionaire to use part of existing workshop at Sahastradhara Road for setting up temporary workshop facility for Phase 1 & 2. After completion of Phase 2 Concessionaire shall move out all temporary equipment placed by it at this location.

5.4.4. Procurement of New Assets & Any construction works by Concessionaire

- a) The Concessionaire shall procure/provide the New Assets in accordance with the Development Plan and Construction Requirements and operate & maintain them during the Contract Period in accordance with this Contract Agreement.
- b) Unless otherwise permitted by NND, no Construction Works shall begin until the Project Engineer is in place and has assumed charge.
- c) The Concessionaire shall within 7 (Seven) days from the Appointed Date submit to the NND the Implementation Plan for execution of the Construction Works and shall adhere to the same.
- d) The Concessionaire shall submit such documents and reports as are reasonably required by the Authority for issue of the Completion Certificate.
- e) The Concessionaire shall get the Construction Drawings and other relevant documents approved by competent authority and as per Applicable Laws. NND shall assist the Concessionaire in obtaining approvals from the concerned authority.
- f) The Concessionaire shall make his own arrangements for adequate and timely supply of electricity, water, gas and other utilities

required for execution of the Construction Works and NND shall be in no way responsible for the same.

- g) During Construction Period, the Concessionaire shall be responsible for keeping unauthorized persons off Project Site, and authorized persons shall be limited to the employees of the Concessionaire, employees of his subcontractor and persons authorized by NND.
- h) The Concessionaire shall adhere to Construction Requirements as per approved DPR and instructions of Project Engineer;
- i) The Concessionaire may undertake Construction Works by itself or through a Contractor possessing requisite technical, financial and managerial expertise/ capability; but in either case, the Concessionaire shall remain solely responsible to meet the Construction Requirements.
- j) The Concessionaire shall, before commencement of Construction Works, have requisite organization and designate and appoint suitable officers/ representatives as it may deem appropriate to supervise the Project, to deal with the NND and to be responsible for all necessary exchange of information required pursuant to this Agreement;
- k) For the purposes of determining that Construction Works are being undertaken in accordance with the Construction Requirements of approved DPR, the Concessionaire shall with due diligence carry out all necessary and periodical Tests in accordance with and as per the instructions of the Project Engineer and such Tests shall be carried out under the supervision of the Project Engineer. The Concessionaire shall maintain proper record of such Tests and the remedial measures taken to cure the defects or deficiencies, if any, indicated by the Test results.
- l) If the Tests are successful and the Project Facility can be safely and reliably opened for operation, the Project Engineer shall issue the Completion Certificate within 7 days of the completion of such Tests.

Provided that, notwithstanding that certain works or things forming part of Construction Works as per agreed DPR are not complete, if following Tests the Authority determines that the Project Facility can be safely and reliably opened for operations, the Authority may issue Provisional Completion Certificate to the Concessionaire. The Provisional Completion Certificate shall have appended thereto a list of outstanding items signed jointly by the Authority and the Concessionaire ("Punch List"). All Punch List items shall be completed by the Concessionaire within such time as may be determined by the Authority, but not exceeding 15 days from the date of issue of the Provisional Completion Certificate. Upon satisfactory completion of all Punch List items, the Authority, shall promptly and in any case within 7 days thereof, issue the Completion Certificate.

- m) If the Concessionaire fails to complete the Punch List items within the said period of 15 days, NND may, without prejudice to any other rights or remedy available to it under this Agreement, have such items completed at the risk and costs of the Concessionaire. In such an event, the Concessionaire shall reimburse to NND, one and half

times of the cost incurred by NND in completing the Punch List items, (as certified by the Authority), within 7 days from the date of receipt of a claim in respect thereof from NND. The Authority may issue Project Facility Completion Certificate only upon such reimbursement being made by the Concessionaire to NND.

- n) The Authority, may, by written notice, require the Concessionaire to suspend forthwith the whole or any part of the Construction Works, if in its reasonable opinion the same is being carried on in a manner that is not in conformity with the Construction Requirements.

5.4.5. Scheduled Project Completion Date (SPCD)

- a) Scheduled Project Completion Date shall be considered as 180th day from the signing of this agreement ie. [Fill Exact date here at the time of agreement signing]
- b) On SPCD Concessionaire must obtain completion certificate for all the items as per NND approved DPR.
- c) The Construction Works shall be deemed to be complete and ready for commercial operations only when the Provisional Completion Certificate or the Completion Certificate is issued by the Project Engineer in accordance with the provisions of this agreement.

5.4.6. Commencement of Operations Date(COD)

- a) Commencement of Operations Date shall be considered when only when the Provisional Completion Certificate or the Completion Certificate is issued by the Project Engineer.
- b) Provisional Completion Certificate or Completion Certificate shall be given only when all the proposed construction works, procurement of vehicles & equipment and their commissioning stage is complete as per approved DPR.
- c) Concessionaire must achieve COD on or before the SPCD.

Provided that, on the written request by the Concessionaire for extension of SPCD, NND may consider such a request. However, such extension shall in no case exceed 30 days from SPCD. In the event Concessionaire is not able to achieve COD within such extended period, it shall be deemed a Concessionaire Event of Default under **Clause 9.1(a)**. Any delay in COD from SPCD shall attract a penalty of 0.2% of Performance Guarantee per day but not exceeding 20% of the value of Performance Guarantee in total.

Provided if COD is delayed beyond 30 days of the SPCD, NND shall, subject to the provisions of **Article 8**, be entitled to terminate this Agreement and to appropriate the Performance Security.

5.5. Operation and Maintenance

- a) The Concessionaire shall operate and maintain the Project Facility in accordance with the O&M Requirements in terms of **Schedule 6**.
- b) The Concessionaire may undertake operations and maintenance of

the Project Facility by itself or through a Contractor possessing requisite technical, financial and managerial expertise/ capability; but in either case, the Concessionaire shall remain solely responsible to meet the O&M Requirements.

- c) The Concessionaire shall, during the Operations Period :
 - (i) shall have requisite organization and designate and appoint suitable officers/ representatives as it may deem appropriate to supervise the Project Facility, to deal with the NND and to be responsible for all necessary exchange of information required pursuant to this Agreement;
 - (ii) shall, for the purposes of determining that the Project Facility is being maintained in accordance with the O&M Requirements, the Concessionaire shall with due diligence carry out all necessary and periodical Tests in accordance with and as per the instructions of the Authority and such Tests shall be carried out under the supervision of the Authority. The Concessionaire shall maintain proper record of such Tests and the remedial measures taken to cure the defects or deficiencies, if any, indicated by the Test results.
- d) The Concessionaire shall during the Concession Period in accordance with the provisions of this Agreement:
 - i. Shall ensure that all the Secondary Waste Storage Depots/ Mini Transfer Stations and waste storage containers site falling in all wards are kept clean all the time and shall be fully cleaned at the time of lifting the waste and the surrounding shall also be cleaned by brooming to remove all the litter around the depot.
 - ii. All Waste collection & transportation vehicle & equipment are duly covered as per best industry practices and littering while transportation is strictly avoided.

5.6. Project Vehicles / Equipments

The Concessionaire shall operate and maintain all the Project Vehicles and Project Equipments in accordance with the O&M Plan, O&M Manual Good Industry Practice and applicable law throughout the Concession Period.

5.6.1. Deployment of Tools, Equipment and Machinery, Vehicles and their Calibration

- a) The Concessionaire shall deploy at his own cost all materials, plant, tools, appliances, implements, required for the proper execution of the Agreement and give the ward wise plan of the deployment to the Authority. The vehicles and man power shall be deployed accordingly and the Authorities' Supervisory staff shall have the authority to verify the same.
- b) The Concessionaire shall provide the designated Authority, the list of vehicles to be deployed with their registration number. The vehicles so deployed for collection and Transportation of the MSW in pursuance of this Agreement shall be volumetrically calibrated and such calibration details shall be mentioned on the log book of each vehicle.

- c) The Carrying capacity of the vehicles will be governed by the calibrated volume and the weight of the MSW carried and weighed shall not exceed the calibrated authentication except in exceptional circumstances which shall restrict the weight to plus/minus 5% of the calibrated volume.

5.6.2. Display name of the Authority & Slogans on the vehicles & machinery used for SWM Services

- a) The Concessionaire shall display his name on all the vehicles engaged by him for the SWM services alongside the logo & name of the Authority. The display of advertisement shall be approved by the Authority.
- b) The Concessionaire shall further utilize the space on the vehicles and equipment for advertising only IEC material to create public awareness and ensure community participation. The content of the advertisement and the space shall be decided by the Concessionaire in consultation with the Authorities.

5.6.3. Vehicle Tracking and Monitoring System

The Concessionaire shall at his own cost and expense install a Vehicle Tracking and Monitoring System, as part of Smart SWM System, in all the vehicles used by the Concessionaire for collection and Transportation of MSW including the vehicles purchased from the Authority. The vehicle tracking and monitoring system should be able to provide the real time data related to the time position, waste collection, households/establishments service and route taken by the vehicles and generate reports in the manner desired by the Authority.

5.6.4. Repair and Replacement

- a) The Concessionaire shall at its cost, plan for replacement, replenishment and renewal as the case may be of the assets (including equipment/ vehicles) well ahead of the time when such assets thereof is reasonably expected to expire its operating life or its impending obsolescence and replace the assets in accordance with Good Industry Practice so as to ensure that the Project operations are performed with the requirements of this Agreement, at all times during the Concession Period.
- b) The Concessionaire shall not remove from the Project Facilities, any equipment, materials, consumable and non-consumable items that are required for the Project, without the prior written consent of the Authority.
- c) A Technical Committee shall be setup to approve any condemning of vehicles handed over by NND to the concessionaire, to ensure that due process is followed as per rules & regulations of Nagar Nigam for this purpose. However this technical committee shall not be responsible for approval of condemning and replacement of vehicles & equipment procured by the concessionaire. Consent of Technical Committee

however will be taken in finalizing specifications for all essential vehicles and equipment.

- d) The Concessionaire shall maintain and complete accurate records of all equipment, materials, consumables and spare parts procured and shall provide copies of such records to the Authority upon request.
- e) Repair and maintenance of all project assets shall be responsibility of the Concessionaire. Concessionaire must ensure that all necessary preventive maintenance mechanisms are employed as per best industry practice with due warranty & Annual/ comprehensive maintenance contracts. Any end of life vehicles & equipment must be replaced as per best industry practices to ensure safety of operators and improvement in efficiency of operations.

5.7. Indemnification against Accidents

- a) The Concessionaire shall be solely responsible for and keeps the Authority indemnified against all the claims, damages, expenses, losses or injury to persons or property that may arise during the Concession Period from the Project including the vehicles/equipment provide by the Authority.
- b) On the occurrence of an accident which leads or may lead to human loss, the Concessionaire shall within 21 (twenty one) hours of such accident, report in writing to the Authority clearly stating the facts in sufficient details explaining the circumstances of such accident and the subsequent actions taken by the Concessionaire.
- c) In the event, compensation may become payable under any act or by judgment of any court/competent Authority thereof whether such compensation become payable by the Concessionaire or by the Authority, the same shall be borne and paid by the Concessionaire. If Concessionaire fails to pay the requisite compensation, Authority shall have the right to recover the same by encashment of the Performance Security.

5.8. Insurance

5.8.1. Construction Period

The Concessionaire shall at its cost and expense, purchase and maintain by due reinstatement or otherwise, during the Concession Period all insurances in respect of the Project Facility in accordance with the Good Industry Practice.

5.8.2. Operations Period

The Concessionaire shall at its cost and expense, purchase and maintain by re-instatement or otherwise, for the Operations Period, insurance against :

- i. loss, damage or destruction of the Project Facility, at replacement value;
- ii. the Concessionaire's general liability arising out of the Concession;

- iii. necessary motor vehicle insurances for all vehicles
- iv. liability to third parties;
- v. any other insurance that may be necessary to protect the Concessionaire, its employees and its assets against loss, damage, destruction, business interruption or loss of profit including insurance against all Force Majeure Events that are insurable.

5.8.3. Evidence of Insurance

The Concessionaire shall maintain a register of entry in order of premium paid towards the Project Facility and proof of payments made shall be submitted to NND whenever requested for.

5.8.4. Validity of Insurance

The Concessionaire shall, from time to time, promptly pay insurance premium, keep the insurance policies in force and valid throughout the Concession Period. The insurance policy shall not be cancelled or terminated unless 60 days' clear notice of cancellation is provided to NND in writing.

If at any time the Concessionaire fails to obtain or maintain in full force and effect any and all of the insurance required under this Agreement, NND may at its option (but not being obliged to do so) obtain and maintain such insurance and all sums incurred by NND thereof shall be reimbursed by the Concessionaire to NND together with interest thereon at 5% (five) percent over SBI PLR from the date the respective sums were incurred by NND, within 7 (seven) days from the receipt of claim in respect thereof made by NND.

5.8.5. Application of Insurance Proceeds

Subject to the provisions of the Financing Documents, the proceeds of all insurance policies received shall be promptly applied by the Concessionaire towards repair, renovation, restoration or re-instatement of the Project Facility or any part thereof which may have been damaged or destroyed. The Concessionaire may designate the Lenders as the loss payees under the insurance policies or assign the insurance policies in their favour as security for the financial assistance provided by them to the Concessionaire. The Concessionaire shall carry out such repair, renovation, restoration or re-instatement to the extent possible in such manner that the Project Facility after such repair, renovation, restoration or re-instatement be as far as possible in the same condition as it were prior to such damage or destruction, normal wear and tear excepted.

5.8.6. Un-insurable Risks

If during the Concession Period, any risk which has been previously insured becomes un-insurable due to the fact that the insurers have

ceased to insure such a risk and therefore insurance cannot be maintained/ re-instated in respect of such risk, the Concessionaire shall not be deemed to be in breach of its obligations regarding insurance under this Agreement.

5.9. Environmental Compliance

Environment Impact Assessment (EIA) has been received from the Ministry of Environment Forests & Climate Change (MoEF&CC) vide their letter # F-No.10-62/2011/I-A.III/ GoI/ MoEF&CC dated 08/12/2014. The project was accorded ToR vide letter No. F.No.10-62/2011/I-A-III dated 03/08/2011. The concessionaire shall adhere and comply with all the terms of EIA Approval.

The Concessionaire shall, ensure that all aspects of the Project Facility during the Concession Period and processes employed in the construction, operation and maintenance including post closure maintenance thereof shall conform to the laws pertaining to environment, health and safety aspects including MSW Rules, policies and guidelines related thereto.

The Concessionaire shall obtain and maintain from time to time all necessary clearances from the Pollution Control Board or any other similarly empowered Government Agency and for this purpose shall carry out the necessary environmental impact assessment studies and implement appropriate environment management plans in respect of the Project Facility.

5.10. Assured Waste Collection Quantity

- a) The Concessionaire hereby undertakes to collect & transport to waste processing site a certain minimum amount of MSW per day ("Assured Waste Collection Quantity") as below :
 - i. For Phase 1 & 2: 200 MT per day
 - ii. For first 12 (twelve) months in Concession Period starting from COD: 250 MT per day.
 - iii. For month 13 to month 24 in Concession Period starting from COD: 300 MT per day

The Concessionaire would cover the entire Dehradun Municipal Area and ensure that MSW is collected from all the household and institutions at least once a day. Further the Concessionaire This is a service level and would be monitored to assess the project outcome.

- b) Assured Waste Collection Quantity for other periods in the Concession Period shall be mutually agreed between NND and the Concessionaire at least 2 (two) months in advance of a Financial Year (or part thereof) for that Financial Year (or part thereof).

- c) For avoidance of doubt, it is clarified that in any Financial Year the Assured Waste Collection Quantity shall not be lower than the same for the immediately preceding Financial Year.
- d) For avoidance of doubt, it is clarified that for calculation of MSW collected by Concessionaire and its comparison with respect to the above mentioned guarantee by the Concessionaire, Non Conforming Waste collected by the Concessionaire in excess of 10% of total MSW quantity delivered shall not be considered.
- e) For avoidance of doubt, it is clarified that the final quantity of Conforming MSW delivered to Waste processing site by the concessionaire, only from NND Municipal limits or including any other area with due permissions of NND, between 5AM to 8PM of the day shall be considered for all calculations.

5.11. Weighing of the Waste

5.11.1. Weighing during collection and Transportation

- a) The Concessionaire shall be responsible for setting up vehicle based weighing system for MSW collected as part of the Smart SWM system. This is to ensure that household/establishment based waste collection data could recorded in the process.
- b) Waste transferred from Door to Door Collection vehicles must be weighed using weighbridges at the mini transfer stations/secondary waste storage points/transfer stations/compacting stations to record final waste collected and transported by each such vehicle/equipment.
- c) Vehicles used for final transport to Waste processing sites should be weighed before start of their final journey to record gross weight of vehicle & net weight of the MSW being transported. The waste processing project Concessionaire & The Project Engineer shall record at least the following data for each and every vehicle:
 - i. Date of operation
 - ii. Registration number of the truck supplying Municipal Solid Waste/ Lorry number
 - iii. Total laden weight of the Vehicle
 - iv. Time of arrival of the Vehicle
 - v. Total unladen weight of the Vehicle
 - vi. Net weight of Municipal Solid Waste
 - vii. Time of exit of the Vehicle
 - viii. Origin ULB and ward number/s
- d) These weighbridges shall be procured & maintained by the concessionaire and operated by the project engineer firm.
- e) All weighbridges shall be audited & calibrated as per conditions of this contract.

5.11.2. Weighing at the Waste Processing Site

- a) All the Conforming MSW collected by the concessionaire shall be transported to the waste processing site and weighed at the processing site again for final recording of the weight. All payments shall be made

- as per
- b) The Concessionaire for waste processing project shall, at its cost, install and maintain weighbridge(s) at the Processing site, which is capable of accurately measuring all types of MSW to enable the Parties to determine all quantities and make all calculations, referred to in this Agreement.
 - c) The weigh bridges are to be procured and maintained by the waste processing project Concessionaire but operated and managed by the Project Engineer Firm.
 - d) The waste processing project Concessionaire & The Project Engineer shall record at least the following data for each and every vehicle:
 - ix. Date of operation
 - x. Registration number of the truck supplying Municipal Solid Waste/ Lorry number
 - xi. Total laden weight of the truck
 - xii. Time of entry of the truck
 - xiii. Total unladen weight of the truck
 - xiv. Net weight of Municipal Solid Waste
 - xv. Time of exit of the truck
 - xvi. Origin ULB and ward number/s

5.11.3. Accuracy of Weighbridge & weighing systems

- a) The Concessionaire shall, at its cost, ensure that the weighbridges and other weighing equipments are maintained, operated and inspected in accordance with all Applicable Laws and that it accurately measures and records all types of MSW received by the Concessionaire
- b) Without limiting to the preceding Clause (a), the Concessionaire shall ensure a calibration test of the weighbridge at least once every six (6) months and a copy of the calibration test result shall be sent to NND as soon as possible after the test is carried out.
- c) The calibration test referred to in the preceding Clause (b) shall be carried out after giving a reasonable opportunity to NND and in presence of Project Engineer.

5.11.4. Audit

- a) The Project Engineer/ NND may conduct or arrange an audit of the weighbridge data and records for the purpose of verifying weighbridge data provided by the Concessionaire.
- b) The Project Engineer/ NND shall give the Concessionaire at least 7 (seven) days notice of NND's intention to conduct or arrange for the conduct of an audit.

5.11.5. Adjustment

- a) If a calibration test conducted under Clause 5.11.3 or an audit conducted under Clause 5.11.4 shows that the weighbridge has been inaccurately measuring any of the items referred to in Clause 5.11, the Parties may issue debit notes or credit notes, as the case may be,

for any reasonable adjustments necessary to give effect to the result of the Calibration test or the audit.

- b) If it is not possible to accurately determine the date from which the weighbridge began inaccurately measuring any of the items referred to in Clause 5.11, the Parties shall assume that the weighbridge had been:
 - i. accurately measuring the relevant items referred to in Clause 5.11 from the date of the last accurate calibration test until the Halfway Point; and
 - ii. inaccurately measuring the relevant items referred to in Clause 5.11 from the day after the Half Way Point until the date of the calibration test that revealed that the weighbridge has been measuring accurately.
- c) For the purpose of preceding clause, the term "Half Way Point" means the day which is half way between the date of the last accurate calibration test and the date of the calibration test that revealed that the weighbridge has been measuring inaccurately.

5.12. Daily Reporting

- a) Smart SWM System must be able to generate reports of daily MSW collection & transportation for various levels of reporting to the authority, public information dissemination and within its organization.
- b) These reports should be made available in electronic form or other formats to NND & GoUK agencies. There shall also be a daily summary report certified by the Project Engineer which shall be submitted to NND by the concessionaire.
- c) All the weighbridge and weighing equipment record shall be stored safely by the concessionaire for future audit purposes for at least 2 years.

5.13. Biomedical Waste, Hazardous Waste

Collection of Bio-medical Waste is not within the purview of this Project and it is supposed to be handled as per Bio-medical Waste (Management and Handling) Rules 1998. The Concessionaire is therefore under no obligation to collect, Transport, treat, or dispose of Bio-medical Waste. However, in the event of finding Bio-medical Waste disposed off unscientifically along side Municipal Solid Waste or mixed with MSW, in the wards covered in Total Sanitation or Partial Sanitation, the Contractor shall notify the same to the Authority who shall arrange to pick up such Bio-medical Waste in the manner as deemed appropriate. The Concessionaire shall not take such Bio-medical Waste to the MSW Treatment Facility as it may contaminate compost or any other product derived from the Waste.

5.14. Smart SWM System & Management Information System

The Concessionaire shall establish a Smart SWM System and install appropriate software to maintain records of the Project operations. A Smart SWM Control Centre shall also be established by the concessionaire at NND premises to ensure operation oversight by NND at all times.

Management Information System (MIS) MIS shall also be developed to generate relevant daily, weekly, monthly, quarterly and annual reports for various levels of reporting at NND & Concessionaire.

Details of Smart SWM System & MIS are at **Schedule 10.**

5.15. Shareholding³

The Concessionaire hereby undertake that, it shall incorporate a special purpose vehicle (the “SPV”) under the Indian Companies Act 2013 for entering into a Concession Agreement with the Authority and for performing all its obligations as the Concessionaire in terms of the Concession Agreement for the Project.

The Lead Member of the Concessionaire as per Joint Bidding Agreement undertake that a minimum of 26% (twenty six per cent) of the subscribed and paid up equity share capital of the SPV shall, at all times till the second anniversary of the date of commercial operation of the Project, be held by the Parties of the First, {Second and Third} Part whose experience and net worth have been reckoned for the purposes of qualification and short-listing of Bidders for the Project in terms of the RFP.

5.16. Indemnity by Concessionaire

The Concessionaire shall indemnify and hold harmless NND, the Project Engineer and their employees from and against all claims, damages, losses and expenses arising out of or resulting from Concessionaire’s negligence or breach in execution of the Construction Works and any activity incidental thereto.

5.17. IEC Campaign

Public awareness and public’s active participation in SWM program is extremely essential for the successful implementation of the MSW RULES. Citizens need to be educated to segregate biodegradable and non bio degradable waste at the source of its generation and store them in two separate domestic/trade/institutional bins. A massive, regular and well designed IEC campaign shall have to be undertaken by the concessionaire. The IEC campaign shall be carried out for at least 5 years and should cover at regular intervals, displaying messages on the hoardings, cinema halls and TV channels, radio channels, conducting

³ **Shareholding of Special Purpose Vehicle for the implementation of the Project.**

public meetings, holding rallies, engaging NGOs/CBOs/voluntary organizations to create awareness

5.18. General Obligations

The Concessionaire shall at its own cost and expense:

- a) investigate, study, design, finance, construct, operate and maintain the Project Facility in accordance with the provisions hereof;
- b) obtain all Applicable Permits as required by or under the Applicable Law and be in compliance thereof at all times during the Concession Period;
- c) comply with Applicable Law governing the operations of the Project Facility, as the case may be, at all times during the Concession Period;
- d) ensure and procure that each Project Agreement contains provisions that would entitle NND or a nominee of NND to step into the same at NND's discretion, in place and substitution of the Concessionaire, pursuant to the provisions of this Agreement ;
- e) procure and maintain in full force and effect, as necessary, appropriate proprietary rights, licenses, agreements and permissions for materials, methods, processes and systems used in or incorporated into the Project ;
- f) appoint, supervise, monitor and control as necessary, the activities of Contractors under the respective Project Agreements;
- g) make efforts to maintain harmony and good industrial relations among the personnel employed in connection with the performance of its obligations under this Agreement and shall be solely responsible for compliance with all labour laws and solely liable for all possible claims and employment related liabilities of its staff employed in relation with the Project and hereby indemnifies NND against any claims, damages, expenses or losses in this regard and that in no case and shall for no purpose shall NND be treated as employer in this regard;
- h) make its own arrangements for construction materials and observe and fulfill the environmental and other requirements under the Applicable Law and Applicable Permits;
- i) be responsible for all the health, security, environment and safety aspects of the Project Site/ Project Facility, as the case may be, at all times during the Concession Period;
- j) ensure that the Project Site remains free from all encroachments and take all steps necessary to remove encroachments, if any;
- k) upon receipt of a request thereof, afford access to the Project Facility to the authorised representatives of NND for the purpose of ascertaining compliance with the terms, covenants and conditions of this Agreement and to any Government Agency having jurisdiction over the Project, including those concerned with safety, security or environmental protection to inspect the Project Facility and to investigate any matter within their authority and upon reasonable notice, the Concessionaire shall provide to such persons assistance

- reasonably required to carry out their respective duties and functions.
- l) pay all taxes, duties and outgoings, including utility charges relating to the Project Facility, as applicable throughout the Concession Period.
 - m) make its own arrangements for the engagement of the employees and labour engaged for execution of the Construction Work.
 - n) keep on the Project Site two complete sets of this Agreement, Construction Documents, approvals given by the NND/ Project Engineer and any other communication given or issued under provisions hereof for inspection, verification and use by the NND/ Project Engineer or any authority authorised by law to inspect the same or any of them.
 - o) provide and maintain all necessary accommodation and welfare facilities for its staff and labour.
 - p) take precautions to ensure the health and safety of its staff and labour.
 - q) Employ adequate number of appropriately qualified, skilled and experienced persons in order to execute the Construction Works. The Project Engineer may require the Concessionaire to remove any person employed on the Project Site or Construction Works, who in the opinion of the Project Engineer:
 - i. persists in any misconduct,
 - ii. is incompetent or negligent in the performance of his duties,
 - iii. fails to conform with any provisions of the Agreement, or
 - iv. persists in any conduct which is prejudicial to safety, health, or the protection of the environment

The Concessionaire shall in such cases appoint suitable replacement/s.

- r) take reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst its staff and labour and to preserve peace and protection of persons and property throughout the Concession Period against such conduct.
- s) The Concessionaire shall at its own cost and expense:
 - i. endeavor to improve the ancillary conditions and infrastructure related to the Project, including any assistance to be provided to informal recycling workers s required by MSW Rules/SWM Rules 2016;
 - ii. The Concessionaire shall at his/ their own cost provide his/ their labor with a suitable protective uniform which shall be mandatory for the worker to wear while on duty. The uniform shall have following specification:
 - ☐ The color of the uniform shall be bright, visible from distance and approved by the NND.
 - ☐ The uniform shall have besides apparel for male and female, a cap, Protective gloves, boots, masks etc as approved by NND.
 - ☐ The Uniform and the cap shall bear the logo of the Authority.

- The Concessionaire shall provide adequate supply for drinking water for the laborer reporting at the place of marking attendance.

5.19. No Breach of Obligations

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

- i. Force Majeure Event, subject to **Clause 8.3**;
- ii. NND Event of Default;
- iii. Compliance with the instructions of the Project Engineer/ NND or the directions of any Government Agency other than instructions issued as a consequence of a breach by the Concessionaire of any of its obligations hereunder;
- iv. Closure of the Project Facility or part thereof with the approval of NND.

5.20. Expenses Towards Statutory Deposits and Charges

The Concessionaire shall reimburse to NND, service charges towards connection of utilities to the Project Facility in the Project Site, other taxes such as property tax, water tax and sewerage charges for the Project Site.

5.21. Safety during Construction, Operation and Maintenance of Project facilities

Due Precautions shall be taken by the Concessionaire, at his own cost, to ensure the safety and protection against accidents of all staff and labor engaged on the Works, local residents in the vicinity of the works, and the public travelling through the works. The Concessionaire shall have on his staff on site a designated officer Qualified to promote and maintain safe working practices. This officer shall have authority to issue instructions and shall take protective measures to prevent accidents, including but not limited to the establishment of safe working practices and the training of staff and labor in their implementation. Handbook on Construction Safety Practices shall be made by the Concessionaire during entire period of the contract.

5.22. Special services in hilly areas

During monsoon the rain water brings along with it silt and stones etc. which get deposited in the passages blocking the right of way of the people living in these areas causing hardship to them till the silt and stones are removed. The Concessionaire shall design suitable system of door to door collection of waste for these areas manually and on daily basis and assist NND in designing system/workflow for removal of silt & stones to keep the passages clean. Such silt & stones should be carried to designated spot for Construction debris storage area of NND.

5.23. Group Insurance

The Concessionaire shall take group insurance of the work force deployed on the project against any accident, disability or death while on duty.

NND's Obligations

ARTICLE 6

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

6.1. Specific Obligations

- a) NND shall handover the possession of the Project Site to the Concessionaire in accordance with the Agreement;
- b) NND shall handover to the concessionaire all the vehicles & equipment scheduled for handover
- c) Prior to handover of the Project Site to the Concessionaire, NND shall remove all encroachments from the Project Site;
- d) Provide space in NND for setting up Smart SWM Control Centre.
- e) authorizations which the Concessionaire may require or is obliged to NND shall grant in a timely manner all such approvals, permissions and seek from NND under this Agreement, in connection with implementation of the Project and the performance of its obligations.
- f) Provide Capital Grant as quoted by concessionaire.

6.2. General Obligations

NND shall:

- a) Upon written request from the Concessionaire and subject to the Concessionaire complying with Applicable Laws, provide reasonable support and assistance to the Concessionaire in procuring Applicable Permits required from any Government Agency for implementation of the Project. It is clarified that, the Concessionaire shall be solely responsible for obtaining all Applicable Permits;
- b) observe and comply with all its obligations set forth in this Agreement.

6.3 Monitoring Mechanism by the Authority

- a) The Authority shall appoint its person as Sanitary Supervisor/ Inspector of the respective area for ensuring fairness to both sides a monitoring mechanism is devised as under to keep a day to day record and ensure that Concessionaire is performing his duties as per the Agreement and paid accordingly.
- b) The following Monitoring Mechanism is therefore be adopted by the Authority besides the internal monitoring to be done by the Concessionaire, he shall extend full support to the Authority in this regard

i. Door to Door Collection:

Each Sanitary Supervisor/ Inspector of the respective area, shall take a round during collection hours to verify whether the work is being done as expected and interact with citizens by rotation in different areas under him to ascertain whether Door to Door Collection is being done to their satisfaction. He should report each day the areas visited and his observations in the prescribed

Performa and submit to his next superior officer.

- ii. **Verification fleet of Vehicles and Manpower:**
Sanitary Inspector/ Ward office shall be authorized to verify whether the required fleet of vehicles and man power are deployed by the Concessionaire or there is a shortfall due to any reason.
- iii. **Secondary Storage/ Mini Transfer Stations and Transportation of Waste:**
The inspector to invariably take a round before the close of day to find out whether all the Secondary Waste Storage Depots sites are attended to and are cleaned and record his observation in the prescribed form. He should also take at random feed back by rotation in different areas to find out from the citizens whether bins are being lifted each day before they overflow and submit his report to his next superior.
- iv. **Recording of weight of Waste Transported:**
NND shall appoint Project Engineer to monitor and record the Transportation of Waste at the weigh bridge constructed by the Concessionaire or authorized Weigh Bridge on a day to day basis. Municipal Commissioner may appoint a Supervisor or an Officer for monitoring and coordination of this activity.

6.4 Monitoring and Assessment

6.4.1 NND has established a citizen helpline and control room for SWM. It shall continue to monitor the customer requests through this system and ensure compliance by the concessionaire.

6.4.2 Expert Committee

- a) NND, in consultation with Government of Uttarakhand, shall set up a program monitoring mechanism including an Expert Committee comprising of domain experts from government, Nagar Nigam Dehradun, public to periodically monitor the project deliverables.
- b) The expert committee would be chaired by a representative, not below the rank of Mayor, from the Dehradun Nagar Nigam, Government of Uttarakhand.
- c) The other members of the expert committee would be as under:
 - i. Representative of NND not below the rank of Additional Municipal Commissioner
 - ii. Municipal Health Officer
 - iii. Representative from public group/ any stake holder
 - iv. Representative nominated by UDD/ Government of Uttarakhand.
- d) Since the treatment of MSW in accordance with MSW Rules are the prime deliverables of the entire project, the expert committee would

evaluate the efforts and outputs of these activities by the concessionaire.

- e) The expert committee shall submit its report to the government regarding the achievement of projects deliverables - low, moderate, satisfactory, excellent etc with specific recommendation(s) on continuance/discontinuance/restructuring of the project. The findings of the expert committee would be considered to be final and binding.
- f) If the project deliverables are found to be moderate or low, the expert committee would direct NND to plan corrective action(s) with the concessionaire and implement the same to achieve desired outputs within sixty (60) days.
- g) The expert committee shall evaluate project deliverables on a three monthly basis based on visit to the facility, review of auditors' reports, reports provided by concessionaire, information received from general public including project stakeholders etc.
- h) The Expert Committee shall monitor the performance of the Concessionaire based on the service level benchmarks indicated in the guidelines issued by Ministry of Urban Development, Government of India or any amendments from time to time.

NND shall facilitate the expert committee in information gathering, conducting facility visit, meetings, interviews etc.

6.4.3 Technical Committee

- a) NND, shall set up a Technical Committee comprising of domain experts from government, Nagar Nigam Dehradun , Other government agencies to consider following issues during the term of concession period :
 - a. DPR, Drawings, Technical Specifications approvals
 - b. Approval for condemning of the NND procured vehicles
 - c. Any disputes related to weighing of waste etc.
 - d. Any disputes between Waste Processing Plant Concessionaire and Collection & Transportation Concessionaire
 - e. Monthly performance review of the project
 - f. Any change of scope or other technical issues arising during concession period
- b) The committee should be headed by officer not below the rank of Deputy Municipal Commissioner and its members may include :
 - a. Executive Engineer from NND or equally qualified& experienced person from related government departments like Urban Development Directorate etc.
 - b. Health Officer NND
 - c. Transport Department Official (Specially for collection transportation vehicle related issues)
 - d. Officer nominated by SPCB.
 - e. Any ward member designated by the Mayor
 - f. PPP Cell's representative
 - g. Any other specialist members, if required for any specific issues

Tipping Fees, Advertising Revenue & Capital Grant

ARTICLE 7

7.1 Tipping Fees

7.1.1 Subject to the provisions of this Agreement and in consideration of the Concessionaire accepting the Concession and undertaking to perform and discharge its obligations in accordance with the terms, conditions and covenants set forth in this Agreement, NND agrees and undertakes to pay to Concessionaire, the Tipping Fee quoted by the Concessionaire in Appendix 10 to the RFP Document and as part of its Financial Proposal and in accordance with Schedule 2 and Clause 7.2.2 below.

7.1.2 Payment by NND to Concessionaire shall be :

Tipping Fee Payment= $\{T_m \times (WS - NCW - RW)\}$ +/- (Adjustments as per Clause 7.3)
Where,
T _m is the Tipping Fee Rate per tonne as applicable for the concerned month
WS is the quantity of Waste Collected & Transported to Waste Processing Site in tones in that month
NCW is the quantity of Non Conforming Waste rejected by the Concessionaire (in excess of 10 (ten) percent of total MSW supplied) in that month,
Non Conforming Waste includes: <ul style="list-style-type: none">i. Industrial Wasteii. Radio Active wasteiii. Bio medical wasteiv Effluents requiring treatmentv Construction and Demolition Debris
RW is the quantity of waste other than Non Conforming Waste rejected by Project Engineer in that month
For eg. If NND or its nominee receives non conforming waste as 12% of WS then Tipping fee will be estimated as Tipping fee payment = $\{TF \times (WS - 2\% \text{ of } WS - RW)\}$

7.2 Adjustments of Tipping Fee

- a) Tipping fee shall be adjusted on monthly basis to account for effect of fuel price changes on the tipping fee. Tipping fee shall also be adjusted annually to account for changes in labour and other prices related components.

- b) Price Adjustment Formulae shall be as below :

- i. Effective Tipping Fee for the Year = T_y

- ☐ T_y for first year will be same as quoted Tipping Fee = T
- ☐ Annually Effective Tipping Fee will be changed adjusted at the beginning of the year based on CPI changes in previous year as explained below

CPI numbers shall be General CPI for Industrial workers as released by labour bureau of GOI.

<http://labourbureaunew.gov.in/>

- ii. Annual adjustment on CPI changes

- To adjust for salary increases etc.
- To be calculated as below :
 - ☐ CPI for the first month of the previous year = CPI_1
 - ☐ CPI for the last month of the previous year = CPI_{12}
 - ☐ %CPI Change : $CPI_c = 100 \times (CPI_{12} - CPI_1) / CPI_1$
 - ☐ T_y for the next year = T_y previous year \pm T_y previous year $\times 40\% \times CPI_c \%$

- iii. Monthly adjustment on fuel price changes

- ☐ Average Fuel price in the month of bid due date : F_b
- ☐ Average fuel prices during the invoice month : F_i
- ☐ $F_c = \pm$ %age change in fuel price $= 100 \times (F_i - F_b) / F_b$
- ☐ Fuel Price Adjustment in Tipping Fee $T_{fc} = \pm (T_y \times 30\% \times F_c\%)$
- ☐ Effective Tipping Fee for the Month = $T_m = T_y \pm T_{fc}$

7.3 Mechanism of Payment

- 7.3.1 NND shall pay to the concessionaire, Tipping Fee quoted by the Concessionaire in the RFP Document as part of its Financial Proposal, after adjustments as in clause 7.2 and in accordance with Schedule 2 and as stated in the Tipping Fee Statement,
- 7.3.2 The Tipping Fee Statement shall be verified and approved by the Project Engineer before it is sent to NND.
- 7.3.3 NND shall before releasing the payment to the Concessionaire, deduct applicable taxes based on Applicable Laws.
- 7.3.4 Any delay in making any payment in accordance with the Tipping Fee Statement shall, without prejudice to any other consequences under this Agreement, entail payment of interest on the amount in default at prevailing SBI PLR per annum calculated for the duration of delay.

7.3.5 All payments to the Concessionaire shall be made by way of cheque. All payments to NND shall be made by way of demand draft in favour of Municipal Commissioner, Nagar Nigam Dehradun payable at Dehradun.

7.4 Penalties

The period of first 180 days from the start of the work shall be treated as period of acquaintance and no penalties will be imposed.

The following penalties shall be imposed by Authority on the Concessionaire

S No	Activity	Unit of Measurement	Penalty imposed
	Non Collection of Municipal Solid Waste (Garbage) from households during Door to Door Collection	Per House/ shop/ establishment	Rs. 2/- per day Per House/shop/establishment
	Door to Door Collection vehicle does not report to duty in the area under Agreement.	Per Door to Door Collection vehicle not reporting	Rs. 500/- per vehicle per day
	Non Transportation of MSW from Secondary Waste Storage Depots as per schedule	Per container /storage point	Rs.100/- per container / storage point per day.
	Deployment of workers without approved uniform and identity card.	Per worker	Rs 50 per day per worker.
	Non removal of small carcasses	Per complaint not attended	Rs 100/- per complaint
	Compactor/RC vehicle not deployed	Per vehicle	Rs 1000 /- per vehicle per day
	Non redressal of complaint within 48 hours of its receipt	Per complaint not attended	Rs 100/- per complaint per day
	Absenteeism of labour at workplace	Each Labour	Maximum Rs 200/- per labour & Rs 50/- per week for continuing labour.

7.5 Advertisement Rights & Revenues

- 7.5.1** Advertisements shall be permissible on all the project vehicles & project sites as per the existing policies and rules. NND shall keep all the advertising rights and shall share revenue with the concessionaire on 60% (NND share)-40% (Concessionaire Share) basis. Marketing of this advertising space should be done by concessionaire & NND and it shall be managed with mutual consultations. Care must be taken by concessionaire to not infringe or violate existing advertising/hoarding rules & contracts of NND. Some space must be reserved for IEC activities of NND, Project and State Government. The concessionaire shall also ensure that all the advertising and advertisement material etc. is appropriately handled and maintained by its employees.
- 7.5.2** NND's advertising revenue share must be deposited with NND on monthly basis.
- 7.5.3** Any delay in depositing this revenue share or under reporting or pilferage of advertising revenue shall be subject to penalties. Under Reporting or Pilfered revenue shall be subject to 100% penalty. Delay in deposit of revenue share shall be subject to 0.5% per day of the value due and not deposited by the concessionaire. Value due shall be the amount realized by the concessionaire from the advertisers. Any delayed realizations from advertisers shall be subject to maximum 15 days credit period and after that such amounts shall be considered value due from the concessionaire.

7.6 Capital Grant

- 7.6.1** NND shall provide capital grant upto maximum of value quoted by the concessionaire in the accepted financial proposal for the project.
- 7.6.2** Capital Grant shall be disbursed to the Concessionaire through designated escrow account in following manner:

i)	After achieving Financial Closure	10%
iii)	Completion of complete Civil Work, erection of Plant Machineries and other supporting infrastructures for Mini Transfer Stations & Procurement of Waste Transport Vehicles	40%
iv)	Completion of Construction Workshop	25%
iv)	Commencement of Operations of Mini Transfer Stations	15%
v)	Commencement of Operations of Workshop	10%

- 7.6.3** Capital Grant shall be subject to maximum amount for the following components only (As per technical proposal & approved DPR of the bidder) as given below :
- iv. Mini Transfer Stations
 - v. Workshop

vi. Waste Transport Vehicles

- 7.6.4** A minor variation among the components & subcomponents maybe acceptable, subject to NND's approval, at DPR stage but subject to ceiling of quoted capital grant in financial proposal.
- 7.6.5** All capital grant shall be paid through the escrow account and concessionaire shall be allowed to use this amount for approved expenditures only.

Force Majeure and Change In Law

ARTICLE 8

8.1 Force Majeure Event

Any of the following events which is beyond the control of the Party claiming to be affected thereby (“Affected Party”) and which the Affected Party has been unable to overcome or prevent despite exercise of due care and diligence, and prevents the Affected Party from performing or discharging its obligations under this Agreement, shall constitute Force Majeure Event

- a) earthquake, flood, inundation and landslide
- b) storm, tempest, hurricane, cyclone, lightning, thunder or other extreme atmospheric disturbances
- c) fire caused by reasons not attributable to the Concessionaire or any of the employees, Contractors or agents appointed by the Concessionaire for purposes of the Project;
- d) acts of terrorism;
- e) strikes, labour disruptions or any other industrial disturbances not arising on account of the acts or omissions of the Concessionaire or the Contractor;
- f) action of a Government Agency having Material Adverse Effect including but not limited to
 - i. acts of expropriation, compulsory acquisition or takeover by any Government Agency of the Project Facility or any part thereof or of the Concessionaire’s or the Contractor’s rights in Contractor’s rights under any of the Project Agreements.
 - ii. any judgment or order of a court of competent jurisdiction or statutory authority in India made against the Concessionaire or the Contractor in any proceedings which is non-collusive and duly prosecuted by the Concessionaire, and
 - iii. any unlawful, unauthorized or without jurisdiction refusal to issue or to renew or the revocation of any Applicable Permits, in each case, for reasons other than Concessionaire’s or the Contractor’s breach or failure in complying with the Project Requirements, Applicable Laws, Applicable Permits, any judgment or order of a Governmental Agency or of any contract by which the Concessionaire or the Contractor as the case may be is bound.
- g) early termination of this Agreement by NND for reasons of national emergency, national security or the national interest.
- h) any failure or delay of a Contractor caused by any of the events mentioned in (f) and (g) above, for which no offsetting compensation is payable to the Concessionaire by or on behalf of the Contractor.
- i) war, hostilities (whether declared or not), invasion, act of foreign enemy, rebellion, riots, weapon conflict or military actions, civil war, ionizing radiation, contamination by radioactivity from nuclear fuel, any nuclear waste, radioactive toxic explosion, volcanic eruptions, any failure or delay of a Contractor caused by the events mentioned in this sub-clause for which no offsetting compensation is payable to the Concessionaire by or on behalf of the Contractor.

8.2 Obligations of the Parties

- a) As soon as practicable and in any case within seven (7) days of the date of occurrence of a Force Majeure Event or the date of knowledge thereof, the Affected Party shall notify the Project Engineer and the other Party of the same setting out, inter alia, the following in reasonable detail:
 - i. the nature and extent of the Force Majeure Event; (ii) the estimated duration of the Force Majeure Event;
 - ii. the nature of and the extent to which, performance of any of its obligations under this Agreement is affected by the Force Majeure Event;
 - iii. the measures which the Affected Party has taken or proposes to take to alleviate/mitigate the impact of the Force Majeure Event and to resume performance of such of its obligations affected thereby; and
 - iv. any other relevant information concerning the Force Majeure Event, and /or the rights and obligations of the Parties under this Agreement.
- b) As soon as practicable and in any case within five (5) days of notification by the Affected Party in accordance with the preceding Clause 8.2 (a), the Parties along with the Project Engineer, shall meet and hold discussions in good faith and where necessary conduct physical inspection/survey of the Project Facility in order to:
 - v. assess the impact of the underlying Force Majeure Event,
 - vi. to determine the likely duration of Force Majeure Event and,
 - vii. to formulate damage mitigation measures and steps to be undertaken by the Parties for resumption of obligations, the performance of which shall have been affected by the underlying Force Majeure Event.
- c) The Affected Party shall during the duration of Force Majeure event provide to the other Party with regular (not less than fortnightly) reports concerning the matters set out in the preceding clause (b) as also any information, details or document, which the Parties may reasonably require.

8.3 Performance of Obligations

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

- a) due notice of the Force Majeure Event has been given as required by the preceding Clause 8.2;
- b) the excuse from performance shall be of no greater scope and of no longer duration than is necessitated by the Force Majeure Event;
- c) the Affected Party has taken all reasonable efforts to avoid, prevent, mitigate and limit damage, if any, caused or is likely to be caused to

- the Project Facility as a result of the Force Majeure Event and to restore the Project Facility , in accordance with the Good Industry Practice and its relative obligations under this Agreement;
- d) when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party and the Project Engineer written notice to that effect and shall promptly resume performance of its obligations hereunder, the non issue of such notice being no excuse for any delay for resuming such performance;
 - e) the Affected Party shall continue to perform such of its obligations which are not affected by the Force Majeure Event and which are capable of being performed in accordance with this Agreement;
 - f) any insurance proceeds received shall, subject to the provisions of Financing Documents, be entirely applied to repair, replace or re-instate the assets damaged on account of the Force Majeure Event, or in accordance with Good Industry Practice.

8.4 Termination due to Force Majeure Event

a) Termination

- i. If a Force Majeure Event, is an event described under Clauses 8.1(a) to 8.1(e) and 8.1(i), continues or is in the reasonable judgment of the Parties likely to continue beyond a period of 120 days, the Parties may mutually decide to terminate this Agreement or continue this Agreement on mutually agreed revised terms. If the Parties are unable to reach an agreement in this regard, the Affected Party shall after the expiry of the said period of 120 days, be entitled to terminate this Agreement.
- ii. If the Force Majeure Event is an event described in 8.1 (f), 8.1 (g) or 8.1 (h) and the Concessionaire having exhausted the remedies available to him under the Applicable Laws, has been unable to secure the remedy, the Concessionaire shall be entitled to terminate this Agreement.

Provided that the Parties may by mutual agreement, decide to continue this Agreement on revised terms or to terminate this Agreement, if the event described in 8.1 (f), 8.1 (g) or 8.1 (h) subsists or is likely to subsist for a period exceeding 180 days, then either Party shall be entitled to terminate this Agreement.

Provided further, NND may at its sole discretion have the option to terminate this Agreement any time after the occurrence of any event described under Clauses 8.1(f), 8.1(g) or 8.1(h).

b) Termination Notice

If either Party, having become entitled to do so, decides to terminate this Agreement pursuant to the preceding clause 8.4(a) (i) or (a) (ii),

it shall issue Termination Notice setting out ;

- i. in sufficient detail the underlying Force Majeure Event;
- ii. the Termination Date which shall be a date occurring not earlier than 60 days from the date of Termination Notice;
- iii. the estimated Termination Payment including the details of computation thereof and;
- iv. any other relevant information

c) Obligation of Parties

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

- i. the Termination Payment, if any, payable by NND in accordance with the following clause is paid to the Concessionaire on the Termination Date and
- ii. the Project Facility are handed back to NND by the Concessionaire on the Termination Date free from all Encumbrances.

d) Termination Payment

Upon Termination of this Agreement due to a Force Majeure Event, Termination Payment shall be made to the Concessionaire by NND in accordance with the following:

- i. If Termination is due to a Force Majeure Event, described under Clauses 8.1(a) to 8.1(e), no Termination Payment shall be made by NND to the Concessionaire but, the Concessionaire shall be entitled to receive and appropriate the proceeds of any amounts under insurance policies.
- ii. If Termination is due to the occurrence of any event described under Clauses 8.1(f) or 8.1(g) or 8.1(h), NND shall pay Concessionaire Termination Payment equal to 75% of the Book Value.

Provided that the Concessionaire shall pay any amount due to and recoverable by NND from the Concessionaire as on the Termination Date.

- iii. If Termination is due to the occurrence of any event described under Clause 8.1(i), NND shall, NND shall Concessionaire Termination Payment equal to 50% of the Book Value.

Provided that the Concessionaire shall pay any amount due to and recoverable by NND from the Concessionaire as on the Termination Date.

8.5 Liability for other losses, damages etc.

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

8.6 Effects of Force Majeure Event on the Concession

8.6.1 Upon the occurrence of any Force Majeure Event prior to achieving the Financial Close then it shall be extended by a period equal in length to the duration of the Force Majeure Event.

8.6.2 At any time after the Appointed Date, if any Force Majeure Event occurs :

- a) Before COD, the Concession Period and the dates set forth in the Project Completion Schedule shall be extended by a period equal in length to the duration of the Force Majeure Event subsists; or
- b) After COD, whereupon the Concessionaire is unable to perform its duties despite making best efforts or it is directed by the NND to suspend the performance of its duties thereof during the subsistence of such Force Majeure Event, the Concession Period shall be extended by a period, equal in length to the period during which the Concessionaire was prevented from performance of its duties on account thereof.

8.7 Change in Law

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

Provided that Change in Law shall not include:

- i. coming into effect, after the Appointed Date, of any provision or statute which is already in place as of the Appointed Date,
 - ii. any new law or any change in the existing law under the active consideration of or in the contemplation of any government as of the Appointed Date which is a matter of public knowledge,
 - iii. any change in the rates of the Central Taxes.
- b) Subject to Change in Law resulting in Material Adverse Effect and subject to the Concessionaire taking necessary measures to mitigate the impact or likely impact of Change in Law on the Project, if as a consequence of a Change in Law, the Concessionaire is obliged to incur additional costs, NND shall subsequently reimburse to the

Concessionaire 100% (hundred percent) of such Additional Costs, provided such additional cost is not less than INR 10,00,000 (Rupees Ten Lakhs).

- c) Upon occurrence of a Change in Law, the Concessionaire may, notify NND 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, minimizing the Additional Cost

Events of Default and Termination

ARTICLE 9

9.1 Events of Default

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

a) Concessionaire Event of Default

Any of the following events shall constitute an Event of Default by the Concessionaire ("Concessionaire Event of Default") unless such event has occurred as a result of one or more reasons set out in Clause 5.19:

- i. The Concessionaire has failed to adhere to the Construction Requirements and such failure, in the reasonable estimation of the Project Engineer, is likely to delay achievement of COD beyond 30 days of the SPCD;
- ii. The Concessionaire has failed to achieve COD within 30 days of the SPCD for any reason whatsoever;
- iii. At any time during the Concession Period, the Concessionaire fails to adhere to the Construction Requirements or O&M Requirements and has failed to remedy the same within 30 days;
- iv. The Concessionaire has failed to make the Any Due Payments due to NND and more than 30 days have elapsed since such payment became due;
- v. The Concessionaire has failed to make any payments due to NND and more than 60 days have elapsed since such payment became due;
- vi. The Concessionaire has collected user charges in excess of the rates provided in schedule 11 and/or failed to deposit the user charges in Escrow Account.
- vii. Any pilferage has occurred on user charge collection & deposit.
- viii. At any time during the Operations Period the Concessionaire has failed to Transport at least 75% (fifty percent) of the Assured Waste Quantity for any month in accordance with Clause 5.10 for a continuous period of three (3) months or an aggregate period of 8 (eight) months during the Concession Period.
- ix. Concessionaire fails to setup Smart SWM System & Smart SWM Control Room
- x. Concessionaire is found to be transporting waste from non-authorized points/areas.
- xi. The Concessionaire is in Material Breach of any of its obligations under this Agreement and the same has not been remedied for more than 60 days ;
- xii. Any representation made or warranty given by the Concessionaire under this Agreement is found to be false or misleading;
- xiii. A resolution has been passed by the shareholders of

- the Concessionaire for voluntary winding up/ dissolution of the Concessionaire;
- xiv. Any petition for winding up of the Concessionaire has been admitted and liquidator or provisional liquidator has been appointed or the Concessionaire has been ordered to be wound up by Court of competent jurisdiction, except for the purpose of amalgamation or reconstruction with the prior consent of NND, 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;
 - xv. A default has occurred under any of the Financing Documents and any of the Lenders has recalled its financial assistance and demanded payment of the amounts outstanding under the Financing Documents or any of them as applicable;
 - xvi. The Concessionaire has abandoned the Project Facility ;
 - xvii. The Concessionaire has repudiated this Agreement or has otherwise expressed an intention not to be bound by this Agreement;
 - xviii. The Concessionaire has suffered an attachment levied on any of its assets which has caused or is likely to cause a Material Adverse Affect on the Project and such attachment has continued for a period exceeding 90 days
 - xix. The Concessionaire has failed to perform/ discharge its obligations under Clause 5.18 of this Agreement for a continuous period of 24 hours.
 - xx. The Consortium formed for the purpose of the Project is changed by the Concessionaire without the consent of NND.

b) NND Event of Default

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

- i. NND has failed to make Grant, Tipping Fee or any payments due to the Concessionaire and more than 3 (three) months have elapsed since such default;
- ii. NND is in Material Breach of any of its obligations under this Agreement and has failed to cure such breach within 60 days of receipt of notice thereof issued by the Concessionaire;
- iii. NND having executed the same is in breach of any of its

- obligations thereunder and such breach has not been cured within 30 days from the date of written notice thereof given by the Concessionaire
- iv. NND has repudiated this Agreement or otherwise expressed its intention not to be bound by this Agreement;
 - v. NND has unreasonably withheld or delayed grant of any approval or permission which the Concessionaire is obliged to seek under this Agreement, and thereby caused or likely to cause Material Adverse Effect;
 - vi. Any governmental action not arising out of a breach, default or lapse on the part of the Concessionaire, whereby the Concession/this Agreement becomes inoperable or takeover by any government agency of the Project/ Project Facilities or any part thereof, thereby causing Material Adverse Effect.
 - vii. Any representation made or warranties given by the NND under this Agreement has been found to be false or misleading.

9.2 Termination due to Event of Default

a) Termination for Concessionaire Event of Default

- i. Without prejudice to any other right or remedy which NND may have in respect thereof under this Agreement, upon the occurrence of a Concessionaire Event of Default, NND shall subject to the provisions of the Lenders' Step-in Rights as per Clause 9.5, be entitled to terminate this Agreement in the manner as set out under Clause 9.2(a)(ii) and Clause 9.2(a)(iii).

Provided however that upon the occurrence of a Concessionaire Event of Default as specified under Clause 9.1(a)(xiv), NND may immediately terminate this Agreement by issue of Termination Notice in the manner set out under Clause 9.2(c).

- ii. If NND decides to terminate this Agreement pursuant to preceding clause (i), it shall in the first instance issue Preliminary Notice to the Concessionaire. Within 30 days of receipt of the Preliminary Notice, the Concessionaire shall submit to NND in sufficient detail, the manner in which it proposes to cure the underlying Event of Default (the "Concessionaire's Proposal to Rectify"). In case of non- submission of the Concessionaire's Proposal to Rectify within the said period of 30 days, NND shall be entitled to terminate this Agreement by issuing Termination Notice, and to appropriate the Performance Security, if subsisting.
- iii. If the Concessionaire's Proposal to Rectify is submitted within the period stipulated therefor, the Concessionaire shall have further period of 30 days ("Cure Period") to remedy/ cure the underlying Event of Default. If, however the Concessionaire fails to remedy/ cure the underlying Event of Default within such further period allowed, NND shall be entitled to terminate this

Agreement, by issue of Termination Notice and to appropriate Performance Security, if subsisting.

b) Termination for NND Event of Default

- i. Without prejudice to any other right or remedy which the Concessionaire may have in respect thereof under this Agreement, upon the occurrence of NND Event of Default, the Concessionaire shall be entitled to terminate this Agreement by issuing Termination Notice.
- ii. If the Concessionaire decides to terminate this Agreement pursuant to preceding clause (i) it shall in the first instance issue Preliminary Notice to NND. Within 30 days of receipt of Preliminary Notice, NND shall forward to the Concessionaire its proposal to remedy/ cure the underlying Event of Default (the "NND Proposal to Rectify"). In case of non submission of NND Proposal to Rectify within the period stipulated therefor, Concessionaire shall be entitled to terminate this Agreement by issuing Termination Notice.
- iii. If NND Proposal to Rectify is forwarded to the Concessionaire within the period stipulated therefor, NND shall have further period of 30 days to remedy/ cure the underlying Event of Default. If, however NND fails to remedy/ cure the underlying Event of Default within such further period allowed, the Concessionaire shall be entitled to terminate this Agreement by issuing Termination Notice.

c) Termination Notice

If a Party having become entitled to do so, decides to terminate this Agreement pursuant to the preceding sub clause (a) or (b), it shall issue Termination Notice setting out:

- i. in sufficient detail the underlying Event of Default;
- ii. the Termination Date which shall be a date occurring not earlier than 30 days from the date of Termination Notice;
- iii. the estimated termination payment including the details of computation thereof; and,
- iv. any other relevant information.

d) Obligation of Parties

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

- i. until Termination the Parties shall, to the fullest extent possible, discharge their respective obligations so as to maintain the continued operation of the Project Facility,
- ii. the termination payment, if any, payable by NND in

accordance with the following Clause (f) is paid to the Concessionaire on the Termination Date and

- iii. the Project Facility is handed back to NND by the Concessionaire on the Termination Date free from any Encumbrance along with any payment that may be due by the Concessionaire to NND.

e) Withdrawal of Termination Notice

Notwithstanding anything inconsistent contained in this Agreement, if the Party who has been served with the Termination Notice cures the underlying Event of Default to the satisfaction of the other Party at any time before the Termination occurs, the Termination Notice shall be withdrawn by the Party which had issued the same.

Provided that the Party in breach shall compensate the other Party for any direct costs/ consequences occasioned by the Event of Default which caused the issue of Termination Notice.

f) Termination Payments on account of NND Event of Default

Upon Termination of this Agreement on account of NND Event of Default, the Concessionaire shall be entitled to withdraw the Performance Security, if subsisting, and receive from NND, termination payment as per following:

- i. 90% Debt Due; and
- ii. The fair market value of the aggregate Equity as determined by an Expert, being a reputed value, less any amount, if any, due to the Authority from the Concessionaire under the provisions of this Agreement.

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

g) Termination Payments on account of Concessionaire Event of Default

Upon Termination of this Agreement on account of Concessionaire Event of Default, NND shall be entitled to forfeit the Performance Security.

Upon Termination on account of a Concessionaire Default during the Operation Period, the Authority shall pay to the Concessionaire, by way of Termination Payment, an amount lesser of :

- i. 50 % (fifty per cent) of the Depreciated Historic Cost (DHC), as determined by an Expert being a reputed valuer, of (a) tangible assets forming part of, fixed or attached to the ground created, installed or provided and paid for by the Concessionaire (less any capital grant amount) and comprised in the Project, which in the reasonable judgment of the said Expert are capable of being put to

- use/utilized by the Authority and (b) the movable assets which the Authority agrees to take over, less any amount due to the Authority from the Concessionaire under the provisions of this Agreement;
- ii. the Debt Due subject to the maximum amount equivalent to the Total Project Cost as per the Financing Agreements.

For the avoidance of doubt, the Concessionaire hereby acknowledges that no Termination Payment shall be due or payable on account of a Concessionaire Default if the lender's exercise substitution rights as per the terms of this agreement.

For the avoidance of doubt, the Concessionaire hereby acknowledges that no Termination Payment shall be due or payable on account of a Concessionaire Default occurring prior to COD.

h) Obligations of the Concessionaire

Upon Termination, the Concessionaire shall comply with and confirm to the following requirements:

- i. Notify to the NND forthwith the location and particulars of all Project Assets;
- ii. Deliver forthwith the actual or constructive possession of the Project, free and clear of all encumbrances, save and except to the extent set forth in the Substitution Agreement;
- iii. Cure all Project Assets of all defects and deficiencies so that the Project is compliant with the Maintenance Requirements; provided that in the event of Termination during the Construction Period, all Project Assets shall be handed over on 'as is where is' basis after bringing them to a safe condition;
- iv. Deliver and transfer relevant records, reports, intellectual property and other licenses pertaining to the Project and its design, engineering, construction, operation and maintenance, including all programmes and manuals pertaining thereto, and complete 'as built' Drawings on the Transfer Date
- v. transfer and/or deliver all Applicable Permits to the extent permissible under Applicable Laws;
- vi. execute such deeds of conveyance, documents and other writings as the NND may reasonably require for conveying, divesting and assigning all the rights, titles and interest of the Concessionaire in the Project including manufactures warranties in respect of any Project Assets and the right to receive outstanding insurance claims, to the extent due and payable to the NND, absolutely unto the NND or its nominee and
- vii. comply with all other requirements as may be prescribed or required under Applicable Laws for completing the divestment and

assignment of all rights, title, and interest of the Concessionaire in the Project, free from all Encumbrances, absolutely unto the Government or to its nominee.

9.3 Rights of NND on Termination

- a) Upon Termination of this Agreement for any reason whatsoever, NND shall upon making the Termination Payment, if any, to the Concessionaire have the power and authority to:
 - i. enter upon and take possession and control of the Project Site/ Project Facility forthwith;
 - ii. prohibit the Concessionaire and any person claiming through or under the Concessionaire from entering upon/ dealing with the Project Site /Project Facility;
- b) Notwithstanding anything contained in this Agreement, NND 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 regularization of employment, absorption or re-employment on any ground, in relation to any person in the employment of or engaged by the Concessionaire in connection with the Project, and the handback of the Project Facility by the Concessionaire to NND shall be free from any such obligation.

9.4 Accrued Rights of Parties

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

9.5 Lenders' Step-in Rights

- a) Notwithstanding anything to the contrary contained in this Agreement, the Parties hereby agree that :
 - i. upon the Lenders recalling and demanding the debt outstanding under the Financing Documents (following an event of default under the Financing Documents), or
 - ii. upon a Termination Notice being issued by NND, the Lenders shall, without prejudice to any other remedy available to them, have the option to propose to NND the substitution of the Concessionaire by another suitable company ("Proposed Concessionaire"). Any such proposal shall contain in sufficient detail all the relevant information about the Proposed Concessionaire and the terms and conditions of the substitution.

- b) Upon receipt of the Lenders' proposal pursuant to the preceding sub-clause (a), NND shall, at its discretion, have the right to accept substitution of the Concessionaire on such terms and conditions as it may deem fit.

Provided that any such substitution shall:

- i. be on terms and conditions of the Concession which are not less favourable to NND than those prevailing at the time of substitution, and
 - ii. be for the remaining period of Concession only.
- c) In the event of substitution as aforesaid, all the rights, privileges and the benefits of the Concessionaire shall be deemed to have been transferred to and vested in the Proposed Concessionaire and NND and the Proposed Concessionaire shall take such steps and enter into such documents as may be necessary to give effect to the substitution.
- d) Upon the substitution of the Concessionaire becoming effective as aforesaid, the Concessionaire shall hand back to NND or upon instruction of NND to the Proposed Concessionaire and for the purpose of giving effect to this provision, NND shall have all such rights as are provided in Clause 9.3.

9.6 Exit from the contractual obligation

- a) Both the parties to the contract shall be bound to perform and discharge the contractual obligation as per the terms and conditions of the contract.
- b) Incase either party desires to exit from the contract it shall be bound to give a notice of such intent prior to three months.
- c) The notice period shall be reckoned from the date of receipt/ acknowledgement of the notice by either party.
- d) The MC may require the Concessionaire to continue with the arrangements at the accepted rates but such period shall not be more than six months from the date of notice. In the event of non performance by the Concessionaire for such period, the activities shall be arranged by MC at the cost and expenses of the Contractor.
- e) The MC shall take over all the sites/ plants including civil works once the Concessionaire exits. The cost of such civil works shall be decided by the MC and the Concessionaire with the help of experts in case of any ambiguity the matter shall be decided within the frame work of this Contract Agreement.
- f) The expansion of the City area and the change in the policy frame work of the state shall not be accepted as valid ground for the exit from contract.
- g) In case the MC sustains financial losses on account of the exit by the Concessionaire. Such losses shall be recoverable from the Concessionaire.
- h) The recovery of losses shall be from the Performance Security of the Concessionaire. In the event of shortfall of Performance Security the balance amount shall be recovered as outstanding government

revenue.

Handback Requirements

ARTICLE 10

10.1. Ownership

Without prejudice and subject to the Concession, the ownership of the Project Site, and the Project Facility, including all improvements made therein by the Concessionaire, shall at all times remain that of NND.

10.2. Obligations of Parties

a) Concessionaire's Obligations

- i. The Concessionaire shall on the date of expiry of the Concession Period, hand back vacant and peaceful possession of the Transportation vehicles & equipment, and Project Facilities including any tools, spares, inventory, vehicles, machinery and all other movables required for its functioning to the respective Authority free of cost and in good operable condition.
- ii. At least 3 months before the expected expiry of the Concession Period a joint inspection of the Project Site and Project Facility shall be undertaken by Project Engineer, Concessionaire and Authority. NND and Project Engineer shall, within 15 days of such inspection prepare and furnish to the Concessionaire a list of works/ jobs ("Project Facility Handback Requirements"), if any, to be carried out so as to conform to the Construction Requirements and O&M Requirements. The Concessionaire shall promptly undertake and complete such works/jobs at least 3 months prior to the expected expiry of the Concession Period and ensure that the Project Facility continues to meet such requirements until the same are handed back to NND.
- iii. Project Engineer shall, within 15 days of the joint inspection undertaken under preceding clause (ii) prepare and furnish to the Concessionaire a list of items, if any, with corresponding distinctive descriptions, which are to be compulsorily handed back to NND along with the Project Facility.
- iv. The Concessionaire hereby acknowledges NND's rights specified in Clause 9.3 enforceable against it upon Termination and its corresponding obligations arising therefrom. The Concessionaire undertakes to comply with and discharge promptly all such obligations.
- v. At least 3 months prior to the expiry of the Concession Period, the Concessionaire shall, for due performance of its obligations relating to handback of the Project Facility, submit to NND a bank guarantee, in the form as set forth in Schedule 9

(“Handback Guarantee”), from a bank acceptable to NND. The Handback Guarantee shall be kept valid for a period of 30 months.

- vi. Value of this handback guarantee shall be equivalent to works to be undertaken the concessionaire as assessed by Project Engineer for works mentioned in Project Handback Requirements in clause 10.2(a) (ii).

b) NND’s Obligations

NND shall, subject to NND’s right to deduct amounts, from Handback Gurarantee, towards :

- i. carrying out works/jobs listed under Clause 10.2(a)(ii), which have not been carried out by the Concessionaire,
- ii. purchase of items, which have not been handed back to NND along with the Project Facility in terms of Clause 10.2(a)(iii), and
- iii. any outstanding dues, which may have accrued in respect of the Project Facility during the Concession Period duly discharge and release to the Concessionaire the Handback Guarantee within 3 months from the expiry of the Concession Period.

Dispute Resolution

ARTICLE 11

11.1. Amicable Resolution

- a) Save where expressly stated to the contrary in this Agreement, any dispute, difference or controversy of whatever nature between the Parties, howsoever arising under, out of or in relation to this Agreement (the "Dispute") shall in the first instance be attempted to be resolved amicably in accordance with the procedure set forth in sub-clause (b) below.
- b) Either Party may require such Dispute to be referred to the Municipal Commissioner, NND and the Chief Executive Officer of the Concessionaire for the time being, for amicable settlement. Upon such reference, the two shall meet at the earliest mutual convenience and in any event within 15 days of such reference to discuss and attempt to amicably resolve the Dispute. In second stage the dispute may be referred to Mayor, DD. If the Dispute is still not amicably settled within 15 days of such meeting between the two, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 11.2 below.

11.2. Arbitration

a) Procedure

Subject to the provisions of Clause 11.1, any dispute, which is not resolved amicably, shall be finally settled by binding arbitration under the Arbitration Act. The arbitration shall be by a panel of three arbitrators, one to be appointed by each Party and the third to be appointed by the two arbitrators appointed by the Parties. The Party requiring arbitration shall appoint an arbitrator in writing, inform the other Party about such appointment and call upon the other Party to appoint its arbitrator. If within 15 days of receipt of such intimation the other Party fails to appoint its arbitrator, the Party seeking appointment of arbitrator may take further steps in accordance with Arbitration Act.

b) Place of Arbitration

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

c) English Language

The request for arbitration, the answer to the request, the terms of reference, any written submissions, any orders and awards shall be in English and, if oral hearings take place, English shall be the language to be used in the hearings.

d) Enforcement of Award

The Parties agree that the decision or award resulting from arbitration shall be final and binding upon the Parties and shall be enforceable in accordance with the provisions of the \Arbitration Act subject to the rights of the aggrieved parties to secure relief from any higher forum.

e) Performance during Arbitration

Pending the submission of and/or decision on a dispute and until the arbitral award is published, the Parties shall continue to perform their respective obligations under this Agreement, without prejudice to a final adjustment in accordance with such award.

Representations and Warranties, Disclaimer

ARTICLE 12

12.1. Representations and Warranties of the Concessionaire

The Concessionaire represents and warrants to NND 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 enforceable against it in accordance with the terms hereof;
- f) the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under or accelerate performance required by any of the terms of the Concessionaire's Memorandum and Articles of Association or any Applicable Laws or any covenant, agreement, understanding, decree or order to which it is a party or by which it or any of its properties or assets are bound or affected;
- g) there are no actions, suits, proceedings or investigations pending or to the Concessionaire's knowledge threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the NND, of which may constitute Concessionaire Event of Default or which individually or in the aggregate may result in Material Adverse Effect;
- h) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Agency which may result in Material Adverse Effect;
- i) it has complied with all Applicable Laws and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have Material Adverse Effect;
- j) subject to receipt by the Concessionaire from NND of any amount due under any of the provisions of this Agreement, in the manner and to the extent provided for under the applicable provisions of this Agreement all rights and interests of the Concessionaire in and to the Project Site/Project Facility shall pass to and vest in NND on the Termination Date free and clear of all Encumbrances without any further act or deed on the part of the Concessionaire or NND;
- k) no representation or warranty by the Concessionaire contained herein or in any other document furnished by it to NND or to any Government Agency in relation to Applicable Permits contains or

will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;

- l) no bribe or illegal gratification has been paid or will be paid in cash or kind by or on behalf of the Concessionaire to any person to procure the Concession.
- m) Without prejudice to any express provision contained in this Agreement, the Concessionaire acknowledges that prior to the execution of this Agreement, the Concessionaire has after a complete and careful examination made an independent evaluation of the Project Site, and the information provided by NND, and has determined to its satisfaction the nature and extent of risks and hazards as are likely to arise or may be faced by the Concessionaire in the course of performance of its obligations hereunder.

The Concessionaire also acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth above and hereby confirms that NND shall not be liable for the same in any manner whatsoever to the Concessionaire.

12.2. Representations and Warranties of NND

NND represents and warrants to the Concessionaire that:

- a) NND has full power and authority to grant the Concession;
- b) NND has taken all necessary action to authorize the execution, delivery and performance of this Agreement;
- c) This Agreement constitutes NND's legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- d) There are no suits or other legal proceedings pending or threatened against in respect of the Project, Project Site or Project Facility.

12.3. Obligation to Notify Change

In the event that any of the representations or warranties made/given by a Party ceases to be true or stands changed, the Party who had made such representation or given such warranty shall promptly notify the other of the same.

Suspension Of Concessionaire's Rights

ARTICLE 13

13.1. Suspension upon Concessionaire Default

Upon occurrence of a Concessionaire Default, the Authority shall be entitled, without prejudice to its other rights and remedies under this Agreement including its rights of Termination hereunder, to (i) suspend all rights of the Concessionaire under this Agreement including the Concessionaire's right to collect Processing Incentive, and other revenues pursuant hereto, and (ii) exercise such rights itself and perform the obligations hereunder or authorize any other person to exercise or perform the same on its behalf during such suspension (the "Suspension"). Suspension hereunder shall be effective forthwith upon issue of notice by the Authority to the Concessionaire and may extend up to a period not exceeding 180 (one hundred and eighty) days from the date of issue of such notice; provided that upon written request from the Concessionaire and the Lenders' Representative, the Authority shall extend the aforesaid period of 180 (one hundred and eighty) days by a further period not exceeding 90 (ninety) days.

13.2. Government to act on behalf of Concessionaire

- a) During the period of Suspension, the NND shall, on behalf of the Concessionaire, collect all revenues under and in accordance with this Agreement and deposit the same in the Escrow Account. The Authority shall be entitled to make withdrawals from the Escrow Account for meeting the costs incurred by it for remedying and rectifying the cause of Suspension, and thereafter for defraying the expenses incurred by Authority.
- b) During the period of Suspension hereunder, all rights and liabilities vested in the Concessionaire in accordance with the provisions of this Agreement shall continue to vest therein and all things done or actions taken, including expenditure incurred by the Authority for discharging the obligations of the Concessionaire under and in accordance with this Agreement and the Project Agreements, shall be deemed to have been done or taken for and on behalf of the Concessionaire and the Concessionaire undertakes to indemnify the Authority for all costs incurred during such period. The Concessionaire hereby licenses and sub-licenses respectively, the Authority or any other person authorised by it under Clause 13.1 to use during Suspension, all Intellectual Property belonging to or licensed to the Concessionaire with respect to the Project and its design, engineering, construction, operation and maintenance, and which is used or created by the Concessionaire in performing its obligations under the Agreement.

13.3. Revocation of Suspension

- a) In the event that the Authority shall have rectified or removed the cause of Suspension within a period not exceeding 90 (ninety) days from the date of Suspension, it shall revoke the Suspension forthwith

and restore all rights of the Concessionaire under this Agreement. For the avoidance of doubt, the Parties expressly agree that the Government may, in its discretion, revoke the Suspension at any time, whether or not the cause of Suspension has been rectified or removed hereunder.

- b) Upon the Concessionaire having cured the Concessionaire Default within a period not exceeding 90 (ninety) days from the date of Suspension, the Government shall revoke the Suspension forthwith and restore all rights of the Concessionaire under this Agreement.

13.4. Substitution of Concessionaire

At any time during the period of Suspension, the Lenders' Representative, on behalf of Senior Lenders, shall be entitled to substitute the Concessionaire under and in accordance with the Substitution Agreement, and upon receipt of notice there under from the Lenders' Representative, the Authority shall withhold Termination for a period not exceeding 180 (one hundred and eighty) days from the date of Suspension, and any extension thereof under Clause 11.1, for enabling the Lenders' Representative to exercise its rights of substitution on behalf of Senior Lenders.

13.5. Termination

- a) At any time during the period of Suspension under this Article 13, the Concessionaire may by notice require the Authority to revoke the Suspension and issue a Termination Notice. Subject to the rights of the Lenders' Representative to undertake substitution in accordance with the provisions of this Agreement and within the period specified in Clause 13.4, the Authority shall, within 15 (fifteen) days of receipt of such notice, terminate this Agreement under and in accordance with Article 9.
- b) Notwithstanding anything to the contrary contained in this Agreement, in the event that Suspension is not revoked within 180 (one hundred and eighty) days from the date of Suspension hereunder or within the extended period, if any, set forth in Clause 13.1, the Concession Agreement shall, upon expiry of the aforesaid period, be deemed to have been terminated by mutual agreement of the Parties and all the provisions of this Agreement shall apply, mutatis mutandis, to such Termination as if a Termination Notice had been issued by the Authority upon occurrence of a Concessionaire Default.

Escrow Account

ARTICLE 14

14.1. Escrow Account

- a) The Authority shall maintain a separate Escrow Account with a Bank (the "Escrow Bank") in accordance with this Agreement read with the Escrow Agreement.
- b) The nature and scope of the Escrow Account are fully described in the agreement (the "Escrow Agreement") to be entered into amongst the Concessionaire, the Authority and the Escrow Bank which shall be substantially in the form set forth in Schedule-12.
- c) Authority shall also ensure that a reserve minimum 2 month's estimated tipping fee shall be maintained in this account right through the concession period of the project to ensure timely payment to the Concessionaire.
- d) Authority will have the principal rights to operate escrow account.

14.2. Deposits into Escrow Account

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

- a. Any funds constituting Operational Grants for the project;
- b. User charges collected through concessionaire or directly or through a third by NND
- c. Any penalties or dues from the concessionaire
- d. all revenues from or in respect municipal solid waste, including the proceeds of deposits, capital receipts or insurance claims;

14.3. Withdrawals during Concession Period

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

- a) any automatic payments, as mentioned in the payment mechanism clause, through this account. All tipping fee payments shall be made through this escrow account only.
- b) At the time of termination or expiry of the contract term all the surplus, after deduction of any payments due to the concessionaire, shall be reverted to the Authority.
- c) monthly proportionate provision of Debt Service due In an Accounting Year;
- d) all payments and Damages certified by the Authority as due and payable to it by the Concessionaire, including repayment of Revenue Shortfall Loan;
 - a) monthly proportionate provision of debt service payments due 10 an Accounting Year in respect of Subordinated Debt;

- b) any reserve requirements set forth in the Financing Agreements;
and
- c) balance, if any, in accordance with the instructions of the Concessionaire.

The Concessionaire shall not in any manner modify the order of payment specified in Clause 14.3.1, except with the prior written approval of the Government.

14.4. Withdrawals upon Termination

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

- i. all taxes due and payable by the Concessionaire for and in respect of the project;
- ii. all payments and Damages certified by the Authority as due and payable to it by the Concessionaire;
- iii. retention and payments relating to the liability for defects and deficiencies set forth in Article 10;
- iv. outstanding Debt Service including the balance of Debt Due;
- v. outstanding Subordinated Debt;
- vi. incurred or accrued O&M Expenses;
- vii. any other payments required to be made under this Agreement; and balance, if any, in accordance with the instructions of the Concessionaire.
- viii. user fee collections & any other funds like advertising payments or operational grants etc. shall be deposited and the Concessionaire providing SWM services shall be paid from this account towards payment of fees/charges payable to him for rendering services to the Authority. Any surplus amount left after paying the charges to the Concessionaire shall be retained in this account.
- ix. Concessionaire shall have the right to receive any automatic payments, as mentioned in the payment mechanism clause, through this account. All tipping fee payments shall be made through this escrow account only.
- x. Any penalties or dues from the concessionaire to NND shall also be deposited in this account only.
- xi. At the time of termination or expiry of the contract term all the surplus, after deduction of any payments due to the concessionaire, shall be reverted to the Authority.

14.4.2. The provisions of this Article 14 and the instructions contained in the Escrow Agreement shall remain in full force and effect until the obligations set forth in Clause 14.4.1 have been discharged.

Miscellaneous

ARTICLE 16

15.1. Business Continuity Plan

- a) The Concessionaire shall ensure that all the project related equipment, vehicles, intellectual property including data, software and hardware systems are available to NND at all times during the concession period and after the handback period.
- b) The concessionaire shall ensure that suitable arrangements are made by itself at its own cost to provide a redundancy/backup of all the project data at NND's designated place with appropriate licenses and adequate manpower for maintenance of the system. All the project related data should be backed up once in every 24 hours and in accordance with O&M plan.
- c) The concessionaire shall ensure that requisite personnel of NND are trained by it as required in this agreement so as to enable the business continuity after project handback or termination.

15.2. Change of Scope

15.2.1. NND may, notwithstanding anything to the contrary contained in this Agreement, require provision of such addition/ deletion to the works and services in the Project Facility which are beyond the scope of the Project as contemplated by this Agreement ("Change of Scope"), provided such changes do not require expenditure exceeding Rs. 1,00,00,000/- (Rupees One crore only) and does not adversely affect the COD. All such changes shall be made by NND by an order (the "Change of Scope Order") issued in accordance with the procedure set forth in this Clause.

15.2.2. Procedure for Change of Scope

- a) NND shall whenever it desires provision of addition/ deletion of items of work and services referred to in this agreement, issue to the Concessionaire a notice of change of scope (the "Change of Scope Notice").
- b) Upon receipt of such Change of Scope Notice, the Concessionaire shall within 15 days provide to NND and the Project Engineer such information as is necessary and reasonable together with preliminary documentation in support of the following :
 - i. the impact, if any, which the Change of Scope is likely to have on the SPCD if the work is required to be carried out before COD, and
 - ii. the cost to the Concessionaire of complying with such Change of Scope Notice (including, without limitation, material and labour cost information furnished in accordance with the current schedule of rates applicable to the works assigned by NND to its contractors, including the premium on such rates), the options suggested for implementing the proposed Change of Scope and the effect, if

any, each such option would have on the costs and time for the implementation thereof including a detailed breakdown by work classifications.

Provided, however, that the cost of providing such information shall be reimbursed to the Concessionaire by NND to the extent such costs are certified to be reasonable by the Project Engineer.

- c) If NND desires, after receipt of information set forth in sub-clause (b) to proceed with the Change of Scope, it shall convey the desired option (with or without modification) to the Concessionaire by issuing a Change of Scope Order within 30 days from the date of recommendation made by Project Engineer and thereupon the Parties shall make good faith efforts to mutually agree upon the costs and time for implementing of the same. Upon reaching an agreement relating to such costs and time, NND shall issue a written confirmation of the Change of Scope and thereupon the Concessionaire shall proceed with performance of such order. In the event, the Parties are unable to agree, NND may, by issuing a confirmation in writing of such Change of Scope Order, require the Concessionaire to proceed with the performance of the Change in Scope Order pending resolution of such dispute.
- 15.2.3. A Change of Scope Order will be effective and binding upon issuance of a confirmation of such Change of Scope Order by NND. Notwithstanding a dispute regarding cost and time for implementation of such Change of Scope Order, the Concessionaire shall proceed with the performance of such Change of Scope Order promptly following NND's confirmation pursuant to **Clause 15.2.2(c)**. Pending resolution of such dispute, NND shall pay to the Concessionaire, if the Change of Scope Order involves increase in bill of quantities an amount equal to the costs that are certified by the Project Engineer.
- 15.2.4. All claims by the Concessionaire pursuant to this Clause 15.2 shall be supported by such documentation as is reasonably sufficient for NND/ Project Engineer to determine the accuracy thereof, including invoices from Contractors and certification of such claims by the Statutory Auditors.

15.3. 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 NND.
- b) The Concessionaire shall not create nor permit to subsist any Encumbrance over the Project Site/ Project Facility, except with prior consent in writing of NND, which consent NND shall be entitled to decline without assigning any reason whatsoever.
- c) Restraint set forth in sub-articles (a) and (b) above shall not apply to:

- i. liens/encumbrances arising by operation of law (or by an agreement evidencing the same) in the ordinary course of business of the Concessionaire;
- ii. Pledges/hypothecation of goods/moveable assets, revenue and receivables as security for indebtedness, in favour of the Lenders and working capital providers for the Project;
- iii. Assignment of Concessionaire's rights and benefits under this Agreement and other Project Agreements to or in favour of the Lenders as security for financial assistance provided by them.

15.4. Interest and Right of Set Off

Any sum which becomes payable under any of the provisions of this Agreement by one Party to the other Party shall, if the same be not paid within the time allowed for payment thereof, shall be deemed to be a debt owed by the Party responsible for payment thereof to the Party entitled to receive the same. Such sum shall until payment thereof carry interest at 15% per annum from the due date for payment thereof until the same is paid to or otherwise realized by the Party entitled to the same. Without prejudice to any other right or remedy that may be available under this Agreement or otherwise under law, the Party entitled to receive such amount shall also have the right of set off.

Provided the stipulation regarding interest for delayed payments contained in this Clause shall neither be deemed nor construed to authorize 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.

15.5. Governing Law and Jurisdiction

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

15.6. Waiver

- a) Waiver by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement:
 - i. shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions or obligations under this Agreement;
 - ii. shall not be effective unless it is in writing and executed by a duly authorised representative of such Party; and
 - iii. shall not affect the validity or enforceability of this Agreement in any manner.

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

15.7. Survival

Termination of this Agreement:

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

15.8. 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 both the Parties hereto and evidenced in writing.

15.9. Notices

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

If to NND:

Municipal Commissioner
Patel Road, Near Doon
Hospital
Dehradun -248001,
Uttarakhand.

Dehradun - 248 001

Fax No : _____

If to the Concessionaire:

The Managing Director,

-----(*insert complete address with phone and fax details*)

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

- (i) in the case of any communication made by letter, when delivered by hand, by recognized 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.

15.10. Severability

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

15.11. 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.

15.12. 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.

15.13. 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.

15.14. Counterparts

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

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

SIGNED SEALED AND DELIVERED

For and on behalf of NND by: (Signature)

(Name)

For and on behalf of CONCESSIONAIRE by: (Signature)

(Designation)

In the presence of :

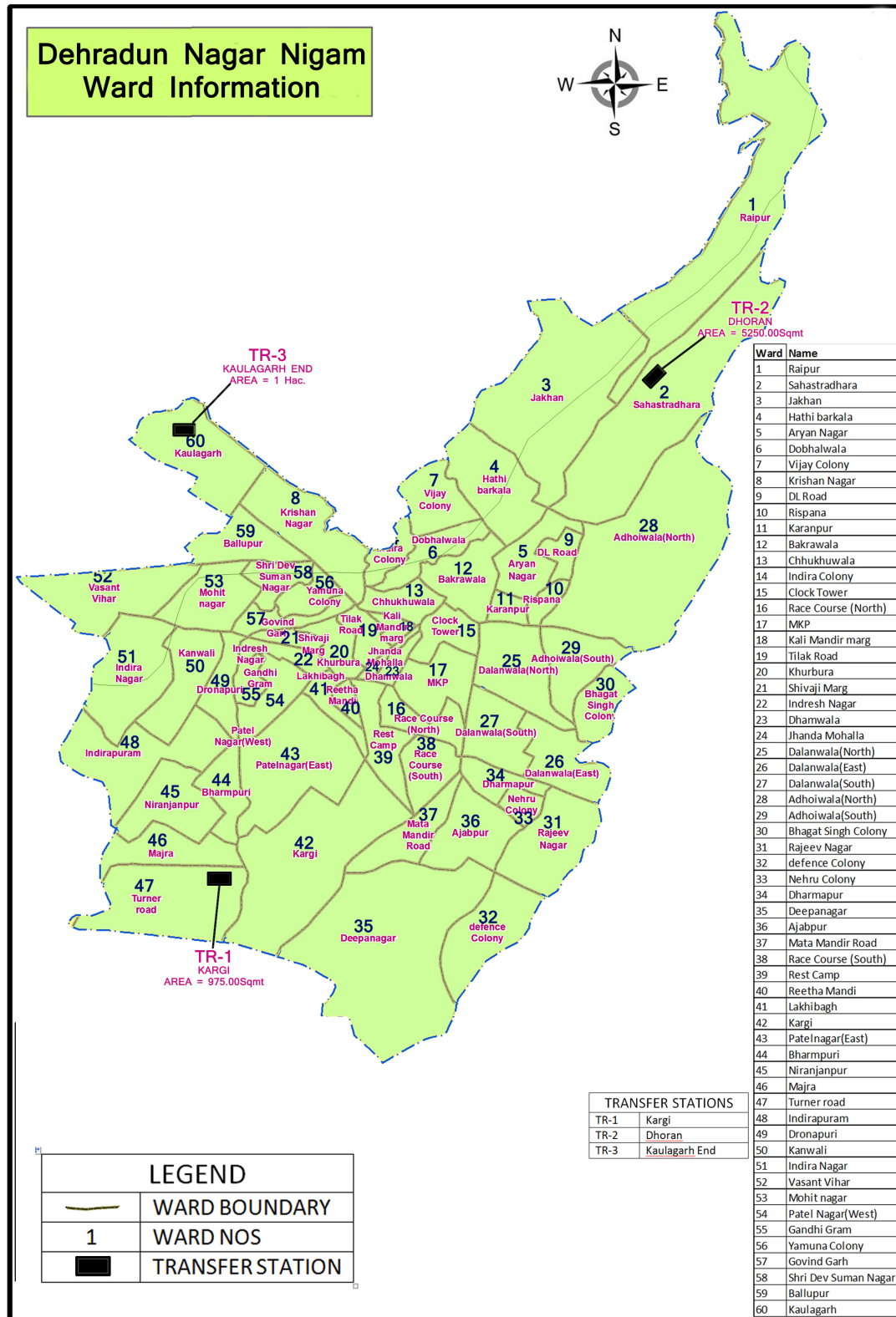
1)

2)

PROJECT SITE & EXISTING VEHICLES

SCHEDULE 1

1) Project Site : 60 Wards of Nagar Nigam Dehradun & proposed transfer station locations



2)Mini Transfer Stations:

Detail of the Site	Size of the Site
TR-1 :Transfer Station in Kargi, Back of Petrol Pump, Haridwar Bypass	1240 SQMT
TR-2 :Dhoran, IT Park Road, Near Dhoran Bridge	5250 SQMT
TR-3 :Kaulagarh End, at the end of kaulagarh area	10000 AQMT

3)Workshop : New Workshop should be setup at following location

Location	Near Rispana Bridge on Haridwar Road
Size	480 SQM
Capacity	30 Heavy Vehicles + 10 Machines

4)Parking :

Location	Near Apolo International School, Sahastradhara Road, Dehradun
Size	40 Ft x 25 ft
Capacity	60 Heavy Vehicles
Others	1 office 12ft x 12 ft

5)Waste Processing Site at Sheeshambara :

Location of the site



Likely Routes to the site



CAPITAL GRANT & TIPPING FEES

SCHEDULE 2

1.1. Tipping Fee

- a. The agreed base tipping fee shall be as quoted by the bidder in its financial proposal and as finally accepted by both parties, written as hereunder :
 { details to be filled from the financial proposal of the concessionaire }
- b. This tipping fee shall be adjusted as mentioned in clause 7.2 of this agreement and will be termed as effective tipping for the month/year in consideration.
- c. Effective tipping for the month would be used for calculations of payment for total tipping fee for the month under consideration as per clause 7.1.2.

1.2. Invoicing & Certification for Monthly Tipping Fee Payments

- a. The concessionaire would setup a Smart SWM System to record transactions of door to door waste collection through various means and the weight of vehicles used for transportation of such waste to processing site will be weighed at the origin of vehicles journey and at the designated point at waste processing site.
- b. Such weighing at the origin and destination shall be certified by the Project Engineer(s) at each location.
- c. Final Conforming Waste weight as recorded at the Processing site weighing equipment, after the end of the month, shall be used for invoicing as per formula is clause 7.1.2 of this agreement.
- d. Project Engineer shall check, verify and certify the final monthly invoices made on the basis of the above certified daily waste transportation quantities. These invoices should also state expressly the self assessed deductions on account of penalties or additions on account of achievement of KPIs.
- e. The Project Engineer, NND and the Concessionaire would also reconcile the records at the end of each month before arriving at final amount payable.
- f. Such vetted invoices then shall be presented to NND for payment within 10 days after the end of invoicing month.

1.3. Payment of Monthly Tipping Fee

- a. Upon receipt of these vetted invoices, within 3 working days, NND shall authorize to pay 75% of the invoice amounts automatically from the escrow account.
- b. NND may further scrutinize the invoices and raise objections, if any.
- c. The Project Engineer, NND and the Concessionaire would also revisit the records in case of any disputes to resolve the dispute within 10 days of receipt of the invoice.

- d. In case of no disputes the remaining 25% amount of invoice shall be paid from the escrow account, no later than 15 days from the receipt of invoice by NND.
- e. In case of any disputes both parties must settle disputes amicably within 30 days from the receipt of invoice by NND. In case of any unresolved disputes, both parties may escalate the matter to appropriate levels within respective organizations. In case any disputes remain unresolved even after such highest escalations then arbitration mechanism as stated in the concession agreement maybe used.
- f. In case of disputes any delayed payments shall be made within 7 days of resolution of disputes. If any further delay is incurred then Interest charges could be levied as specified in this agreement.
- g. Any excess payments shall be adjusted in subsequent month's invoice.
- h. Any penalties or dues remaining after automatic payments or dispute resolutions must be adjusted in next subsequent payment due.

CONSTRUCTION REQUIREMENTS

SCHEDULE 3

A. Construction Requirements for Project Facility

1. General

- 1.1 The Concessionaire shall comply with the RUOMT Requirements set out in this Schedule. In doing so, the Concessionaire shall ensure that the Project Facilities are maintained to the standards and specifications as set out in the operating manual and other relevant standards.
- 1.2 The Concessionaire shall take appropriate measures to set up an integrated solid waste management system from awareness campaigning, segregation, collection, transportation, storage of municipal and industrial waste.
- 1.3 The minimum facilities to be provided in the Project Facility which is to be implemented by the Concessionaire as part of the Project shall be as set out in this Schedule.
- 1.4 The Concessionaire may adopt alternative designs for the Project Facility, subject to review by the Project Engineer/DNN. Final designs shall be as per DPR approved by NND.
- 1.5 At least two weeks prior to commencement of design work, the Concessionaire shall finalise a quality assurance plan for the design work ("Quality Assurance Plan").

2. Procedure

2.1 Before Commencement of Construction

- 2.1.1 Prior to commencement of any construction activity, the Concessionaire shall finalise an implementation plan for the Project ("Construction Plan") in consultation with the Project Engineer. The Construction Plan shall, inter alia, include:
 - (i) A detailed schedule of implementation for putting up and operationalising the Project Facilities, and which shall specify at least 4 major milestones;
 - (ii) The Critical Path Method (CPM)/ Programme Evaluation and Review Technique (PERT) charts or similar activity planning technique/ method for monitoring. This would cover all stages/ aspects of the Project implementation including design and engineering, procurement of materials and equipment, installation, construction and testing;
 - (iii) Manpower deployment plan, including the designation of key personnel for the management and supervision of all Project activities. (This would include the designation of suitably qualified personnel for areas such as contract administration and supervision, construction management, traffic and safety, environmental

- management, plant and equipment maintenance, procurement, materials management and quality control); and
- (iv) A broad method statement for key items setting out the methodology of construction, materials and construction equipment mobilisation/ utilisation plans, broad output calculations and details of the quality assurance and quality control procedures.
 - (v) Format of the monthly report giving details of the physical progress in implementation of the Project and operations and maintenance activities undertaken (Monthly Progress Report).
- 2.1.2 Prior to commencement of any construction activity, the Concessionaire shall also finalise in consultation with the DNN/ Project Engineer an operations and maintenance plan for the Project during the Construction Period (“O&M Plan - Construction Period”) and which shall, inter alia, include the following :
- (i) Traffic Management Plan;
 - (ii) Safety management programme including an Emergency Response Protocol; and
 - (iii) Environmental Management Plan
- 2.1.3 The Concessionaire shall, in consultation with the Project Engineer workout an appropriate schedule for submission of documents set out in 2.1.1 above to the Project Engineer for review.
- 2.1.4 Prior to commencement of construction of any of the Project Facilities, the Concessionaire shall have:
- (i) Obtained all such Applicable Permits as are necessary to commence construction of such Project Facilities;
 - (ii) Finalised Construction Drawings as are necessary and the Construction Schedule in consultation with the Project Engineer;
 - (iii) Mobilised the requisite resources, personnel and organisation necessary for the same and designated and appointed suitable officers/ representatives as it may deem appropriate with responsibility to supervise implementation of the Project and for exchange of information with the Project Engineer and the Government Agency;
 - (iv) Finalised in consultation with the Project Engineer a method statement setting out details of the actual methods that would be adopted by the Concessionaire for the construction of such Project Facilities including details of equipment and machinery that would be used, their locations, and arrangements for conveying and handling materials;
 - (v) Finalised in consultation with the Project Engineer quality assurance and quality control procedures to cover all aspects of the work so as to ensure the desired quality.

2.2 During Construction

2.2.1 The Concessionaire shall:

- (i) Strictly follow the guidelines on quality as set out in MSW Rules/BIS/NBC/IRC or any other relevant specifications.

- (ii) Ensure that the construction/rehabilitation of the Project Facilities is undertaken with minimal inconvenience to the traffic using the roads surrounding the Project Site.
- (iii) Take the necessary precautions to minimise accidents and respond to Emergency as quickly as possible;
- (iv) Take precautions to avoid inconvenience to, damage to, destruction of or disturbance to any third party rights and properties;
- (v) Provide a safe, clear and informative system of road signs in connection with the Project, wherever required;
- (vi) Ensure adequate safety of the personnel deployed at the Project Site which would include measures for the safety such as the provision and maintenance of barricades, traffic signs and illumination during night in consultation with the Project Engineer;
- (vii) Be in compliance with the Applicable Laws and Applicable Permits obtained for the Project including the clearances obtained by the Government Agency;
- (viii) Adhere to the Construction Plan and O&M Plan-Construction Period;
- (ix) Deploy adequate number of qualified and competent personnel having relevant experience and skills for implementation of the Project and interaction with the Project Engineer/ the Government Agency.

2.2.2 Positions and Levels

- (i) The Concessionaire shall be responsible for :
 - (a) the accurate setting-out in relation to original survey control points, lines and levels of reference provided by DNN;
 - (b) the correctness of the positions, levels, dimensions and alignment of all parts of the works;
 - (c) the provision of all necessary instruments, appliances and labour in connection with the foregoing responsibilities.
- (ii) If, at any time during execution of the works, any error is noticed in the position, levels, dimensions or alignment of any part of the Construction Works, with respect to those provided by DNN, the Concessionaire, on being asked to do so by the Project Engineer/ DNN, shall at his own cost, rectify such errors to the satisfaction of the Project Engineer.
- (iii) The checking of any setting-out or of any line or level by the Project Engineer shall not in any way relieve the Concessionaire of his responsibility for the accuracy thereof and the Concessionaire shall carefully protect and preserve all benchmarks, sight rails, pegs and other materials used in setting-out the works.

2.2.3 Tests

- (i) Various quality control tests would be undertaken for the Project as per the standards prescribed by Bureau of Indian Standards and MSW Rules. Where no testing methods are specified by the said standards, details of the tests to be carried out and specifications to be achieved for the respective Project Facilities/Construction

- Works or part thereof shall be agreed upon with the Project Engineer prior to construction;
- (ii) Where material properties vary from or comply only marginally with the specifications contained in the Construction Requirements, the Project Engineer shall increase the frequency of testing as appropriate at the cost of the Concessionaire.
 - (iii) The tests would be carried out at a location (place of manufacture, fabrication or preparation, at site or any specialised testing laboratory) that the Project Engineer may reasonably require, at the cost and expense of the Concessionaire.
 - (iv) The Concessionaire shall provide such assistance, labour, electricity, fuels, stores, apparatus and instruments as are normally required for examining, measuring and testing any materials or plant and shall supply samples of materials, as required by the Project Engineer to undertake Tests.
- 2.2.4 No part of the Construction Works shall be covered up or put out of view before the same has been examined by the Project Engineer.
- 2.2.5 The Project Engineer may from time to time require:
- (i) removal from the Project Site, within such time as may be specified in its instructions, any material, equipment, machinery or plant which, in its opinion, do not meet the standards specified in the Construction Requirements;
 - (ii) substitution/ replacement of such improper material, equipment, machinery or plant;
 - (iii) re-execution, of any or part of the Construction Works which in the opinion of the Project Engineer do not meet the standards set out in the Construction Requirements;
 - (iv) the Concessionaire to make boreholes or to carry out exploratory excavation for the Project.
- 2.2.6 The Concessionaire shall arrange for all the material requirements for the Project and disposal of all material wastes. The Applicable Permits in this regard would have to be obtained by the Concessionaire. All excess and unsuitable excavated materials shall be piled at appropriate dumping places or otherwise disposed of by the Concessionaire in consultation with the Project Engineer.
- 2.2.7 Prior to making the request for the issue of Completion Certificate, the Concessionaire shall submit to the Project Engineer/ DNN the following, duly finalised in consultation with the Project Engineer:
- (i) the Operation and Maintenance Manual for the Project (O&M Manual) setting out in detail the standards, schedules, procedures, type, periodicity and other details of the operation and maintenance activities to be carried out for the Project during the Operations Period so as to meet the O&M Requirements as well as

- details of the management information system to be incorporated, reports to be submitted and procedure for reviews.
- (ii) the Operations & Maintenance Plan (O&M Plan) for the first year of operations.

2.3 After Completion of Construction

Upon completion of construction (including road marking work) but prior to issue of the Completion Certificate, the Project Site shall be cleared of all construction equipment, surplus materials, debris and temporary installations and shall be left in tidy and an aesthetically pleasing appearance to the satisfaction of the Project Engineer.

2.4 Reporting Requirements and Documents to be provided

2.4.1 During the Construction Period, the Concessionaire shall submit to the Project Engineer/ DNN, Monthly Progress Report (for each calendar month or part thereof) within 5 working days of the last day of the month. The report shall review the progress made, identify slippages, if any, and project the future activities to be undertaken (including rectifications), operations and maintenance activities undertaken and would, inter alia, include the following:

- (i) Listing of working drawings/sketches submitted
- (ii) Comments of the Project Engineer, if any on the Concessionaire's Drawings submitted
- (iii) Concessionaire's response to the comments on the Concessionaire's Drawings
- (iv) Listing of the "As Built" drawings submitted
- (v) Progress of pre-construction activities - mobilization of plant and equipment, personnel, site office, utility relocation etc.
- (vi) Concessionaire's compliance inspection report, if any required
- (vii) Constraints in construction
- (viii) Progress data with "S" curves, if applicable
- (ix) Project data with contract detail and sectional completion details
- (x) Tests carried out, if any, and results thereof
- (xi) Remedial measures taken by the Concessionaire following such tests, where required
- (xii) Traffic management steps taken by the Concessionaire
- (xiii) Review of milestones and reasons for delay, if any
- (xiv) Suspension of construction, if any, its reasons, duration and the steps undertaken to resume construction
- (xv) Change of Scope Notice issued by the Government Agency, if any, and status thereof
- (xvi) All actual or potential deviations from the Construction Plan

- (xvii) Disagreements/ Disputes , if any and proposed measures to be taken
- (xviii) Maintenance activities carried out by the Concessionaire on the existing carriageway
- (xix) Injury to any construction personnel during construction, its severity, cause and remedial measure(s) taken to avoid recurrence
- (xx) Brief report of any accident/incident within the Project Site, injury/fatality, property damage, cause of accident and actions taken to avoid recurrence
- (xxi) Traffic detour/diversion for construction - time and duration
- (xxii) Notes of meetings between the Concessionaire, the Project Engineer and the Government Agency highlighting critical decisions taken or agreements reached. Minutes of the meeting issued by the client shall also be included in the monthly progress reports.

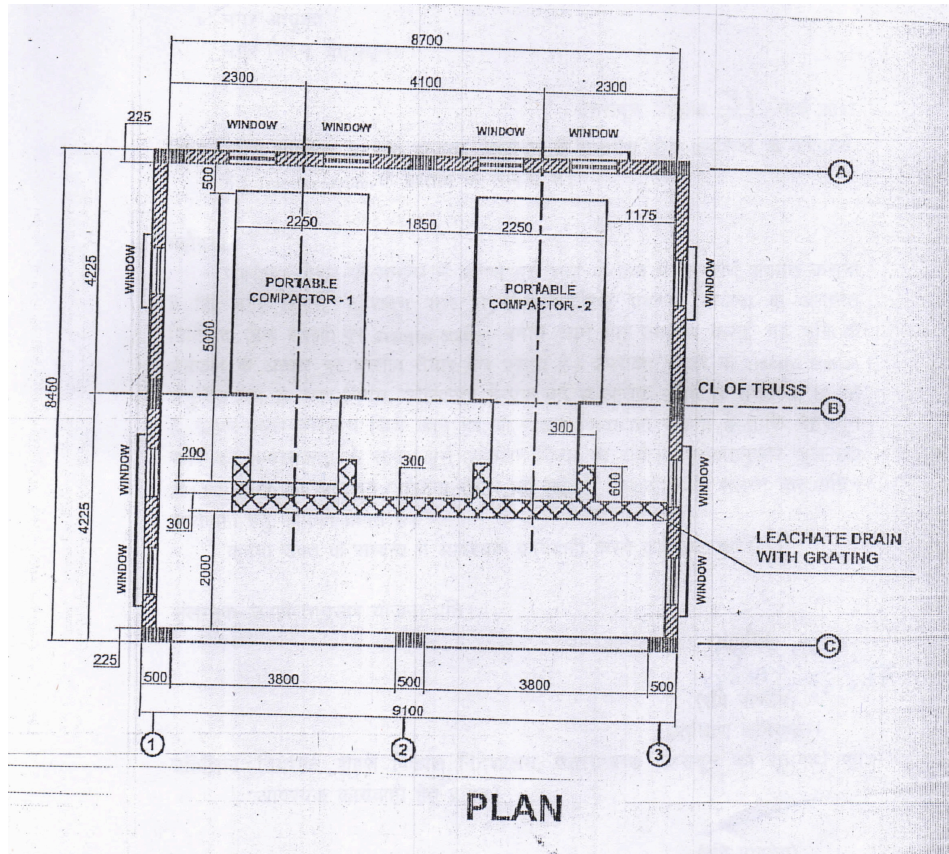
2.4.2 Prior to making the request for the issue of Completion Certificate, the Concessionaire shall submit to DNN the following documents, free of costs:

- (i) Three hardcopies and two copies in electronic form (two Compact Discs) of the "As Built" drawings of the Project - detailed, accurately scaled and sequentially numbered, covering all relevant engineering features, which in relation to structures shall also include cross sections in each drawing;
- (ii) copies of all geo-technical and borehole reports obtained by the Concessionaire, if any;
- (iii) Three hardcopies and two copies in electronic form (two Compact Discs) of the Operations and Maintenance Manual.

3. Project Facilities

3.1 Civil Works

Sr No.	Civil Works	Quantity Estimated
1.	Proposed Mini Transfer Stations at 3 locations	3
	TR-1 :Transfer Station in Kargi, Back of Petrol Pump, Haridwar Bypass	1
	TR-2 :Dhoran, IT Park Road, Near Dhoran Bridge	1
	TR-3 :Kaulagarh End, at the end of kaulagarh area	1
2.	Construction/Setting up of Smart SWM Control Room at NND	1
3.	Construction/Setting up of Workshop at Designated Location	1



Indicative plan of Mini Transfer Station (Portable Refuse Compactors)

4. **Details** of Construction Requirements and drawings shall be as per the final DPR approved by NND and it shall be considered a part of this agreement.

PROJECT EQUIPMENTS

SCHEDULE 4

A. Project Equipments & Vehicles being handed over by NND

This is initial indicative list only. Final list after joint inventory shall be made part of this agreement.

I. List of Existing Vehicles being Handed Over by NND :

Sl. No.	Vehicle Reg No.	Model Year	Type	Working Condition
1	UK07 CA 4181	2011	DP	To be Repaired
2	UK07 CA 4184	2011	DP	To be Repaired
3	UK07 CA 4187	2011	DP	Under Repairing
4	UK07 CA 7893	2014	DP	Under Repairing
5	UK07 CA 4186	2011	DP	Working
6	UK07 CA 5514	2012	DP	Under Repairing
7	UK07 CA 5515	2012	DP	Working
8	A/F - 3 (1109)	2012	DP	Working
9	A/F - 1 New	2016	DP	Working
10	A/F - 2 New	2016	DP	Working
11	A/F - 3 New	2016	DP	Working
12	A/F - 4 New	2016	DP	Working
13	UK07 CA 2354	2011	DP	Workshop
14	UK07 CA 4191	2011	Hyva	Working
15	UK07 CA 4185	2011	Hyva	Working
16	UK07 CA 4967	2012	Dumper	Not Working
17	UK07 CA 4969	2012	Dumper	Working
18	UK07 CA 4968	2012	Dumper	Not Working
19	UK07 N 5216	2012	Bull Loader	Not Working
20	UK07 CA 5603	2012	Compactor	Working
21	UK07 CA 5604	2012	Compactor	Working
22	A/F mahindraa	2013	Tractor Trailor	Working
23	UK07 CA 4602	2012	Bolero	Working
24	UK07 CA 4182	2011	TATA Ace	Accidental

25	UK07 CA 4189	2011	TATA Ace	Working
26	UK07 CA 4197	2011	TATA Ace	Working
27	UK07 CA 4202	2011	TATA Ace	Under Repairing
28	UK07 CA 4958	2012	TATA Ace	Working
29	UK07 CA 4971	2012	TATA Ace	Under Repairing
30	UK07 CA 6211	2012	TATA Ace	Under Repairing
31	UK07 CA 6588	2012	TATA Ace	Working
32	UK07 CA 4960	2012	TATA Ace	Working
33	UK07 CA 4198	2011	TATA Ace	To be Repaired
34	UK07 CA 4970	2012	TATA Ace	Under Repairing
35	UK07 CA 6589	2012	TATA Ace	Working
36	UK07 CA 4190	2011	TATA Ace	Working
37	UK07 CA 4192	2011	TATA Ace	Working
38	UK07 CA 4193	2011	TATA Ace	Working
39	UK07 CA 4195	2011	TATA Ace	Working
40	UK07 CA 4196	2011	TATA Ace	Under Repairing
41	UK07 CA 4955	2012	TATA Ace	Under Repairing
42	UK07 CA 4956	2012	TATA Ace	Under Repairing
43	UK07 CA 4991	2012	TATA Ace	Under Repairing
44	UK07 CA 4992	2012	TATA Ace	Under Repairing
45	UK07 CA 6153	2012	TATA Ace	To be Repaired
46	UK07 CA 6154	2012	TATA Ace	To be Repaired
47	UK07 CA 6156	2011	TATA Ace	To be Repaired
48	UK07 CA 6587	2012	TATA Ace	Working
49	UK07 CA 6599	2012	TATA Ace	To be Repaired
50	UK07 CA 6603	2012	TATA Ace	To be Repaired
51	UK07 CA 6604	2012	TATA Ace	To be Repaired
52	UK07 CA 4957	2012	TATA Ace	To be Repaired
53	UK07 CA 6605	2012	TATA Ace	Working

54	UK07 CA 4953	2011	TATA Ace	To be Repaired
55	UK07 CA 4954	2012	TATA Ace	To be Repaired
56	UK07 CA 4959	2012	TATA Ace	To be Repaired
57	UK07 CA 4961	2012	TATA Ace	Accidental
58	UK07 CA 6155	2012	TATA Ace	Working
59	UK07 CA 6585	2012	TATA Ace	Working
60	UK07 CA 6598	2012	TATA Ace	Working
61	UK07 CA 6586	2012	TATA Ace	Working
62	UK07 CA 4194	2011	TATA Ace	To be Repaired
63	UK07 CA 4993	2012	TATA Ace	To be Repaired
64	UK07 CA 4201	2012	TATA Ace	Condemned
65	UK07 CA 4963	2012	TATA Ace	Condemned
66	A/F-4064	2015	TATA Ace	Working
67	A/F-4632	2015	TATA Ace	Working
68	A/F-4636	2015	TATA Ace	Working
69	A/F-4641	2015	TATA Ace	Working
70	A/F-4292	2015	TATA Ace	Working
71	A/F-4345	2015	TATA Ace	Working
72	A/F-4638	2015	TATA Ace	Working
73	A/F-4628	2015	TATA Ace	Working
74	A/F-4630	2015	TATA Ace	Working
75	A/F-4626	2015	TATA Ace	Working
76	A/F-28583	2015	TATA Ace	Working
77	A/F-28802	2015	TATA Ace	Working
78	A/F-28683	2015	TATA Ace	Working
79	A/F-28511	2015	TATA Ace	Working
80	A/F-28864	2015	TATA Ace	Working
81	A/F-28902	2015	TATA Ace	Working
82	A/F-28372	2015	TATA Ace	Working

83	A/F-28481	2015	TATA Ace	To be Repaired
84	A/F-07163	2015	TATA Ace	Working
85	A/F-28488	2015	TATA Ace	Working
86	A/F-28590	2015	TATA Ace	Working
87	A/F-28489	2015	TATA Ace	To be Repaired
88	A/F-28783	2015	TATA Ace	Working
89	A/F-28718	2015	TATA Ace	Working
90	A/F-28512	2015	TATA Ace	Working
91	A/F-28474	2015	TATA Ace	Working
92	A/F-28359	2015	TATA Ace	Working
93	A/F-28869	2015	TATA Ace	Working
94	A/F-28775	2015	TATA Ace	Working
95	A/F-28163	2016	TATA Ace	Working
96	A/F-84452	2016	TATA Ace	Working
97	A/F-42030	2016	TATA Ace	Working
98	A/F-38447	2016	TATA Ace	Working
99	A/F-41238	2016	TATA Ace	Working
100	A/F-41237	2016	TATA Ace	Working

II. List of Other Assets & Equipment Being Handled Over by NND :
{ Details to be filled }

B. Project Equipments & Vehicles to be procured by the Concessionaire

I. Portable Refue Compactors etc. at Mini Transfer Stations :

S.No.	Detail of the Site	Estimated no. of Refuse Compactors	Estimated no. of hook loader mounded on 16 T GVW capacity of handling 10.5 cum. Container
1	Transfer Station in Kargi, Back of Petrol Pump, Haridwar Bypass	6	2

2	Dhoran, IT Park Road, Near Dhoran Bridge	3	1
3	Kaulagarh End, at the end of kaulagarh area	2	1

II. Estimated Additional Vehicles :

S.No	Model	Nos	Unit
1	Compactor- 14 M3	5	No
2	Compactor containers	3	No
3	Chassis for Compacter Container	2	No

III. Equipment for Smart SWM System & Smart SWM Control Room :

Concessionaire shall build Smart SWM System with following minimum specifications and fit all the vehicles with necessary equipment. A Smart SWM Control Room at NND shall be essential part of this sytem :

- a. Complete Door To Door Household/Shops Establishment Map
- b. System with ability to measure doo to door waste collection from each household/establishment to establish level of services provided and show it on User Charge bills. This will establish basis to enforce action against non-payment bills and measure user charge collection efficiency.
- c. Completely verifiable transaction based chain for KPIs
- d. Smart SWM Control Room at NND with large displays of the maps, dashboards and video feed of activities at major component of the system
- e. Dedicated Intra organization communication system for operations management

These are only indicative lists and details for equipment, final DPR approved by NND must detail out complete BOQ of the system. This DPR shall be part of this agreement.

IV. Minimum Equipment List for Workshop :

Concessionaire must setup a workshop for speedy, cost effective and efficient maintenance of all project vehicles. Following is the list of minimum equipment required for the workshop, concessionaire may add additional machinery for better management of the workshop :

S. No.	Details Approx.	Qty.
1	Repairing sheds (engine / road running rep. / auto Electric / hydraulic / tyre mntc. etc.)	Lot
2	Washing / servicing ram with water tank of 10000 ltr. Capacity /	One Unit

	necessary structure & high pr. Water jet machine	
3	Maintenance equipments:	
a	Welding Machines 3 Phase.	02
b	Vehicle Washing Machine (Nozzle type)	01
c	Battery Charger Machine (10 Batteries)	01
d	Battery testing & other auto electric testing machine / equipment	
e	Misc. Smithy shop Machines	Lot
f	Lathe / Radial Drill / Hexo cutter Machines	One Each
g	Unit handling cranes.	3 Nos.
h	Gear box, Differential mounting trolley. 4 o 5 No.	4to5 No.
i	Overhead crane 2/3 ton capacity with structure	One
j	Engine cleaning machine	One Unit
k	Other misc. handy machines / tools like drill, grinder, cutter, riveter, bench vice, etc.	Lot
l	Air compressor 3 No. (1. of approx. 5 HP for tyre room / 1 of 2 HP for hydraulic repair room/ 1 of 2 HP for schedule checking / paint facility) with required attachment of Air pr./ spray / greasing/ gauges etc.	Total 3 Units
m	Tube vulcanizing machine & related facilities	
n	Automatic tyre changer machine	One
o	Smoke testing machine (diesel)	One
p	Trolley jacks Hydraulic operated for vehicle lifting 10 /5/2 ton capacity	3 Nos.
4	Other necessary infrastructures & back up support facilities like administration wing/ time recorder office / security office / data maintenance office Fuel filling station etc. is also required depending upon the work load & manpower strength.	

PROJECT ENGINEER'S SELECTION & SCOPE OF WORK

SCHEDULE 5

1.0 Selection Of Project Engineer

- 1.1 The Authority shall invite expressions of interest from consulting engineering firms or bodies corporate to undertake and perform the duties and functions set forth in this schedule and thereupon shortlist upto 10(ten) qualified firms in accordance with pre-determined criteria. The firms should have requisite similar project experience and necessary key personnel with proven project experience.
- 1.2 Firms from this panel shall be invited to submit their technical & financial proposal to complete the selection process. QCB method shall be used for this stage of the selection process.
- 1.3 This panel shall be kept atleast for three years and in case any replacement of project engineer is needed then short term bidding process can be used to select the replacement from this panel.
- 1.4 Concessionaire may scrutinize the selection process and share their suggestion and vies with the Authority.

1.5 Fee and expenses

- 1.5.1 In determining the nature and quantum of duties and services to be performed by the Project Engineer during the Development Period and Construction Period, the Authority shall endeavour that payments to the Project Engineer on account of fee and expenses do not exceed 2% (two per cent) of the Total Project Cost. Payments shall be borne by the Concessionaire in accordance with the provisions of this Agreement and paid through the Authority and.

- 1.5.2 The nature and quantum of duties and services to be performed by the Project Engineer during the Operation Period shall be determined by the Authority in conformity with the provisions of this Agreement and with due regard for economy in expenditure. All payments made to the Project Engineer on account of fee and expenses during the Operation Period, shall be borne equally by the Concessionaire and paid through the Authority.

1.6 Constitution of fresh panel

No later than three years from the date of this Agreement, and every three years thereafter, the Authority shall prepare a fresh panel of firms in accordance with the criteria set forth in this Schedule-5; provided that the Authority may, at any time, prepare a fresh panel with prior written consent of the Concessionaire.

1.7 Appointment of government entity as Project Engineer

Notwithstanding anything to the contrary contained in this Schedule, the Authority may in its discretion appoint a government-owned entity as the Project Engineer; provided that such entity shall be a body corporate having as one of its primary function the provision of consulting, advisory and supervisory services for engineering projects of similar nature; provided further that a government-owned entity which is owned or controlled by the Authority shall not be eligible for appointment as Project Engineer.

2.0 Role of the Project Engineer

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

- a) independently review, monitor and where required by the Agreement, to approve activities associated with the Design, Construction, Operation and Maintenance of the Project Facilities to ensure compliance by the Concessionaire with the Construction Requirements and Operation & Maintenance Requirements,
- b) Certify on a daily basis, the following quantum of MSW:
 - i. Collected by Concessionaire from Door to Door Collection & other designated sources
 - ii. Transported to the Processing Site
 - iii. Delivered at the processing site
 - iv. processed at the Waste Processing facility
 - v. land filled at the Landfill Facility
 - vi. returned from the Project Facility as Non-confirming Waste
- c) report to the Parties on the various physical, technical and financial aspects of the Project based on inspections, site visits and Tests,
- d) assist the Parties in arriving at an amicable settlement of disputes, should the need arise, and

2.2 Scope of Services

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

2.1.1 Implementation Period - Design and Planning

Review of the following submitted by the Concessionaire:
Implementation/ Construction Plan

- (i) Detailed Project Reports;
- (ii) Drawings
- (iii) Quality Assurance Plan;
- (iv) O & M Plan Phase I
- (v) O & M Plan Phase II
- (vi) O & M Plan Phase III

2.1.2 Implementation Period - Construction

The Project Engineer would monitor, in accordance with Good Industry Practice, the progress in implementation and ensure compliance with the Construction Requirements. For this purpose the Project Engineer shall undertake, inter alia, the following activities and where appropriate make suitable suggestions:

- (i) monitor the progress in implementation of the Project based on the Implementation/ Construction Plan submitted by the Concessionaire;
- (ii) review and approve the material testing and mix designs results and recommend special tests, where required, for materials and/or completed works, require removal/substitution of unsuitable materials and /or works and report deficiencies in respect of the same to DNN;
- (iii) review and monitor the quality assurance and quality control procedures followed by the Concessionaire;
- (iv) review the manpower and equipment deployed by the Concessionaire;
- (v) monitor the Construction Works for conformity with the Project Requirements;
- (vi) verify the 'As-Built' drawings for each component of the works prepared by the Concessionaire and require removal of deficiencies found therein;
- (vii) review the safety and traffic management measures implemented;
- (viii) review and ascertain the cost variation arising as a result of Change in Law and determine the Additional Cost;
- (ix) require, monitor and review the results of Tests to be carried out by the Concessionaire in accordance with the Construction Requirements and/or O&M Requirements;
- (x) require suspension of whole or any part of the Construction Works if in its reasonable opinion the same does not conform to the Construction Requirements;
- (xi) issue Provisional Certificate and/or Completion Certificate in accordance with the applicable provisions of the Agreement; and
- (xii) issue Certificate in accordance with Clause 5.4 of this Agreement.
- (xiii) review and assist in finalisation of the O&M Manual and first annual O&M Plan prepared by the Concessionaire.

2.1.3 Operations Period

During this period the Project Engineer would monitor, in accordance with Good Industry Practice, the operations and maintenance activities undertaken by the Concessionaire so as to ensure compliance with the O&M Requirements. The specific activities to be undertaken would include the following:

- (i) review the O&M Plans submitted by the Concessionaire from time to time and assist the Concessionaire in finalising the same;
- (ii) monitor O&M activities (including maintenance of equipment, standards of service, safety and environmental issues) and the overall quality of O&M activities so as to ensure compliance by the

- Concessionaire with the O&M Requirements, O&M Plan and O&M Manual;
- (iii) periodically review the O&M Manual for adequacy;
 - (iv) inspect the Project Facilities at least once a month and as and when exigencies require to ascertain conformity with Project Requirements;
 - (v) review and ascertain the cost variation arising as a result of Change in Law and determine the Additional Cost;
 - (vi) undertake a quarterly review of the various records and registers to be maintained by the Concessionaire (including the records relating to complaints and accidents) and suggest suitable remedial measures/ procedures, where necessary.

The Project Engineer shall certify the quantity of MSW collected, transported and delivered to processing site by the Concessionaire on a daily basis.

In the event of Emergency, the Project Engineer shall assist the Concessionaire in dealing with the same and if necessary require or permit, as the case may be, the Concessionaire to take such appropriate steps or measures including where necessary decommissioning of any Project Facilities.

2.1.4 Handback of Project Facilities to DNN

At the time of handing back the Project Facilities to DNN at the end of Concession Period, the Project Engineer shall :

- (i) monitor and certify compliance with Project Facility Handback Requirements and
- (ii) issue a Certificate of Compliance with Project Facility Handback Requirements to the Concessionaire.

2.3 Breach of Obligations

If during the course or upon review / inspection undertaken by the Project Engineer or otherwise, it transpires that either of the Parties is in breach/ default of any of its obligations under the Agreement, the Project Engineer shall, under intimation to the other Party, require the defaulting Party to remedy such breach/ default within such time and in such manner as the Project Engineer may deem fit and in each case the same shall be recorded.

2.4 Meetings, Records and Reporting

- (a) The Project Engineer would be required to participate in the Project review meetings held from time to time by the Parties, which are ordinarily expected to be held once a month during the Construction Period and once every two months during the Operations Period as also to participate in emergency or extra-ordinary meetings of the Parties held to deal with any Emergency, Force Majeure Event or other exigencies.
- (b) The Project Engineer shall, in the ordinary course, maintain record of the activities undertaken by it in discharge of its functions and

responsibilities. This would include records in respect of the following:

- (i) Manpower deployed and other organisational arrangements of the Project Engineer;
 - (ii) Reviews of documents submitted to it by the Concessionaire to meet Project Requirements, such as manuals, Drawings, As-Built drawings, schedules, plans and reports;
 - (iii) Inspections undertaken and notices/instructions issued to the Concessionaire;
 - (iv) Review of compliance with Project Requirements;
 - (v) Records of quantities of waste certified daily with respect to door to door collection & transportation done by the Concessionaire
 - (vi) Tests;
 - (vii) Change in Law;
 - (viii) Emergency (including accidents);
 - (ix) Force Majeure Events;
 - (x) Breaches and defaults by the Parties;
 - (xi) Project Facility Handback Requirements; and
- (c) The Project Engineer would be required to submit the following reports to the Parties during the Concession Period :
- (i) Implementation / Construction Period
 - Monthly Progress Report (including details of slippages and remedial measures)
 - Report on Tests and report on notices Issued
 - Completion Certificate (including Provisional Certificate)
 - Report on Project Equipments and Vehicles purchased by the Concessionaire for implementation of the Project.
 - Any supplemental or special report that may be considered necessary by the Project Engineer (including Emergency, Force Majeure, and breach of obligations).
 - Any other report as may be reasonably required by NND or as may be necessary to give effect to the provisions of the Agreement.
 - (ii) Operations Period
 - Monthly O&M Report (including details of waste collected, Processed and Landfill)
 - Report on Tests and report on notices Issued
 - Any supplemental or special report that may be considered necessary by the Project Engineer (including Emergency, Force Majeure, and breach of obligations)
 - Annual Review of O&M Manual
 - Any other report as may be reasonably required by NND or as may be necessary to give effect to the provisions of the Agreement.
 - (iii) Report on Project Facility Handback Requirements.
 - (iv) Any other report as may be reasonably required by DNN or as may be necessary to give effect to the provisions of the Agreement.

OPERATION AND MAINTENANCE REQUIREMENTS

SCHEDULE 6

1. General

- 1.1. The Concessionaire shall comply with the O&M Requirements set out in this Schedule. In doing so, the Concessionaire shall ensure that the Project Facilities are maintained to the standards and specifications as set out in the Construction Requirements also meet the other requirements, if any, set out in the Agreement.
- 1.2. The Concessionaire shall take appropriate measures to minimize traffic disruption on the roads adjoining the Project Site.
- 1.3. During the Concession Period, the Concessionaire shall ensure that :
 - i. Project Facility is kept free from undue deterioration and undue wear;
 - ii. applicable and adequate safety measures are taken;
 - iii. adverse effects on the environment and to the owners and occupiers of property and/or land in the vicinity of the Project Facility, due to any of its actions, is minimized;
 - iv. any situation which has arisen or likely to arise on account of any accident or other emergency is responded to as quickly as possible and its adverse effects controlled/minimized;
 - v. disturbance or damage or destruction to property of third party by operations of the Project Facility is controlled/minimized;
 - vi. members of the public are treated with due courtesy and consideration by its employees/ agents;
 - vii. users are provided with adequate information and forewarned of any event or any other matter affecting the Project Facility to enable them to control/minimize any adverse consequences by such event or matter;
 - viii. a complaint register to record grievances of any member of the public in relation to the operations and maintenance of the Project Facility is duly maintained;
 - ix. all materials used in the maintenance, repair and replacement of any of the Project Facility shall meet the Construction Requirements.
 - x. The personnel assigned by the Concessionaire have the requisite qualifications and experience and are given the training necessary to enable the Concessionaire meet the O & M Requirements.

2. Operation and Maintenance Manual and O& M Plans

- 2.1. Prior to the commencement of any construction activity, the Concessionaire, in consultation with the Project Engineer, shall finalize the O&M Plan - Construction Period.
- 2.2. The O&M Plan for the first year of operations shall inter alia include :
 - a) Maintenance plan of Project Facilities;

- b) Specifications of service level standards including clearance and disposal of all types of waste collected;
- c) Manpower deployment plan, including the designation of key personnel for the management and supervision of all Project-related activities. (This would include the designation of suitably qualified personnel for waste collection and transportation, maintenance of Project Assets, Project Facility Project management and quality assurance plan);
- d) Establishment of suitable complaint redressal system; and
- e) A detailed plan for receiving, processing, disposing and weighing the waste;
- f) A plan for segregation of waste;
- g) Manpower deployment plan, including the designation of key personnel for the management and supervision of all Project-related activities;
- h) A broad User Charge Collection structure of the Project and strategies to improve User Charge Collection;
- i) Format of the Monthly Project Progress Report giving details of the progress in implementation of the Project ("Monthly Project Progress Report");
- j) Environment Management plan;
- k) Facilities;
 - (i) replacement of Project Equipment/Vehicles, consumables,
 - (ii) maintenance of the Project Facilities in accordance with Good Industry Practice;
- l) removing and disposing of in accordance with all Applicable Laws and Applicable Permits, all rubbish, debris, etc. including any and all equipment, supplies, materials and wastes brought or produced by the Concessionaire/ Contractor Facilities;
- m) taking all practical measures to prevent damage to the Project Facilities;
- n) Quality Assurance plan.

2.2.1. For routine maintenance works of the Project Facility, the Concessionaire shall generally follow the operational and performance criteria specified in the respective MSW Rules, IRC or any other Applicable standards. Where such criteria are not specified in the standards, the Concessionaire, for the purpose of routine maintenance shall set forth such criteria as to conform to good international standards and Good Industry Practice for sound pavement maintenance practices in consultation with the Project Engineer.

2.2.2. The Concessionaire shall regularly carry out the necessary preventive maintenance activities for the Project Facilities to ensure adherence to the Project Requirements throughout the Concession Period.

2.2.3. All maintenance activities shall be planned and coordinated in such a way that the maintenance works shall generally be done during nights and holidays (if unavoidable) so as to cause least disturbance.

2.3. Emergency Maintenance Activities

2.3.1. The Emergency Response Protocol ("ERP") shall be developed by the

Concessionaire in consultation with the local police, hospital / ambulance services, fire departments and other authorities/support personnel and the Project Engineer. This shall be a part of the O&M Manual developed by the Concessionaire.

2.3.2. The ERP shall set out steps to be taken and measures to be adopted by the Concessionaire in responding to dealing with Emergency including those situations related to vehicle accidents involving personal injuries or fatalities, property damage and Force Majeure:

2.3.3. In case of Emergency, the Concessionaire shall

- (i) carry out such emergency maintenance and repairs as may be required to repair the damages, if any, in consultation with the Project Engineer 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.
- (ii) follow the relevant operating procedure specified in the O&M Manual including the setting up of temporary traffic cones and lights as well as the removal of obstruction and debris expeditiously.

2.4.Safety

2.4.1. The Concessionaire shall make provision for round-the-clock security of the Project Facilities.

2.4.2. The concessionaire shall also make safety provisions for all the employees in accordance to prevailing norms for such facilities and operations.

2.4.3. The Concessionaire shall implement a Safety Management Programme in line with relevant guidelines and shall form a part of the O&M Manual.

2.5.Inspections & Frequency

The Concessionaire shall prepare an inspection programme plan for the Project Facilities for its smooth operations as follows:

2.5.1. Visual Inspection

Visual Inspections are broad general inspections carried out frequently by maintenance engineers having adequate knowledge of solid waste management, building and pavement structures. The purpose of visual inspection is to report fairly obvious deficiencies at the Project Site, which could lead to accidents or maintenance problems. Such inspections should be frequent. The visual inspection may be carried out by visual assessment with careful observation of the specific object/ item of the Project Facilities for identification and for quantification of the deficiencies or damages of the Project Facilities.

2.5.2. Close Inspection

Close inspections may be visual and/or by standard instrumental aids

for assessment of defects/ deficiencies of the Project Facility with careful observation of specific element/s. The close inspection would require detailed examination of the specific element of the Project Facility and should cover all the aspects against a checklist. This inspection is to be carried out by the engineer having good knowledge of the specific element to analysis the nature, and extent of defects/ deficiencies, suggest suitable remedial measures to rectify/ remedy them and quantify repair work.

2.5.3. Thorough Inspection

Such an inspection is to be carried out on the basis of comprehensive checklist of items related to the materials, condition and situation of the structure etc. on the Project Site. This inspection is to be carried out by the engineer having good knowledge of the specific element to analysis the nature, and extent of defects/ deficiencies, suggest suitable remedial measures to rectify /remedy them and quantify repair work.

2.5.4. Frequency of Inspections

The type of inspection and related frequency of various items of Project Facility can be decided by the Concessionaire in consultation with the Project Engineer if the situation so warrants.

2.6. Reporting Requirements

The reporting and information that generally need to be provided by the Concessionaire are given below. The Requirements given below are indicative of the type of information to be provided. The format of such reports, recording requirements, software standards and number of copies required would be finalized in consultation with the Project Engineer. All reports and records shall be in the English language.

2.6.1. Inspection Reports and Remedial Measures

The periodicity of inspections for maintenance activities by the Concessionaire shall be set out in the O&M Manual and regular reports on the same shall be sent to the Project Engineer. Where required, the Concessionaire shall carry out any maintenance, repair or rehabilitation works found necessary as a result of such inspections.

2.6.2. Monthly Maintenance Report

During the Operation Period, within 5 days of the end of each calendar month or part thereof, the Concessionaire shall provide to the Project Engineer/ NND a monthly report (Monthly Maintenance Report) which shall contain the following minimum information:

- i. Details of major maintenance undertaken
- ii. Inspections undertaken by the Concessionaire during the

- month and action taken/ proposed thereafter;
- iii. Details of all reports submitted to the Project Engineer during the month
- iv. O & M inspection compliance report
- v. Maintenance activities undertaken during the month ended,
- vi. Details of any Emergency and action taken

2.7. O & M Manual

- 2.7.1. The O&M Manual prepared by the Concessionaire in consultation with the Project Engineer shall set out the operations and maintenance standards and details of the operations and maintenance activities to be undertaken during the Operations Period; so that the Project Facilities shall at all times conform to the Project Requirements.
- 2.7.2. The O&M Manual shall have separate sections for operations and maintenance.
- 2.7.3. The O&M Manual shall include without limitation the following aspects:
 - i. Organization structure with responsibilities of key personnel;
 - ii. Project Facility Management;
 - iii. Safety Management Programme including the Emergency Response Protocol;
 - iv. MSW Door to Door Collection Plan
 - v. Waste Collection from commercial establishments
 - vi. Waste aggregation & Transportation
 - vii. Waste Segregation Plan
 - viii. Compliance of MSW Rules & Environmental Rules
 - ix. All the issues described regarding O&M plan at clause 2 of this schedule
 - x. Inspection Procedures;
 - xi. Maintenance Standards (including Maintenance Intervention Levels);
 - xii. Maintenance Programme;
 - xiii. Management information system;
 - xiv. Report Formats.

3. Standard of Service for Door to Door Collection of Waste

- 3.1. The Concessionaire shall arrange for Door to Door Collection of Waste from all households, shops, workshops, offices and other establishments at pre informed timings in all the wards of the city, using his own financial resources, manpower, vehicles, tools, equipment etc. These timings may be changed with mutual agreement between the Authority & Concessionaire based on inputs from the stakeholders.

The Door to Door Collection shall be carried out in the following two ways:

- a) In the areas that are accessible through a motorized vehicle, by using covered motorized tipping collection vehicles.
- b) In the areas that are not accessible through motorized vehicles, by using containerized tricycles and/or containerized hand carts or any other superior type of collection device.

3.2. Standard of services in the areas accessible through motorized vehicles:

- a) The Contractor shall at least deploy covered motorized tipping LC vehicles at the rate of one vehicle per 2000 households (other than tractor or tractor type slow moving vehicles) for Door to Door Collection of Waste, from residential and non-residential premises. The vehicles shall have non-conventional horn so as to alert the citizens about the arrival of waste collection vehicle.
- b) Motorized vehicles shall ply on roads, streets, lanes & bye-lanes and each vehicle shall be accompanied by at least 2 sanitary workers. The driver shall blow the horn and the sanitary workers shall blow the whistle intermittently and collect the Waste from all the households, shops & establishments situated on both sides of the road / street etc. in the wards allotted under the contract for Door to Door Collection. The waste collectors shall collect the domestic / trade bins from the member or representative of the households, shops or establishments who may come forward to hand over the Waste to the waste collector on hearing the horn or the whistle.
- c) The waste collectors shall in a routine course, educate the citizens to segregate the Biodegradable and non Bio-degradable waste and keep ready in two bins and handover as soon as they hear the sound of the horn or whistle.
- d) The waste collection vehicle shall have two compartments one for Bio-degradable and another for recyclable waste. In cases where the citizens give segregated Waste to the waste collector, he shall put the organic matter in the larger compartment for Biodegradable waste and recyclable waste in another compartment. In cases where mixed Waste is given, it shall be deposited in the compartment meant for Bio - degradable waste.
- e) The waste collector shall transfer the contents of the domestic / trade bin into the waste collection vehicle and return back the container to the person who had handed over the Waste.
- f) The waste collector shall also pick up the Waste from the entrance of the premises if kept in a liftable container not exceeding 60 liters capacity by the Waste generator. The waste collector, after emptying the container into the waste collection vehicle, shall keep back the container to its original place.
- g) In case of multi storied buildings or large commercial complexes/malls the waste collector will not be required to approach each unit in the premises. The waste collector shall report in front of the premises near the entrance at the ground floor, announce his arrival and give reasonable

time to the residents/traders/occupiers/management of the premises to deliver their Waste to the waste collector.

- h) The Concessionaire may enter into a working arrangement with large commercial / institutional establishment/malls etc to pick up their Waste from a fixed point in their premises easily accessible to the waste collection vehicle.
- i) The waste collectors shall move from house to house to collect the Waste from the entrance and shall not insist on the households to come to the vehicle and deposit the Waste inside the vehicle.
- j) The waste collectors shall not enter inside the household premises for collection of Waste to save time and avoid any allegations of theft.
- k) The waste collection vehicle shall move slowly in the residential & commercial areas during the collection process and intermittently stop for a while to enable the waste collectors to deposit the Waste collected from the Door to Door Collection into the vehicle
- l) The waste collection staff shall wear the uniform and behave decently with the citizens they serve.
- m) The waste collectors shall not demand any charges from the citizens for rendering service unless specifically permitted by the Authority.
- n) When the waste collection vehicle is full, it shall be taken to the waste processing facility or to the landfill or as may be directed by the authority, to unload the Bio-degradable wastes collected during Door to Door Collection for processing of waste. Contractor may away the recyclables for sale or other profitable use and return back to continue the Door to Door Collection work till work allotted is over.
- o) The Concessionaire shall maintain the fleet of covered vehicles in a good working condition with minimum 10 % spare vehicles to maintain the adequacy of the fleet on the road.
- p) Door to door Collection Service shall also be provided to residents of Housing Board Colonies, Railway Colony and Colonies of Industrial houses etc. as may be advised by the respective Authorities.

3.3. Standard of service in inaccessible areas:

- a) In cases where the Waste is to be collected from in-accessible areas such as slums, informal settlements or narrow lanes, the Contractor shall arrange to serve such inaccessible areas through containerized hand carts (in case of female workers) / containerized tricycles (in case of male workers) or any other superior devise for waste collection. One sanitation worker shall be deployed with each hand cart / tricycle to collect the Waste from every household using whistle or bell attached to the handcart or tricycle. One handcart or tricycle shall be deployed to serve on an average 200 households.
- b) The Waste so collected shall be brought out on the street accessible to motorized vehicles. The sanitation worker who brings the Waste into hand cart / tricycle shall transfer the Waste into the vehicle. Here, the collection vehicle shall also have one sanitary worker to assist the waste collectors in transferring the Wastes into the vehicle.

- c) These waste collection vehicles shall be taken to MSW Processing Facility or Landfill Facility unload the contents into large vehicle/container and get back to work till the work is completed.

3.4. Timings for Door To Door (D2D) Collection

Suggested timings for Door to Door Collection:

Full Time Duty Hours : 06:00 A.M. To 02:00 P.M.
D 2 D Service Hours

Households : 07:00 A.M. To 12:00 Noon

Non-Residential Establishments : 10:00 A.M. To 01:00 P.M.
(Such As Shops, Offices, Workshops, Industries etc)

4. Service Levels & Key Performance Indicators

Project Performance shall also be measured against following KPIS and Service Levels. These KPIs shall however be applied only after commencement of **Phase 3 Operations**.

Indicator	Measurement	Target Value	Penalties/Incentive
Household level coverage of SWM services. Each Household/Establishment must be mapped and serviced everyday by the Concessionaire. All the households covered must be billed for user charges 100% every month.	As % of households and establishments that are covered by daily door-step collection system.	100%	After 3 months of development period, on a daily basis system should generate report on household/establishment coverage for waste collection and if 100% collection achievements are missed then, except in force majeure conditions, following penalty mechanism would be applicable : upto 95% - No penalty, <95% >= 90% : 5% bill value of that day >90% = <80% : 10% of bill value of the day, <80% >=75%: 20% of daily bill value. >75% Event of default

Extent of Segregation of municipal solid waste	As % of households and establishments that segregate their waste. NND, Concessionaire & Project Engineer shall devise a method of measurement	100%	If Concessionaire achieves and maintains above 95% segregation for the whole year then it shall receive 0.5% of total annual user charge collected as incentive
Extent of "conforming municipal solid waste" transported to processing site on the same day	Quantum of waste transported to Processing Site on the same day as collection (by 5pm everyday)	90%	<p>Weights of all the door to door collection & other collection from the city will be weighed upto to transfer/compacting points(Wc) by the system</p> <p>and</p> <p>conforming waste received by Processing site upto 5pm daily shall be recorded (Wt).</p> <p>Only vehicles that are part of door to door collection through transfer/compacting point shall be included in this calculation, vehicles collecting waste from any source and transporting directly to processing site shall not be included in this calculation.</p> <p>Wt/Wc should not be less than 90%.</p> <p>If this ratio is lower than 90% \geq 80% then penalty of Rs. 5000 /day shall be</p>

			<p>levied.</p> <p>If ratio is less than <80% >=75% Rs. 10000/ day shall be levied as fine.</p> <p>if ratio is falls below 75% then it will lead to event of default.</p>
Cost Recovery in SWM services	As % of user charge to tipping fee paid	90%	<p>For each month total billing raised by the concessionaire shall be compared with total user charge collected for the month.</p> <p>If the ratio is maintained above 90% throughout the year then concessionaire shall be given 0.5% of total annual User Charge Collection as incentive.</p>
Efficiency in Redressal of customer complaints	As a % of total number of SWM related complaints resolved against total number of SWM complaints received within 24 hrs time period	80%	<p>If Complaints redressal level falls below 80% then concessionaire shall be levied penalty of Rs. 500 per complaint under default.</p>
Efficiency in collection of User Charges	User Charge Collection shall be monitored for every month in terms of total billing raised and total user charge collected.	90%	<p>If the user charge collection is above 90% in a month then Concessionaire shall get an incentive of 0.5% of the total user charge collection for the month.</p> <p><u>If the ratio is falls below 60% then concessionaire shall be liable to pay 1% of the total billed amount as penalty.</u></p>

Collection/ Transportation Vehicle & Equipment Downtime	Maximum number of days vehicle/equipmen t remains in repair. Will not be counted if replacement vehicle/equipmen t is arranged	7 Days	Penalty shall be levied for defaulting vehicles as Per vehicle Rs. 500/Day.
Website & Control Room Uptime	Website & Control Room should have 100% uptime. Only scheduled maintenance with prior permission of Nagar Nigam will be given exception and such maintenance also would be scheduled for holidays etc.	100%	Penalty shall be levied for disruption time Rs. 500/Hour (shall be applied on pro-rata basis for less than an hour disruptions)

5. Miscellaneous

- 5.1. The Concessionaire shall maintain an inventory of all items comprised in the Project Facilities (the "Inventory"), in a format to be developed in consultation with the Project Engineer.
- 5.2. Throughout the Concession Period the Concessionaire shall keep the Inventory updated to take account of works carried out on and other changes made to the Project Facilities.
- 5.3. A copy of the Inventory shall be submitted by the Concessionaire to the Project Engineer within thirty (30) days of receipt of a request for the same.

PERFORMANCE SECURITY

SCHEDULE 7

(Proforma of Bank Guarantee)⁴

THIS DEED OF GUARANTEE executed on this the _____ day of _____ at _____ by _____
(Name of the Bank) having its Head/Registered office at _____ hereinafter referred to as “the Guarantor” which expression shall unless it be repugnant to the subject or context thereof include successors and assigns;

In favour of

Nagar Nigam Dehradun , Government of Uttarakhand, represented by Municipal Commissioner and having its office at Patel Road, Near Doon Hospital Dehradun -248001, Uttarakhand hereinafter referred to as “NND”, which expression shall, unless repugnant to the context or meaning thereof include its administrators, successors or assigns.

WHEREAS

- A. By the Concession Agreement entered into between NND and _____, (name of the Successful Bidder), having its registered office/ permanent address at _____ (“the Concessionaire”), the Concessionaire has been granted the Concession to Rehabilitate, Upgrade, Operate, Manage and Transfer (RUOMT) basis Door to door Collection & Transportation of Municipal Solid Waste at Dehradun, Uttarakhand for a period of 10(ten) years (hereinafter referred to as “the Project”).
- B. In terms of Clause 5.1 of the Concession Agreement, the Concessionaire is required to furnish to NND , an unconditional and irrevocable bank guarantee for an amount of Rs.50,00,000.00 (Rupees Fifty Lakhs only) as security for due and punctual performance/discharge of its obligations under the Concession Agreement, relating to Project by the Concessionaire.
- C. At the request of the Concessionaire, the Guarantor has agreed to provide bank guarantee, being these presents guaranteeing the due and punctual performance/discharge by the Concessionaire of its obligations relating to the Project.

NOW THEREFORE THIS DEED WITNESSETH AS FOLLOWS :

- 1. Capitalized terms used herein but not defined shall have the meaning assigned to them respectively in the Concession Agreement.
- 2. The Guarantor hereby irrevocably guarantees the due and punctual

⁴ To be issued by a Scheduled Bank in India

performance by M/s. _____ (hereinafter called “the Concessionaire”) of all its obligations relating to the Project and in connection with achieving COD by the Concessionaire in accordance with the Concession Agreement.

3. The Guarantor shall, without demur, pay to NND sums not exceeding in aggregate Rs.50,00,000.00 (Rupees Fifty Lakhs only), within 30 calendar days of receipt of a written demand therefor from NND stating that the Concessionaire has failed to meet its obligations under the Concession Agreement. The Guarantor shall not go into the veracity of any breach or failure on the part of the Concessionaire or validity of demand so made by NND and shall pay the amount specified in the demand, notwithstanding any direction to the contrary given or any dispute whatsoever raised by the Concessionaire or any other Person. The Guarantor’s obligations hereunder shall subsist until all such demands are duly met and discharged in accordance with the provisions hereof.
4. In order to give effect to this Guarantee, NND shall be entitled to treat the Guarantor as the principal debtor. The obligations of the Guarantor shall not be affected by any variations in the terms and conditions of the Concession Agreement or other documents or by the extension of time for performance granted to the Concessionaire or postponement/non exercise/ delayed exercise of any of its rights by NND or any indulgence shown by NND to the Concessionaire and the Guarantor shall not be relieved from its obligations under this Guarantee on account of any such variation, extension, postponement, non exercise, delayed exercise of any of its rights by NND or any indulgence shown by NND , provided nothing contained herein shall enlarge the Guarantor’s obligation hereunder.
5. This Guarantee shall be irrevocable and shall remain in full force and effect until _____⁵ unless discharged/ released earlier by NND in accordance with the provisions of the Concession Agreement. The Guarantor’s liability in aggregate be limited to a sum of Rs. Rs.50,00,000.00 (Rupees Fifty Lakhs only).
6. This Guarantee shall not be affected by any change in the constitution or winding up of the Concessionaire/the Guarantor or any absorption, merger or amalgamation of the Concessionaire/the Guarantor with any other Person.
7. The Guarantor has power to issue this guarantee and discharge the obligations contemplated herein, and the undersigned is duly authorised to execute this Guarantee pursuant to the power granted under _____

IN WITNESS WHEREOF THE GUARANTOR HAS SET ITS HANDS HEREUNTO ON THE DAY, MONTH AND YEAR FIRST HEREINABOVE WRITTEN.

⁵ 36 months from the date of signing the Concession Agreement

SIGNED AND DELIVERED

by _____ Bank
by the hand of Shri _____
its _____ and authorised official.

FORMAT FOR LETTER OF AUTHORIZATION

SCHEDULE 8

(To be given on NND letterhead)

To Whomsoever It May Concern

This is to confirm that to pursuant to the Concession Agreement dated ____, entered into between the NND and ____ (“the Concessionaire”), the Concessionaire has been authorized to Rehabilitate, Upgrade, Operate, Manage and Transfer (RUOMT) basis Door to door Collection & Transportation of Municipal Solid Waste at Dehradun, in Uttarakhand and for that purpose, to apply for and obtain all approvals, licenses and permits required therein and to avail the utilities such as power, water, telecommunication and any other incidental utilities or services required in connection therewith.

Yours faithfully,

Municipal Commissioner

PROJECT HANDBACK GUARANTEE

SCHEDULE 9

(Proforma of Bank Guarantee)

THIS DEED OF GUARANTEE executed on this the _____ day of _____ at _____ by _____ (*Name of the Bank*) having its Head/Registered office at _____ hereinafter referred to as “the Guarantor” which expression shall unless it be repugnant to the subject or context thereof include successors and assigns;

In favour of

Nagar Nigam Dehradun, represented by its _____, having its office at _____, hereinafter referred to as “NND”, which expression shall, unless repugnant to the context or meaning thereof include its administrators, successors or assigns.

WHEREAS

By the Concession Agreement entered into between NND and _____⁶, a company incorporated under the provisions of the Companies Act, 1956/2013 having its registered office at _____ (“the Concessionaire”) the Company had been granted the Concession to implement the Project, as defined under the Concession Agreement mentioned hereinabove.

- A. In terms of Clause 10.2 as the case may be, of the Concession Agreement, the Concessionaire is required to furnish to NND, an unconditional and irrevocable bank guarantee for an amount of _____ as security for due and punctual performance/discharge of its obligations under the Concession Agreement, relating to handback of the Project Facility.
- B. At the request of the Concessionaire, the Guarantor has agreed to provide guarantee, being these presents, guaranteeing the due and punctual performance/discharge by the Concessionaire of its obligations under the Concession Agreement relating to handback of the Project Facility.

NOW THEREFORE THIS DEED WITNESSETH AS FOLLOWS :

Capitalised terms used herein but not defined shall have the meaning assigned to them respectively in the Concession Agreement.

1. The Guarantor hereby irrevocably guarantees the due and punctual performance by M/s. _____ (hereinafter called “the Concessionaire”) of all its obligations relating to handback of the Project Facility.

⁶ In case of Consortium both members would be included as Parties to the Agreement and collectively referred to as ‘the Concessionaire/Consortium’ as the context may require.

2. The Guarantor shall, without demur, pay to NND sums not exceeding in aggregate _____ within _____ calendar days of receipt of a written demand therefor from NND stating that the Concessionaire has failed to meet its performance obligations relating to handback of the Project Facility. The Guarantor shall not go into the veracity of any breach or failure on the part of the Concessionaire or validity of demand so made by NND and shall pay the amount specified in the demand notwithstanding any direction to the contrary given or any dispute whatsoever raised by the Concessionaire or any other Person. The Guarantor's obligations hereunder shall subsist until all such demands are duly met and discharged in accordance with the provisions hereof.
3. In order to give effect to this Guarantee, NND shall be entitled to treat the Guarantor as the principal debtor. The obligations of the Guarantor shall not be affected by any variations in the terms and conditions of the Concession Agreement or other documents or by the extension of time for performance granted to the Concessionaire or postponement/non exercise/ delayed exercise of any of its rights by NND or any indulgence shown by NND to the Concessionaire and the Guarantor shall not be relieved from its obligations under this Guarantee on account of any such variation, extension, postponement, non exercise, delayed exercise of any of its rights by NND or any indulgence shown by NND, provided nothing contained herein shall enlarge the Guarantor's obligation hereunder.
4. This Guarantee shall be irrevocable and shall remain in full force and effect until _____⁷ unless discharged/released earlier by NND in accordance with the provisions of the Concession Agreement. The Guarantor's liability in aggregate be limited to a sum of _____.
5. This Guarantee shall not be affected by any change in the constitution or winding up of the Concessionaire/the Guarantor or any absorption, merger or amalgamation of the Concessionaire/the Guarantor with any other Person.
6. The Guarantor has power to issue this guarantee and discharge the obligations contemplated herein, and the undersigned is duly authorized to execute this Guarantee pursuant to the power granted under _____.

IN WITNESS WHEREOF THE GUARANTOR HAS SET ITS HANDS HEREUNTO ON THE DAY, MONTH AND YEAR FIRST HEREINABOVE WRITTEN.

SIGNED AND DELIVERED

by _____ Bank

by the hand of Shri _____

its _____ and authorised official.

⁷ 30 months from the date of issue of the Handback Guarantee in accordance with Clause 10.2 of the Concession Agreement

SMART SWM SYSTEM & MANAGEMENT INFORMATION SYSTEM SCHEDULE 10

A. Smart SWM System

6. Smart SWM collection & Transportation System :

- f. Smart SWM system is essential part of this project and it must ensure :
 - that all components of waste management system are interlinked using latest technology like GIS mapping based route management, GPS tracking, customer management, asset management;
 - real time tracking & monitoring of entire system is achieved;
 - Efficiency of entire system is enhanced leading to cost savings in the long run;
 - Improved customer response and improved service delivery
- g. System must be based proven and open standard technologies are used for this purpose.
- h. System must incorporate all data security, privacy, business continuity, disaster recovery related aspects.
- i. Majority of proposed technologies and systems should be currently in use in other projects.
- j. System must include the crowdsourcing technologies to improve stakeholder engagement
- k. System must have a dedicated website and a mobile app also for public engagement & transactions.

7. Smart SWM Control Room at Nagar Nigam Dehradun

- d. At the heart Smart SWM system, a central control room at the Nagar Nigam Dehradun or at a mutually agreed place wherein all the components of the SWM system could be visually seen and monitored in real time, must be built.
- e. It shall have necessary infrastructure like large visual displays to show maps, routing, collection status, current vehicle positions etc.
- f. It shall have necessary communication infrastructure to receive customer complaints, operational team communication etc. and also capability to respond in real time.

B. Management Information System (MIS)

The Concessionaire shall install Management Information System (MIS) which shall be accessible to authorized NND officials through web based platforms.

- 1. The purpose of the MIS is collect data of the entire workflow. This system should be able to show the hourly position of the activities, personnel during the day and will help generate various MIS reports for the concessionaire, project engineer and NND.
- 2. The MIS should also help in collecting KPI related data for the project and help in generating bills & invoices as well.
- 3. It should have minimum following components :

- I. **Staff Management:** MIS should have Human Resource Management component with capabilities for payroll and attendance management etc.
 - II. **Collection of Waste :** System should be able to track and monitor all aspects of waste collection
 - III. **Equipment & Asset Tracking Data :** System should be able to track and monitor all the project assets and equipments
 - IV. **Environmental Compliance Data :** System should be able to collect necessary data regarding EIA compliance and other environment protection guideline issues for the project facility.
4. This MIS would be part of Smart SWM System. NND authorized personnel should have requisite access to data for reporting etc.
5. Management Information System shall collect the following information and generate regular reports:
- a) **General Information to be Collected and Updated from Time to Time**
 - i. Area of the city;
 - ii. Population of the city;
 - iii. Decadal growth of population;
 - iv. Number of wards, their area and population;
 - v. Ward-wise information in regard to :
 - ☐ Population density in different wards;
 - ☐ No, of Households, shops and Establishments
 - ☐ Vegetable/fruit/meat/fish markets
 - ☐ Number of Hotels & Restaurants
 - ☐ Number Of Hospitals and Nursing Homes
 - ☐ Number Of Industries
 - ☐ Number Of slum pockets /their population
 - ☐ Road length width wise
 - i. Percentage of area covered with under-Ground sewage system
 - ii. Percentage of area having surface Drains
 - iii. Percentage of area having no drainage Facility
 - iv. Total number of public toilets and Toilet seats.

v.Number Of public urinals

b) General Information on SWM

A. Waste Collection

- i. Quantity of waste collected each day
- ii. Seasonal variations in daily waste collection
- iii. Breakup of the quantity of wastes collected into :
 - ☐ Household, shops and establishment waste ;
 - ☐ Vegetable and food market waste;
 - ☐ Meat, fish and slaughter house waste;
 - ☐ Construction & demolition waste
 - ☐ Hospital waste
 - ☐ Industrial waste
- iv. Average number of carcass removed each day

B. Staff position

- i. Number of sanitation workers deployed in the city for the collection of waste
- ii. Number of sanitation workers deployed for the transportation of waste
- iii. Ward wise allocation of sanitation workers
- iv. Sweeper population ratio in each ward
- v. Sweeper road length ratio in each ward
- vi. Sweeper supervisor ratio in each ward

C. Waste storage depots

- i. Number of sites designated/notified for temporary of waste (Dust bins)
- ii. Type and size of Dustbin provided in each ward
- iii. Ward-wise Quantum of waste collected each day

D. Transportation

- i. Number Of vehicles for the transportation of waste, their type, size and useful life

- ii. Number of trips made by each vehicle in one shift
- iii. Number of shifts and vehicles used in each shift
- iv. Quantity of waste transported in each shift
- v. Total quantity of waste transported each day
- vi. Percentage of waste transported each day
- vii. **Record of trip made by transport vehicle at the processing and disposal sites**
 - ☐ Sr. Number
 - ☐ Date
 - ☐ Vehicle Number
 - ☐ Name of the Driver
 - ☐ Arrival time of the vehicle
 - ☐ Trips made during the day
 - ☐ Waste Source and Route Number
 - ☐ Weight of Waste in M. tones
 - ☐ Deficiencies noticed
 - ☐ Action taken

E. Workshop performance

- i. Number and percentage of vehicles on road
- ii. Number and type of vehicles under repairs at workshop
- iii. Nature of breakdown
- iv. Duration of breakdown : under one week, 1-2 weeks, 2-4 weeks and over one month
- v. Reasons for delay in repairs
- vi. Expected date of vehicle to be back on road

USER CHARGES

SCHEDULE 11

MSW User Charges in Nagar Nigam Dehradun					
Sl. No.	Category	Sub Category	User Charge increased 10% every 2 years in multiple of 5		
			User Charge s (Rs.) 2009	Unit	User Charge s (Rs.) 2017
1	BPL Households	Huts & Shanties	5	Per Month	5
		Houses	10	Per Month	10
2	Low Income Households (upto Rs. 5000/Month income)		20	Per Month	25
3	Middle Income Households (upto Rs. 10000/Month income)		30	Per Month	40
4	Other than above Households		40	Per Month	55
5	Vegetable & Fruit Vendors	Theli & Street Vendors	5	Per Day	5
		Shops & Fuds	10	Per Month	10

6	Meat & Fish Sellers	Upto 10 kg/day	150	Per Month	220
		Above 10 Kg/day	1	Per KG/Per Day Extra	#REF!
7	Restaurant	Small	150	Per Month	220
		Medium	400	Per Month	585
		Big	1000	Per Month	1460
8	Hotel /Lodges/ Guest Houses	20 Beds	100	Per Function	145
		21-40 Beds	200	Per Function	290
		41 beds or more	300	Per Function	435
9	Dharmshala		1	Per Room/Per Month	1
10	Banquet Halls & Baraat Ghar	Charitable	100	Per Function	145
		Non- Charitable	300	Per Function	435
11	Bakery		150	Per Month	220
12	Offices	50 Employees	100	Per Month	145

		51-100 Employees	200	Per Month	290
		101-300 Employees	300	Per Month	435
		More than 300 Employees	500	Per Month	730
13	Schools (Residential)	upto 100 beds	1000	Per Month	1460
		More than 100 beds	10	Per Bed Addition a	10
14	Schools (Non-Residential)	Upto 500 Students	500	Per Month	730
		More than 500 Students	1000	Per Month	1460
15	Hospital / Nursing Home (Excepting Bio-Medical Waste)	Upto 20 beds	250	Per Month	365
		21-40 Beds	500	Per Month	730
		41-100 Beds	1000	Per Month	1460
		More than 100 beds	1500	Per Month	2195

16	Clinics & Pathology Labs	Clinic	75	Per Month	110
		Pathology Labs	250	Per Month	365
17	Shops/ Chai Shop	Small Mohalla Shops	20	Per Month	25
		Market Shops	50	Per Month	70
		Showrooms	150	Per Month	220
		Small Malls	500	Per Month	730
		Multistory Malls	1000	Per Month	1460
		Shops in selfowned houses	0	Per Month	#REF!
18	Factory	Small	300	Per Month	435
		Medium	500	Per Month	730
		Large	1000	Per Month	1460
19	Workshops	Small	200	Per Month	290
		Big	500	Per Month	730
20	Kabadi	Small	100	Per Month	145
		Big	300	Per Month	435
21	Juice / Cane Juice Vendors		5	Per Day	5

22	Circus/Exhibition/Weddings Events	At Public/Private Places	300	Per Function	435
		At Hotels	1000	Per Function	1460
23	Construction Waste	Upto 0.5 Cubic Meters	100	Lump Sum	145
		Upto 1.0 Cubic Meters	200	Lump Sum	290
		Upto 3.0 Cubic Meters	500	Lump Sum	730
		Upto 6.0 Cubic Meters	1000	Lump Sum	1460
		Upto 0.5 Cubic Meters	100	Per Cubic Meter Extra for more than 6 CUM	145
24	Cinema Halls		300	Per Month	435

ESCROW AGREEMENT

SCHEDULE 12

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

AMONGST

1. Limited, a company incorporated under the provisions of the Companies Act, 1956/2013 and having its registered office at(hereinafter referred to as the "Concessionaire" which expression shall, unless repugnant to the context or meaning thereof, include its successors, permitted assigns and substitutes);
2. (name and particulars of Lenders' Representative) and having its registered office at acting for and on behalf of the Senior Lenders as their duly authorised agent with regard to matters arising out of or in relation to this Agreement (hereinafter referred to as the "Lenders' Representative" which expression shall, unless repugnant to the context or meaning thereof, include its successors and substitutes);
3. (name and particulars of the Escrow Bank) having its registered office at(hereinafter referred to as the "Escrow Bank" which expression shall, unless repugnant to the context or meaning thereof, include its successors and substitutes); and
- 3 The Governor of Uttarakhand, represented by [Municipal Commissioner, Nagar Nigam Dehradun](hereinafter referred to as the "Government or Authority" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns).

WHEREAS:

- A. The Government has entered into a Concession Agreement dated with the Concessionaire (the "Concession Agreement") for Door to door Collection & Transportation of Municipal Solid Waste on Rehabilitate, Upgrade, Operate, Manage and Transfer (RUOMT) basis at Dehradun, Uttarakhand.
- B. Senior Lenders have agreed to finance the Project in accordance with the terms and conditions set forth in the Financing Agreements.
- C. The Concession Agreement requires the Authority to establish an Escrow Account, inter alia, on the terms and conditions stated therein.

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

DEFINITIONS AND INTERPRETATION

Definitions

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

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

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

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

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

"Escrow Default" shall have the meaning ascribed thereto in Clause 6.1;

"Lenders' Representative" means the person referred to as the Lenders' Representative in the foregoing Recitals;

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

"Payment Date" means, in relation to any payment specified in Clause 4.1, the date(s) specified for such payment; and

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

1.2 Interpretation

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

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

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

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

2 ESCROW ACCOUNT

2.1 Escrow Bank to act as trustee

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

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

2.2 Acceptance of Escrow Bank

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

2.3 Establishment and operation of Escrow Account

2.3.1 Within 7 (seven) days from the date of this Agreement, and in any case prior to the Appointed Date, the Authority shall open and establish the

Escrow Account with the (name of Branch) Branch of the Escrow Bank. The Escrow Account shall be denominated in Rupees.

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

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

2.4 Escrow Bank's fee

The Escrow Bank shall be entitled to receive its fee and expenses in an amount, and at such times, as may be agreed between the Escrow Bank and the Authority. For the avoidance of doubt, such fee and expenses shall form part of the O&M Expenses and shall be appropriated from the Escrow Account in accordance with Clause 4.1.

2.5 Rights of the parties

The rights of the Government and the Concessionaire in the monies held in the Escrow Account are set forth in their entirety in this Agreement and the Government, the Lenders' Representative and the Concessionaire shall have no other rights against or to the monies in the Escrow Account.

2.6 Substitution of the Concessionaire

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

3 DEPOSITS INTO ESCROW ACCOUNT

3.1 Deposits by the Concessionaire

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

- (i) All user charge collections
- (ii) Any Revenues due to NND
- (iii) Any penalties & dues

3.2 Deposits by the Government

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

- (i) Capital Grant and any other monies disbursed by the Government to the Concessionaire;
- (ii) Tipping Fee payments;

Provided that, notwithstanding the provisions of Clause 4.1.1, the Government shall be entitled to appropriate from the aforesaid amounts, any Concession Fee, penalties due and payable to it by the Concessionaire and the balance remaining shall be deposited into the Escrow Account.

3.4 Interest on deposits

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

4 WITHDRAWALS FROM ESCROW ACCOUNT

4.1 Withdrawals during Concession Period

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

- a. Payments for approved expenditures from Capital Grant
- b. Any automatic payments of Tipping fee invoices, within 3 days of receipt of invoice by NND and after due evidence as per this Concession Agreement
- c. Any payments duly cleared by the Authority against the Tipping fee invoices
- d. all payments and Damages certified by the Authority as due and payable to it by the Concessionaire,
- e. balance, if any, in accordance with the instructions of the Authority

4.1.2 The Authority may change the payment structures after due deliberations and approvals from competent authority.

4.2 Withdrawals upon Termination

Upon Termination of the Concession Agreement, all amounts standing to the credit of the Escrow Account shall, notwithstanding anything in this Agreement, be appropriated by the Authority.

4.3 Application of insufficient funds

Funds in the Escrow Account shall be applied in the serial order of priority set forth in Clauses 4.1 and 4.2, as the case may be. If the funds available are not sufficient to meet all the requirements, the Escrow Bank shall apply such funds in the serial order of priority until exhaustion thereof. Escrow Bank must raise necessary notices to the Authority regarding insufficient funds. The Authority shall endeavour to keep sufficient balance to cover for at least 2 months' estimated Tipping Fee payments.

4.4 Application of insurance proceeds

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

4.5 Withdrawals during Suspension

Notwithstanding anything to the contrary contained in this Agreement, the Government may exercise all or any of the rights of the Concessionaire during the period of Suspension under Article 13 of the Concession Agreement. Any instructions given by the Government to the Escrow Bank during such period shall be complied with as if such instructions were given by the Concessionaire under this Agreement and all actions of the Government hereunder shall be deemed to have been taken for and on behalf of the Concessionaire.

5 OBLIGATIONS OF THE ESCROW BANK

5.1 Segregation of funds

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

5.2 Notification of balances

7 (seven) business days prior to each Payment Date (and for this purpose the Escrow Bank shall be entitled to rely on an affirmation by the Concessionaire and/or the Lenders' Representative as to the relevant Payment Dates), the Escrow Bank shall notify the Lenders' Representative

of the balances in the Escrow Account and Sub-Accounts as at the close of business on the immediately preceding business day.

5.3 Communications and notices

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

- (a) may, in the absence of bad faith or gross negligence on its part, rely as to any matters of fact which might reasonably be expected to be within the knowledge of the Authority upon a certificate signed by or on behalf of the Authority;
- (b) may, in the absence of bad faith or gross negligence on its part, rely upon the authenticity of any communication or document believed by it to be authentic;

5.4 No set off

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

5.5 Regulatory approvals

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

6 ESCROW DEFAULT

6.1 Escrow Default

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

- (a) the Authority or Concessionaire commits breach of this Agreement by failing to deposit any receipts into the Escrow Account as provided herein and fails to cure such breach by depositing the same

into the Escrow Account within a Cure Period of 5 (five) business days;

- (b) the Authority or Concessionaire causes the Escrow Bank to transfer funds to any account of the Authority or Concessionaire in breach of the terms of this Agreement and fails to cure such breach by depositing the relevant funds into the Escrow Account or any Sub-Account in which such transfer should have been made, within a Cure Period of 5 (five) business days; or
- (c) the Authority or Concessionaire commits or causes any other breach of the provisions of this Agreement and fails to cure the same within a Cure Period of 5 (five) business days.

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

7 TERMINATION OF ESCROW AGREEMENT

7.1 Duration of the Escrow Agreement

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

7.2 Substitution of Escrow Bank

The Authority may, by not less than 45 (forty five) days prior notice to the Escrow Bank and the Concessionaire, terminate this Agreement and appoint a new Escrow Bank, provided that arrangements are made satisfactory to the Concessionaire for transfer of amounts deposited in the Escrow Account to a new Escrow Account established with the successor Escrow Bank.

The termination of this Agreement shall take effect only upon coming into force of an Escrow Agreement with the substitute Escrow Bank.

7.3 Closure of Escrow Account

The Escrow Bank shall, at the request of the Authority made on or after the payment by the Authority of all outstanding amounts under the Concession Agreement including the payments specified in Clause 4.2, and upon confirmation of receipt of such payments, close the Escrow Account and Sub-Accounts and pay any amount standing to the credit thereof to

the Authority. Upon closure of the Escrow Account hereunder, the Escrow Agreement shall be deemed to be terminated.

8 SUPPLEMENTARY ESCROW AGREEMENT

8.1 Supplementary escrow agreement

The Lenders' Representative and the Concessionaire shall be entitled to enter into a supplementary escrow agreement with the Escrow Bank providing, *inter alia*, for detailed procedures and documentation for withdrawals from Sub-Accounts pursuant to Clause 4.1.1 and for matters not covered under this Agreement such as the rights and obligations of Senior Lenders and lenders of Subordinated Debt, investment of surplus funds, restrictions on withdrawals by the Concessionaire in the event of breach of this Agreement or upon occurrence of an Escrow Default, procedures relating to operation of the Escrow Account and withdrawal therefrom, reporting requirements and any matters incidental thereto; provided that such supplementary escrow agreement shall not contain any provision which is inconsistent with this Agreement and in the event of any conflict or inconsistency between provisions of this Agreement and such supplementary escrow agreement, the provisions of this Agreement shall prevail.

9 INDEMNITY

9.1 General indemnity

- 9.1.1 The Concessionaire will indemnify, defend and hold the Government, Escrow Bank, harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of any breach by the Concessionaire of any of its obligations under this Agreement or on account of failure of the Concessionaire to comply with Applicable Laws and Applicable Permits.
- 9.1.2 The Government will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Government to fulfill any of its obligations under this Agreement materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement or this Agreement other than any loss, damage, cost and expense arising out of acts done in discharge of their lawful functions by the Government, its officers, servants and agents.
- 9.1.3 The Escrow Bank will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the

Escrow Bank to fulfill its obligations under this Agreement materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Escrow Bank, its officers, servants and agents.

9.2 Notice and contest of claims

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

10 DISPUTE RESOLUTION

10.1 Dispute resolution

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

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

11 MISCELLANEOUS PROVISIONS

11.1 Governing law and jurisdiction

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

11.2 Waiver of sovereign immunity

The Government unconditionally and irrevocably:

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

11.3 Priority of agreements

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

11.4 Alteration of terms

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

11.5 Waiver

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

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

- (c) shall not affect the validity or enforceability of this Agreement in any manner.

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

11.6 No third party beneficiaries

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

11.7 Survival

11.7.1 Termination of this Agreement:

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

11. 7.2 All obligations surviving the cancellation, expiration or termination of this

Agreement shall only survive for a period of 3 (three) years following the date of such termination or expiry of this Agreement.

11.8 Severability

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

11.9 Successors and assigns

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

11.10 Notices

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

11.11 Language

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

11.12 Authorised representatives

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

11.13 Original Document

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

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

THE COMMON SEAL OF Authority has been affixed pursuant to the resolution passed by the Board of Authority at its meeting held on the day of , 20..... hereunto affixed in the presence of, Municipal Commissioner, who has signed these presents in token thereof and , Company Secretary / Authorised Officer who has countersigned the same in token thereof:

SIGNED, SEALED AND
DELIVERED

For and on behalf of
ESCROW BANK by:

(Signature)
(Name)
(Designation)
(Address)

(Fax No.)
(E-mail address)

In the presence of:

1.

SIGNED, SEALED AND
DELIVERED

For and on behalf of
[Nagar Nigam Dehradun] by:

(Signature)
(Name)
(Designation)
(Address)

(Fax No.)
(E-mail address)

To be affixed in accordance with the articles of association of the Concessionaire.

