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**Nagar Nigam Dehradun**

**GOVERNMENT OF UTTARAKHAND**

**Request for Proposal**

**for**

**Integrated Solid Waste Processing and Disposal  
System**

**in**

**Build, Operate and Transfer (BOT) mode**

**at**

**Dehradun**

**Due on 16 December , 2015**

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## 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.

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## 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 1.23.2, for build, operate and transfer of *Integrated Municipal Solid Waste Processing & Disposal* (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. Terms used in this RFP Document which have not been defined herein shall have the meaning ascribed to here 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.

#### 1.3. Change in Composition of the Bidder

1.3.1. Any change in composition of the Bidder after the Pre Qualification stage would be at the sole discretion of Nagar Nigam Dehradun and with prior written permission of Nagar Nigam Dehradun.

#### 1.4. Number of Proposals

- 1.4.1. 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.

1.5. Proposal Preparation Cost

- 1.5.1. 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.

1.6. Contents of RFP Document

- 1.6.1. The RFP Document consists of Parts as listed below and would include any addenda issued in accordance with Clause 1.8.

Part I	Instructions to Bidders
Part II	Draft Concession Agreement

1.7. Clarifications

- 1.7.1. 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.

1.8. Amendment of RFP Document

- 1.8.1. 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.
- 1.8.2. 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.
- 1.8.3. 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

1.9. Language and Currency

- 1.9.1. 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.

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

1.10. Bid Security

1.10.1. Proposals would need to be accompanied by a Bid Security for an amount of Rs 50.00 Lakhs only (Rs Fifty 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 in favour of Nagar Nigam Dehradun payable at Dehradun.

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

1.10.3. 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.

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

- a) If the Bidder withdraws its Proposal except as provided in Clause 1.19;
- 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.

1.11. Validity of Proposal

1.11.1. 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.

1.11.2. 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 1.10** of this document in all respects.

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

1.12. Project Inspection / Site Visit

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

1.13. Bidder's Responsibility

- 1.13.1. 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.

- 1.13.2. 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.

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

1.14. Pre-Proposal Meeting

- 1.14.1. To clarify and discuss issues with respect to the Project and the RFP Document, Nagar Nigam Dehradun may hold Pre-Proposal meeting/s.

- 1.14.2. 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.

- 1.14.3. 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.
- 1.14.4. 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.
- 1.14.5. 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.
- 1.14.6. 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.

- 1.14.7. No interpretation, revision, or other communication from Nagar Nigam Dehradun regarding this solicitation is valid unless in writing and is signed by Authorised signatory, Nagar Nigam Dehradun or its authorised 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.

**1.15. Format and Signing of Proposal**

- 1.15.1. 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.

- 1.15.2. 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 - 11
- X. Other reference documents mentioned in 1.23.2

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

- 1.15.3. The Bidder shall prepare one original of the documents comprising the Proposal as described in Clause 1.16, 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.
- 1.15.4. If the Proposal consists of more than one volume, Bidder must clearly number the volumes and provide an indexed table of contents.
- 1.15.5. 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 initialled by the person/s signing the Proposal.
- 1.16. Sealing and Marking of Proposals
  - 1.16.1. 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.
  - 1.16.2. The original and the copy of the Proposal shall be provided in separate envelopes, duly marking the outer envelopes as "ORIGINAL" and "COPY".
  - 1.16.3. Each envelope shall indicate the name and address of the Bidder
  - 1.16.4. The envelopes shall clearly bear the following identification:

"Proposal for Build, Operate and Transfer of Integrated Solid Waste

**Processing & Disposal System at Dehradun, Uttarakhand"**

**"To be opened by Tender Opening Committee only"**

**and**

**"Submitted by**

**Name, Address and Contact Phone No. of the Applicant"**

1.16.5. The envelope shall be addressed to:

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

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

1.17. Proposal Due Date

1.17.1. 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 1.16.5 in the manner and form as detailed in this RFP Document. Applications submitted by either facsimile transmission or telex will not be acceptable.

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

1.18. Late Proposals

1.18.1. Any Proposal received by Nagar Nigam Dehradun after 1400 hours IST on the Proposal Due Date will be returned unopened to the Bidder.

1.19. Modification and Withdrawal of Proposals

1.19.1. 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.

1.19.2. The Bidder's modification or withdrawal notice shall be prepared, sealed, marked and delivered in accordance with the provisions of Clause 1.16 with outer envelopes additionally

marked.

- 1.19.3. “MODIFICATION” or “WITHDRAWAL” and also “KEY SUBMISSIONS” or “FINANCIAL PROPOSAL” as appropriate.
- 1.19.4. 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 1.10.4 of this document.
- 1.20. Tests of responsiveness
  - 1.20.1. 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 1.16.
    - 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 1.11.
    - 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.
  - 1.20.2. 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
  - 1.20.3. 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.
  - 1.20.4. Conditional proposal shall not be considered. Any bid found to contain conditions attached, will be rejected.

1.21. Confidentiality

- 1.21.1. 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.

1.22. Clarifications

- 1.22.1. 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.

1.23. Proposal Evaluation

- 1.23.1. 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).
- 1.23.2. 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 and registered with the Service Tax Authorities and operating for the last three (3) years	Yes / No	Certificate of Incorporation / other relevant document
2	The Bidder should have net worth of Rs. 6.00 Crores as on 31st March 2015.	Yes / No	Audited Profit /Loss Statement and Balance Sheet
3	The Bidder should have a minimum average turnover of Rs. 20.00 Crores in the last three years (FY12-13, FY13-14and FY14-15).	Yes / No	Audited Profit /Loss Statement and Balance Sheet
4	The Bidder should have at least three	Yes / No	Appropriate

	(3) years experience in operating and managing Integrated Solid Waste Processing & Disposal Facility that should have waste segregation, recycling, processing, treatment, land filling components etc. Only Operational Facilities which have completed minimum 12 months of operation with daily waste handling of 150 MT/Day minimum, shall be taken into account		Certificate of Municipal Corporations or Urban Local Bodies Or any other clients for operational projects. The operational performance record should also be attached.
5	The Bidder should demonstrate production & sales of compost with minimum quantity of 7000MT per Annum either directly or to fertilizer companies from its operational facilities.	Yes/No	Appropriate Certificate of Municipal Corporations or Urban Local Bodies or proof production & sale.
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 treated as resolved against the Bidder. Bidder must meet this requirement.	Yes/No	Please see Appendix 6

1.23.3. 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.

1.23.4. After checking the responsiveness of the Key submission, the Technical proposals will be opened.



- 1.23.5. The minimum qualifying marks of the Technical Evaluation is 75 as mentioned in 4.2
- 1.23.6. 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.
- 1.24. Evaluation of the Financial Proposal
- 1.24.1. 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.
- 1.24.2. In the financial proposal the Bidder needs to provide :
- *Processing Incentive* per MT required from NND or *Royalty Fees* per MT payable to NND
- 1.24.3. The Processing Incentive or Royalty Fee would be calculated as below :
- Total produced output of compost for the month (MT)= C
  - Total Produced output of RDF for the month (MT)= R
  - Total output of any other processed or recycled produce for the month (MT)= O
  - Processing Incentive Rate as ( Rs. /MT) = PI
  - Royalty Fee Rate as ( Rs. /MT) = RF
- Total Payable Processing Incentive or Royalty Fee  
=PI or RF x (C+R+O)
- 1.24.4. The Capital Support to be provided by NND shall be Rs. 22.11 Crore approximately. NND shall be constructing following facilities & handing over to PPP partner free of any charge :
- Boundary Wall
  - Administrative Block
  - Laboratory
  - Washing Platform
- 1.24.5. The value of *Processing Incentive* or *Royalty Fees* per MT quoted in the Financial Proposal shall be inclusive of all direct and indirect costs incurred to carry out such work and includes, but not limited to, the costs towards the following:
- i. Operation & Maintenance cost of segregation of waste and disposal of waste through recycling, RDF, composting or scientific landfill and all project equipment & facilities as mentioned in Draft Concession Agreement.

- ii. Cost of manpower/contract wages
- iii. Administrative costs
- iv. Any repair, up-gradation of existing equipments and infrastructure.
- v. Any new equipment and infrastructure to be added during the concession period

In addition to the above mentioned direct or indirect cost the bidder shall also take into account the potential sources of revenue i.e. sale of compost, plastic recycling, recycling of other waste, carbon credits, etc while quoting his Financial Bid.

- 1.24.6. The Processing charges or Royalty Fee quoted by the Bidder shall take into account all the costs and revenue earned from sale of compost, plastic recycling, recycling of other waste, carbon credits, etc.
- 1.24.7. Advertisements shall be allowed as per existing laws and policies and permitted with the consent of NND. Concessionaire shall be required to carry the advertisements as instructed by NND and 100% of the advertising revenue would accrue to NND.
- 1.24.8. The offers of the Bidder on the government financial support required annually and/or lump sum as per the format prescribed in Appendix 10, shall be used for financial evaluation.
- 1.24.9. NND Capital Support shall be available only for the activities listed out in Appendix 10. In case the Bidder incurs costs higher than the capital support, bidder is required to arrange finances for the same. In case the Bidder proposes to develop any facility other than that mentioned in Appendix 10, NND shall not provide any capital support for the same. The activity proposed to be developed by the Bidder shall be in accordance with MSW Rules and subjected to other environmental and statutory approvals.
- 1.24.10. The Financial Support of the Bidders shall be evaluated in accordance with the provisions of Clause 4.4
- 1.24.11. The bidder offering the highest royalty fee to NND or asking lowest processing incentive from NND would be declared Preferred Bidder.
- 1.24.12. 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 quoting lower processing incentive or higher royalty fee amongst the bidders securing same overall bid, as preferred bidder  
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.

1.24.13. 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.

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

1.24.15. 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.

#### 1.25. Notifications

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

#### 1.26. Nagar Nigam Dehradun's Right to Accept or Reject Proposal

1.26.1. 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.

1.26.2. 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.

1.26.3. 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 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 highest royalty fee or lowest processing charge) 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.

**1.27. Acknowledgement of Letter of Award (LOA)**

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

**1.28. Execution of Concession Agreement**

1.28.1. 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.

1.28.2. 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.

1.28.3. 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.

**1.29. Performance Security**

1.29.1. The Successful Bidder shall furnish Performance Security of Rs 1,25,000.00 (Rs One Crore Twenty 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.

1.29.2. 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.

1.29.3. 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.

1.30. Cost of RFP document

- 1.30.1. The RFP document can be downloaded from <http://www.nagarnigamdehradun.com> or [www.upppc.org](http://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 Municipal 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	November 1, 2015
Site Visits for interested Parties	November 16, 2015
Last date of receiving queries	November 11, 2015
Pre-bid meeting at Nagar Nigam, Dehradun Office	November 16, 2015, 1400HRS
Proposal Due Date	December 16, 2015 1500HRS
Opening of Pre qualification	December 17, 2015 1500HRS
Opening of Technical Bids	December 17, 2015 1500HRS
Physical Verification of projects by NND Technical	TBC
Opening of Financial Bids	TBC

Contact for Information :

1)Mr. Ravi Pandey, EE& SWM Nodal (UDD)

Mobile No. 09837256961

2)Mr. Ramesh Singh Chauhan, SDS (Project Cell, NND)

Mobile No. 09917474145

### 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. Since then the NND has taken over primary collection, secondary transportation and disposal of municipal solid waste.
- 3.1.5. Now the NND proposes to develop scientific processing and disposal arrangement for entire city's municipal solid wastes in compliance with the Municipal Solid Waste (Management & Handling) Rules, 2000 (Rules applicable as per revised in 2014).
- 3.1.6. To make the project viable and sustainable following approach has been figured out;
- a) The technology & operational parameters shall be finalized by NND,
  - b) The bidder have to furnish a viable and practical operational plan to convince that the project shall be sustainable and will meet the conditions of Environmental Clearances, authorization and NoCs,
  - c) Only upto Rs. 22.11 Crore as Capital Grant shall be provided by NND and rest of the cost shall be incurred by successful bidder at its own risk without compromising on quality,
  - d) Non-segregated and comingled Waste shall be delivered to the site free of cost, with guaranteed delivery of 200MT per day minimum,
  - e) The waste shall be measured at various stages, i.e. At the entry into project site, at landfill site, processed & recycled products output to understand the net processing done.
  - f) The PPP partner may either ask for a processing incentive from NND or offer royalty fee to NND for per MT of processed waste

output ( combined weight of r ecycled products, RDF & compost produced)

### 3.2. Project Financing

3.2.1. The amount released under the JnNURM to NND was Rs.15.99 Crore against which Rs.9.66 Crore was spent on civil and procurement of collection and transportation vehicles, tools and machineries. Now the remaining available grant amount is Rs.6.43 Crore out of which Rs.1.43 Crore has been reserved for undertaking civil work at proposed processing and disposal waste facility. NND shall arrange maximum Rs. 22.11 crore, subject to final bid amount, a s capital grant for successful bidder implementing the integrated solid waste processing and disposal system.

3.2.2. PPP Partner is expected to design, finance, build operate and transfer integrated solid waste processing and disposal system. The grant amount shall be provided towards the capital expenditure of the project and any additional investment for these components shall be made by the PPP partner at its own cost.

### 3.3. Project Coverage Area

3.3.1. The proposed project will be for the entire area under Nagar Nigam Dehradun which is approximately 67.00 Sq Km. The population of Dehradun city for the year 2011 is 569578 as per census. After considering floating population, the equivalent projected population, is 905409 for the year 2012 to 2014.

3.3.2. The NND shall be collecting the waste from its municipal limits only which also include floating population and city waste generation capacity approximately 300MT per day. In near future, there might be possibility of even clusterin g nearby ULBs and town s, as per State Government Policy . Thus, capacity enhancement of the Waste Processing and Disposal facility should be kept as future option, without affecting the processing activities of existing waste management.

### 3.4. Concession Period

3.4.1. The concession period of the project is Fifteen (15) years.

### 3.5. Project Components

3.5.1. The various components of proposed project of Integrated Solid Waste Processing and Disposal system are based on the assessment of the existing deficiencies and mandatory requirement as per MSW Rules 2000.

- i. Procure project vehicles, equipments and ot her assets required for Integrated Solid Waste P rocessing & Disposal



System and in accordance with the specifications provided in Draft Concession Agreement and Project Information Memorandum.

- ii. Design, Finance, Construction, Operations and Management of treatment facilities and land fill sites.
- iii. Recycling waste and producing compost, RDF and other revenue generating produce from processed waste

### 3.5.2. Processing facility:

The PPP partner would set up waste processing facility along with landfill. The PPP partner would select appropriate technology for treatment of waste. In the proposed project, the following mandatory facilities would be set up by the PPP partner.

- Mechanized Aerobic Compost Plant Compost facility - capacity min. 200 MT along with other civil infrastructure for waste tipping, handling, sorting, windrow pads, packaging unit etc.
- RDF unit - capacity 50 MT
- Sorting unit/ Manual or mechanical for recyclable/ resource material
- Storage section for the hazardous waste
- Engineered Scientific landfill for the disposal of inerts as per CPHEEO guidelines

The PPP partner would be permitted to setup any other form of waste processing plant beyond the abovementioned mandatory facilities after due consultation and approvals from NND & competent authorities, provided that it does not adversely impact the performance of the proposed project.

### 3.6. Estimates of waste and category:

The estimated waste collection from various sources is as under:

Particulars	2007	2011	2015
Projected Population including floating & camping population	789699	905409	1021119
Total waste from residential areas/day (MT/day)	162	186	210
Commercial waste in MT/day	47	59	71
Street Sweepings (better SWM systems will reduce the quantity of street sweepings)	48	49	50
Total waste generation per day in MT	257	294	331
Per capita waste generation (Kgs. per day)	0.325	0.325	0.325

3.7. The category wise waste is estimated to be as under:

Items/Year	2007 Waste MT/day	Percentages
Biodegradable waste	139	54
Recyclables	64	25
Inert materials	51	20
Construction waste reaching landfill	3	1

3.8. Site

3.8.1. The following sites have been earmarked for setting up treatment plants and landfill. Within the treatment plant, the PPP partner may explore plastic recycle plant, RDF plant, plastic reuse system etc as per approval of NND.

S No	Description	Area (Hectare)	Location
1.	Compost Plant an Refused Derived Fuel (RDF) Plant	8.323	Shishambara
2.	Inert Processing Plant		Shishambara
3.	Engineered Land Fill & Composting Plant		Shishambara

3.8.2. The site is 20Kms from Ghanta Ghar, Dehradun, having metal road connectivity. The EIA (Environmental Impact Assessment) has been taken. The site is being notified as No Development Zone Area up to 500 mtrs periphery.

3.8.3. Above land shall be handed over to the Private Partner in following manner :

- Land required for waste processing plant
- Land required for first 10 years of landfill activities
- Balance land shall be kept in reserve for future landfill use or any other alternative waste processing technology.

3.8.4. The proposed area 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.

3.8.5. The conditions of EIA shall be a part of the concessional agreement and has to be strictly adhered with.

3.9. Revenue Sources

3.9.1. Various revenue sources identified for the project are as below:

a)	Sale of Compost
b)	Sale of RDF
c)	Sale of Scrap
d)	Sale of Recyclable Material
e)	Sale of Inerts/ debris for road construction or ground leveling etc
e)	Sale of any other processed waster products

3.9.2. The Concessionaire could suggest any other revenue sources which may be approved by NND, depending on permissibility by Law and approvals from competent authorities.

### 3.10. Disbursement of the Capital Grant

3.10.1. Capital Grant sh all be disbursed to the Concessionaire through designated escrow account in following manner:

i)	After achieving Financial Closure	10%
ii)	Procurement of Processing Technologies/ Machineries	10%
iii)	Completion of complete Civil Work, erection of Plant Machineries and other supporting infrastructures & Completion of landfill (Phase-1)	30%
iv)	Trial Operations of Processing and Landfill components	50%

3.10.2. Capital grant expenditure shall be subject to terms and conditions as specified in the Draft Concession Agreement

#### 4. Evaluation Methodology of Technical Bid

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

- a) Previous Experience of the bidder in successful operation of waste Processing and disposal projects
- b) Quantity of Waste Process
- c) Construction and Operation of Engineered Land Fill sites
- d) Average Annual Compost Production in last 5 years.
- e) Average Annual Revenues from sale of waste processed in form of compost and/or RDF and/or Energy in last 5 years.

Appendix 8 and 9 must be used for technical proposal.

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

4.3. Evaluation of Technical proposal

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

- a) Previous Experience of the bidder in successful operation of waste processing and disposal projects :

Description	Max Marks
No of projects	20
a) Less than 1 = 0	
b) 1 = 5	
c) 2 = 10	
d) 3 = 15	
e) More than 3 = 20	

The number would include any project on successfully Setting up or Operations & Management of project handling waste of minimum waste of 150 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
- IV. Manufacture of RDF from MSW
- V. Plastic recycle from MSW
- VI. Waste to Energy from MSW

b) Quantity of Waste Processed

Description	Max Marks
Waste Processed Unit = MT/Day a) Less than 100 = 0 b) 101 - 150 = 5 c) 151 - 200 = 10 d) 201 - 250 = 15 e) More than 250 = 20	20

The project(s) would include operation & management of waste processing from urban areas. The waste processing data of last 2 years for each project duly certified by the project authority should be submitted by the bidder. It should also show the proof of payments received or paid for waste processing from project authority. The eligible projects should be operational for last 2 years and should have minimum 100 MT/Day waste processing.

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

c) Construction and Operation of Engineered Land Fill sites

Description	Max Marks
Filling capacity of Land Fill Unit= Cub Mtrs/Year a) Less than 10,000 = 0 b) 10,001 - 15,000 = 5 c) 15,001 - 20,000 = 10 d) More than 20,000 = 15	15

Minimum Project size should be 25 MT/Day. The project wise matrix would be prepared to arrive at average quantity. The overall marks would be given on the average quantity.

d) Average Annual Compost Production in last 5 years.

Description	Max Marks
Average Compost Produced per year (2010-2015) Unit = MT/Year a) Less than 7000 = 0 b) 7000-13000 = 10 c) 13000-20000 = 15 d) More than 20000 = 20	20

The project would include only operational projects with composting from solid waste or other organic waste being operated and managed by the bidder and should be of at least 100 MT/Day capacity.

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

The outputs need to be certified by either contracting authority or from proof of sale of compost by the bidder.

- e) Average Annual Revenues from sale of waste processed in form of compost and/or RDF and/or Energy in last 5 years.

Description	Max Marks
Average Sales Revenue per year from sales of outputs of waste processing in the forms of Plastic recycling and/or Compost and/or RDF And/or Energy (2010-2015)  Unit = Rs Cr./Year  a) Less than 1           = 0 b) 1-2                    = 10 c) 2-4                    = 15 d) 4-5                    = 20 e) More than 5          = 25	25

The project would include only operational projects being operated and managed by the bidder with waste handling of at least 100 MT/Day capacity will be considered.

The project wise matrix would be prepared to arrive at average revenues. The overall marks would be given on the average revenue.

The sales revenue need to be certified by the independent auditors.

- 4.3.2. Bidders shall submit Certificate from the client or relevant authority or a certificate from the Applicant's statutory auditor in support of the Technical Experience claimed as above. NND/ UDD may confirm the above by site visit/ sending letter to the competent authority. If any certificate found incorrect/ incomplete, that may be one of the reason for disqualification.
- 4.3.3. Only operational projects will be considered as eligible projects. No partially operational projects would be considered as eligible projects.

#### 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. The Capital Support to be provided by NND shall in any case not exceed Rs.22.11 Crores approximately.
- 4.4.3. The Processing Incentive or Royalty Fee quoted by the Bidder shall be net of revenue i.e. the Bidder shall take into account all costs and revenue earned from sale of compost, plastic recycle returns etc.
- 4.4.4. The Financial Proposal of all the Bidders shall be evaluated based on the following formula :

Financial Support required from Nagar Nigam Dehradun =  
Capital Grant ( Maximum upto Rs. 22.11 Crore) plus/ minus  
overall Processing Incentive/ Royalty Fee

- i. For the purpose of evaluation, Processing Incentive (Rs per MT) shall mean present value of the amount (Rs per MT) quoted by the Bidder for the respective financial years multiplied by 75MT (expected quantity of waste processing output) multiplied by 365 days.

Processing Incentive = {Present value of the amount of Processing Incentive (Rs per MT) for 15 years} x 75 x 365

- ii. For the purpose of evaluation, Royalty Fees (Rs per MT) shall mean present value of the amount (Rs per MT) quoted by the Bidder for the respective financial years multiplied by 75MT (expected quantity of waste processing output) multiplied by 365 days.

Royalty Fees = {Present value of the amount of Royalty Fees (Rs per MT) for 15 years} x 75 x 365

- 4.4.5. The present value of Processing Incentive or Royalty Fees quoted by the Bidder shall be discounted at 16% would be used for final evaluation.
- 4.4.6. The bidder shall quote only the Processing Incentive or Royalty Fee for 1<sup>st</sup> Year of Operation, starting from COD. This processing fee shall be increased or decreased based on changes in Wholesale Price Index (WPI). In case WPI is discontinued in future by RBI then the Consumer Price Index or any other appropriate mechanism shall be used for increase or decrease of Processing Incentive or Royalty Fees.

- 4.4.7. The rate revision shall be affected on April 1 of every subsequent year based on the following formula :

$$P_{FA} = P_{FB} + P_{FB}((WPI_A - WPI_B) / WPI_B)$$

$P_{FA}$  : Applicable Processing fee

$P_{FB}$  : Processing Fee for previous year (B)

$WPI_A$  : Wholesale price index of closest WPI index data made available by RBI or as on March 31 of the year

$WPI_B$  : Wholesale price index of closest WPI index data made available by RBI or as on March 31 of the previous year

Illustration: If the revision is to be made for the year 2017-18

WPI index data made available by RBI as on or closest to March 31, 2018 shall be taken as  $WPI_A$  .

WPI index data made available by RBI on March in the year 2017 shall be taken as  $WPI_B$  .

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

- 4.4.9. The present value (PV) of Processing Incentive would be computed as

$$PV_P = P_1 \times Q / (1.16)^1 + P_2 \times Q / (1.16)^2 + P_3 \times Q / (1.16)^3 + P_4 \times Q / (1.16)^4 + \dots + P_n \times Q / (1.16)^n$$

$P_1, P_2, P_3, P_4$  and  $P_n$  are the Processing Incentive Rs per MT required during year1, year 2, and up to year 15.

$$Q = 75 \times 365$$

- 4.4.10. The present value (PV) of Royalty Fees would be computed as

$$PV_R = R_1 \times Q / (1.16)^1 + R_2 \times Q / (1.16)^2 + R_3 \times Q / (1.16)^3 + R_4 \times Q / (1.16)^4 + \dots + R_n \times Q / (1.16)^n$$

$R_1, R_2, R_3, R_4$  and  $R_n$  are the Royalty Fees Rs per MT payable to NND during year1, year 2, and up to year 15.

$$Q = 75 \times 365$$

- 4.4.11. For the purpose of financial evaluation the overall financial



support in Rs Crores would be computed as under where the Bidder quotes Tipping Fees :

Capital Grant (maximum upto Rs 22.11 Crores) +  $(PV_P / 1,00,00,000)$

- 4.4.12. For the purpose of financial evaluation the overall financial support in Rs Crores would be computed as under where the Bidder quotes Royalty Fees

Capital Grant (maximum upto Rs 22.11 Crores) -  $(PV_R / 1,00,00,000)$

- 4.4.13. For the purpose of financial evaluation the overall financial support in Rs Crores would be computed as under where the Bidder quotes both Tipping Fees and Royalty Fees

Capital Grant (maximum upto Rs 22.11 Crores) +  $(\text{Processing Incentive} / 1,00,00,000) - (\text{Royalty Fees} / 1,00,00,000)$

- 4.4.14. All the bids will be subject to evaluation and analysis with respect to project sustainability test. If the bids are found too low, to be sustained during the project concession period then NND may reject such bids.

- 4.4.15. The Bidder offering the lowest overall financial Support required from the Government would be declared Successful. For the avoidance of doubt if a bidder quotes only royalty fees then it would result in negative financial support and such highest negative financial support would be the successful bidder.

- 4.4.16. 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.

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

- 4.4.18. 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.

- 4.4.19. 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 Build, Operation and Transfer Integrated Solid Waste Processing & Disposal system, at Dehradun Uttarakhand (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 BOT (Build, Operate and Transfer) structure.

.....  
Name of the Bidder

.....  
Signature of the  
Authorised Person

.....  
Name of the Authorised  
Person

Note:

- ~ *On the Letterhead of the Bidder*
- ~ *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 Build, Operation and Transfer Integrated Solid Waste Processing & Disposal system, at Dehradun Uttarakhand (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 this .....Day of ....., 2015.

.....  
Name of the Bidder

.....  
Signature of the Authorised  
Person

.....  
Name of the Authorised  
Person

Note: • *On the Letterhead of the Bidder.*

### 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 this .....Day of ....., 2015.

.....  
Name of the Bidder

.....  
Signature of the Authorised  
Person

.....  
Name of the Authorised  
Person

**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 Co mpany registered under provision of th e Companies Act, 1956/2013] and having its registered office at \_\_\_\_\_ (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 Integrated Solid Waste Processing & Disposal system Project at Dehradun on [BOT] basis (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 t he 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. 50,00,000/- (Rupees Fifty 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. 50,00,000/- (Rupees fifty 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 1.23.2 (Sl.No 5)- Pre Qualification Criteria			
A. Contract non-performance did not occur during last five(5) years specified in section 1.23.2 - Pre Qualification Criteria			
B. Contract(s) not performed during last five(5) years specified in section 1.23.2 - 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] 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 is case of (B)*

*Bidder's Legal Name: [insert full name]  
Date: [insert day, month, year]*

A. No pending litigation in accordance with section 1.23.2 - Pre Qualification Criteria

B. Pending litigation in accordance with section 1.23.2 - 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>	<p>Contract Identification: [indicate complete contract name, number, and any other identification]</p> <p>Name of Project Sponsor: <i>[insert full name]</i></p> <p>Address of Project Sponsor: <i>[insert street/city/country]</i></p>	<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 (FY14-15). 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 1.23.2 & 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>	[insert "Sole Developer" or "Consortium Member"]

### Supporting Documents Required

- iii. 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
- iv. Certificate from the Municipal Body or Pollution Control Board or any other client, OR

v. 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		2014-15	2013-14	2012-13	2011-12	2010-11
	Waste Collected Per Year (MT )					
	Average Collected Per Day (MT/Day					
	Average Waste Processed Per Day (MT/Day					
	Compost Produced per year(MT)					
	RDF Produced per year(MT)					
	Other Recycled Products per year(MT)					

Construction and Operation of Engineered Land Fill sites ( Clause 4.3 (c) )

Information	Details						
Project Name							
Project Authority							
Project Awarded							
Project Commercial Operation Date							
Role In the project							
Equity in the project							
Project Capacity Details for Landfill :							
Landfill Summary		2014- 15	2013- 14	2012- 13	2011- 12	2010- 11	
	Land fill capacity used (%)						
	Land Fill Qty Per Year (MT )						
	Average Landfill qty Per day (MT/Day						

Average Annual Compost Production in last 5 years ( Clause 4.3 (d) )

Information	Details						
Project Name							
Project Authority							
Project Awarded							
Project Commercial Operation Date							
Role In the project							
Equity in the project							
Compost Capacity details							
Compost Production Summary		2014-15	2013-14	2012-13	2011-12	2010-11	
	Compost Produced Qty Per Year (MT )						
	Compost Produced Qty Per day (MT/Day						
	Compost Sold Qty Per Year (MT/Day						



**Average Annual Revenues from sale of waste processed in form of plastic recycling and/or compost and/or RDF and/or Energy in last 5 years . ( Clause 4.3 (e) )**

Information	Details						
Project Name							
Project Authority							
Project Awarded							
Project Commercial Operation Date							
Role In the project							
Equity in the project							
Waste Processing Capacity details							
Revenue from sales of processed waste output		2014-15	2013-14	2012-13	2011-12	2010-11	
	Quantity of Processed Output (mention type and unit)						
	Revenue from Sales of [ mention type of processed waste ] (Rs. Lakhs)						

NOTE: USE ADDITIONAL SHEETS FOR PROVIDING DETAILS

**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

## APPENDIX 9

### Description of Approach, Methodology and Project Plan

Technical approach, methodology and project plan are key components of the Technical Proposal. You are suggested to present in your technical proposal the followings:

- a) Technical Approach and Methodology,*
- b) Project Plan*
- c) Organization and Staffing,*
- d) Assessment of Risk and mitigation plan*
- e) Change Management plan*

- a) Technical Approach and Methodology. In this chapter you should explain your understanding of the objectives of the project, approach to the services, methodology for carrying out the activities obtaining the expected output and the degree of detail of such output. You should highlight the problems being addressed and their importance and explain the technical approach you would adopt to address them.
- b) Project Plan. In this chapter you should propose the main activities of the project, their content and duration, phasing and interrelations, milestones and completion dates of the key project deliverables. The proposed project plan should be consistent with the technical approach and methodology, showing understanding of the TOR and ability to translate them into a feasible project plan. The project plan should be consistent with the project activity schedule attached.
- c) Organization and Staffing. In this chapter you should propose the structure and composition of your project and operational team. You should list the main disciplines of the project, the key expert responsible and proposed technical and support staff.
- d) Assessment of Risk and mitigation plan. In this chapter you should explain the various categories of risks, you envisage in the project implementation and operation phase. You should highlight the method to evaluate the overall chances of potential loss and the consequences. You should propose a plan to control & monitor the risks and plan for contingencies to risks, which occur.
- e) Change Management Plan. In this chapter you should propose the information resource management strategies and technology framework to support project change.

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

### Activity Schedule (Part of Appendix - 9)

Sr. No.	Activity	Months												
		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: Build, Operation and Transfer Integrated Solid Waste Processing & Disposal system, Nagar Nigam Dehradun , Uttarakhand

We are pleased to submit our Financial Proposal for Build, Operation and Management of Integrated Solid Waste Processing & Disposal system, Nagar Nigam Dehradun , Uttarakhand (the "Project").

Processing Incentive / Royalty Fees	Year 1 ( for the first year after COD)
Processing Incentive (Rs in figures)	
Processing Incentive (Rs in words)	
Royalty Fees (Rs in figures)	
Royalty Fees (Rs in words)	

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

**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.	Landfill ( Separate Annexure with Breakup of Civil Construction+ Vehicles & Equipment)		
2.	Composting Plant of 200 MT capacity ( Separate Annexure with Breakup of Civil Construction+ Vehicles & Equipment)		
4.	Weigh Bridge(s)		
6.	Other Civil Works in accordance with Construction Requirements mentioned In Draft Concession Agreement ( Please list out various components)		
7.	Project Vehicles ( Please add annexure with project vehicles list)		
8.	Project Equipments ( Please add annexure with project vehicles list)		
	Total <sup>1</sup>		

We have reviewed all the terms and conditions of the Request for Proposal (RFP) Document and will undertake to abide by all the terms and conditions contained therein. We hereby declare that there are, and shall be, no deviations from the stated terms in the RFP Document.

.....

Name of the Bidder

.....

Signature of the Authorised Person

.....

Name of the Authorised Person

Note:

- ~ On the Letterhead of the Bidder and to be signed
- ~ In case of difference in amount quoted in figures and words, the lower value would be considered for evaluation.

---

<sup>1</sup> The maximum Capital Support to be provided by NND shall in any case not exceed Rs. 22.11 Crore approximately.

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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 development of Integrated Solid Waste Processing and Disposal system, at Dehradun Uttarakhand, (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 12

### List of attachments with the bid

S No	Description
1.	Acknowledgement of RFP Document and Notification of Intent to Submit
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 1.23.2 (Pre Qualification Criteria)

# Annexure 1 Letter from various Departments

## 1. Letter from Airport Authority of India

83  
18-6-10

भारतीय विमानपत्तन प्राधिकरण  
AIRPORTS AUTHORITY OF INDIA

संदर्भ सं० -  
Ref. No. - AA/DN/APC/382-384

दिनांक -  
Dated - 04/06/2010

सेवा में,  
मुख्य नगर अधिकारी,  
नगर निगम,  
देहरादून।

विषय: नगर निगम, देहरादून के शीशमबाड़ा, पल्लवदून में नगरीय ठोस अपशिष्टों के प्रसंस्करण एवं भूमि भरण।  
जिलाधिकारी देहरादून द्वारा उपलब्ध कराई भूमि पर Treatment Facility and Landfill निर्माण हेतु नगरीय ठोस अपशिष्ट (प्रबंधन और हथालन) नियम, 2000 के अंतर्गत अनुमोदन प्रदान करने के सम्बंध में।

महोदय,

कृपया नगर निगम, देहरादून के कार्यालय के पत्र संख्या: 92(एच) दिनांक: 23-10-09 का संदर्भ ग्रहण करने का कष्ट करें।  
जिसके द्वारा अवगत कराया गया था कि जिलाधिकारी, देहरादून के कार्यालय पत्र संख्या 191/डी०एल००आर०सी०मार्च 2010 द्वारा शीशमबाड़ा पल्लवदून, देहसील विकासनगर में 0.323 है० भूमि नगर निगम देहरादून को नगरीय ठोस अपशिष्टों प्रसंस्करण एवं भूमि भरण हेतु उपलब्ध कराई गई है, जो देहरादून नगर से लगभग 23 किलोमीटर पश्चिम की ओर सेलाकुई स्थित है।

उपरोक्त विषय में आपको सूचित किया जाता है कि भारत सरकार के परिपत्र न० 50 F 1981 (प्रति संलग्न) और परिपत्र न० 1 1977 के अनुसार हवाई अड्डे पर ठोस अपशिष्ट/मृत पशु शव विस्तारण की व्यवस्था, नगरीय कूड़ादान कम से कम 1 कि०मी० के दायरे से दूर होना चाहिए। आपके द्वारा प्रस्तावित परियोजना हवाई अड्डा मानको के अनुसार 10 कि०मी० दाय के बाहर है अतः सरकार के परिपत्र के अनुसार उक्त संदर्भित स्थल पर ठोस अपशिष्ट प्रबंधन के अंतर्गत Treatment Facility and Landfill स्थापित करने हेतु कार्यवाही कर सकते हैं।

132907  
18-6-10

प्रतिलिपि:

- 1). प्रमुख सचिव, शहरी विकास, उत्तराखण्ड शासन को सूचनार्थ प्रेषित।
- 2). निदेशक, शहरी विकास निदेशालय, उत्तराखण्ड को सूचनार्थ प्रेषित।

धन्यवाद

(रमेश कुमार)  
विमानपत्तन नियंत्रक  
देहरादून  
4/6/10

16/06

Smoh/B.Bh

20/6/2010



## 2. EIA Approval Letter

**F.No.10-62/2011-IA.III**  
Government of India  
Ministry of Environment, Forests & Climate Change  
(IA.III Section)

Indira Paryavaran Bhawan,  
Jor Bagh Road,  
New Delhi - 110 003

Dated: 8<sup>th</sup> December, 2014

**To**  
**The Mukhya Nagar Adhikari,**  
M/s. Nagar Nigam, Dehradun,  
Patel Road, Dehradun - 248 001,  
Uttarakhand

Fax: 0135-2651060  
Email: [nagar\\_nigam2008@yahoo.com](mailto:nagar_nigam2008@yahoo.com)

**Subject: Development of Municipal Solid Waste Processing & Disposal Facility at Shishambada, Vikasnagar, Dehradun, Uttarakhand by M/s. Nagar Nigam, Dehradun - Environmental Clearance - Reg.**

Sir,

This is with reference to your letter no. 216(H)/MSWM-2012 dated 18.10.2012 and subsequent letters dated 23.04.2013, 28.05.2014, 20.06.2014 and 10.07.2014 for environmental clearance on the above-mentioned subject.

2. The Ministry of Environment, Forests & Climate Change has considered the application. It is noted that the proposal is for grant of Environmental Clearance for **Development of Municipal Solid Waste Processing & Disposal Facility at Shishambada, Vikasnagar, Dehradun, Uttarakhand by M/s. Nagar Nigam, Dehradun**. The proposal was considered by the EAC in its meetings held on 20<sup>th</sup> - 21<sup>st</sup> December, 2012, 10<sup>th</sup> - 12<sup>th</sup> June, 2013; and reconsidered in EAC meeting held on 29<sup>th</sup> September, 2014 - 1<sup>st</sup> October, 2014. The proponent has informed that:

(i) The project was accorded TOR vide letter no. F.No.10-62/2011-IA-III dated 03.08.2011.

(ii) The proposal involves development of municipal solid waste processing and disposal facility on a total plot area of 8.323 hectares to process 150 MT/day capacity of compost plant and 50 MT/day capacity of Sanitary landfill in Shishambada, Vikas Nagar, Dehradun, Uttarakhand.

(iii) The project site is presently a barren land.

(iv) The water table in the project area is 65 to 70 meter below ground level.

(v) MSW collected will be stored in temporary storage area. Storage of compost materials and other materials is also proposed at the site.

(vi) The approximate **power requirement** for the compost plant is (pre-processing composting, curing, and storing) is 150 KVA. Additionally, DG Set of 50 KVA capacities is also proposed.

(vii) Total **water demand** is estimated to be 160.0695 KLD.

(viii) Treated effluents from landfill, ETP and compost plant will be released

EC\_MS.W.Shishambada

Page 1 of 6

after monitoring of quality of treated leachate into the public sewer/water body as per standards laid in MSW Rules 2000.

- (ix) The project area falls in Seismic Zone-IV and is moderately hazardous zone for earthquake.
- (x) The **total cost** of the project is Rs. 23.50 crores.
- (xi) **Wildlife issues:** There is no environmental sensitive location like wildlife sanctuary/national park within the 10 km radius of the airport.
- (xii) **Court case:** Hon'ble Supreme Court has directed vide its order Civil Appeal No. 5581/2014 dated 07.05.2014 to proceed with the establishment of facility at the site and that the Competent Authority should consider the grant of clearance.
- (xiii) **Public Hearing** was conducted on 12.09.2012.
- (xiv) The project site is located at an aerial distance of 4.46 km from the western most boundaries of Doon Valley Eco-sensitive areas attracts the General Condition (GC), hence is treated as Category 'A' project of EIA Notification 2006.

3. The proposal was considered by the EAC in its meeting held on 20<sup>th</sup> - 21<sup>st</sup> December, 2012 and recommended for rejection of the project since the site is very close to river and suggested to identify an alternate site away from the river. Project Proponent submitted NOC from Irrigation Department dated 06.04.2013. As per the NOC, the site is 400 m from the river and is not in the flood prone area. Project Proponent also submitted minutes of the Supreme Court Monitoring Committee (SCMC) dated 08.03.2013. The SCMC recommended in view of the fact that the topography of Doon Valley is such that it forms the catchment of some rivulet or the other which are by and large seasonal and it would not be possible to find alternative site for the purpose.

4. The project has been recommended for grant of clearance by the EAC in its meeting held on 10<sup>th</sup> - 12<sup>th</sup> June, 2013. However, based on the representations against the project, the Regional Office of the Ministry at Lucknow inspected and submitted the report. The project was again examined by the EAC in its meeting held on 29<sup>th</sup> September, 2014 - 1<sup>st</sup> October, 2014. According to the report, the proposed site is surrounded by University/Colleges, residential complex of Defence Ministry, villages and Asan River in the downward direction. Project Proponent informed that the site has been acquired prior to all the above developments in the area and that there have been numerous attempts by various interested quarters to block the development. Meanwhile urbanisation and development is expanding without an appropriate waste disposal site for the city of Dehradun which is the capital of Uttarakhand. The project proponent informed the Committee that the Hon'ble Supreme Court has directed vide its order Civil Appeal No. 5581/2014 dated 07.05.2014 to proceed with the establishment of facility at the site and that the Competent Authority should consider the grant of clearance.

5. The proposal was considered by the Expert Appraisal Committee (EAC) and recommended in its meeting held on 29<sup>th</sup> September, 2014 - 1<sup>st</sup> October, 2014 for granting Environmental Clearance. The Ministry of Environment, Forests & Climate Change hereby accords Environmental Clearance for the above-mentioned **Development of Municipal Solid Waste Processing &**

**Disposal Facility at Shishambada, Vikasnagar, Dehradun, Uttarakhand by M/s. Nagar Nigam, Dehradun** under the provisions of the Environment Impact Assessment Notification, 2006 and amendments thereto and Circulars issued thereon and subject to the compliance of the following specific conditions, in addition to the general conditions mentioned below:

**A. SPECIFIC CONDITIONS:**

- (i) "Consent for Establishment" shall be obtained from State Pollution Control Board under Air (Prevention and Control) Act, 1981 and Water (Prevention and Control) Act, 1974.
- (ii) The proposed plan should be realigned in such a way that the waste tipping area and processing area and other project components which produces maximum air and noise pollution is farthest from the habitation.
- (iii) State of the art measures should be adopted for odor control from the plant.
- (iv) The waste lying at the existing dumping site shall be excavated and should be accumulated to designated place within the site and this accumulated waste shall be compacted and closed scientifically after reaching the design height.
- (v) Project Proponent shall develop green belt of minimum 20 m width all along boundary and at least 30 m away from the river HFL. The setup shall be constructed atleast 3 m above the HFL of the river.
- (vi) The connectivity road to the site shall be IRC guidelines.
- (vii) The waste is proposed to be transported through the village roads, the roads shall be properly widened or proper road for transportation shall be provided. Details shall be incorporated in the EMP.
- (viii) The gas generated from the Landfill facility shall be collected and disposed as per rules.
- (ix) The proponent shall obtain necessary clearance from the Ground Water Authority for the use of ground water.
- (x) The depth of the land fill site shall be decided based on the ground water table at the site.
- (xi) An On Site Emergency Management Plan shall be prepared and implemented.
- (xii) All the recommendation of the EMP shall be complied with letter and spirit. All the mitigation measures submitted in the EIA report shall be prepared in a matrix format and the compliance for each mitigation plan shall be submitted to MoEF&CC along with half yearly compliance report to MoEF&CC-RO.
- (xiii) Periodical ground water/soil monitoring to check the contamination in and around the site shall be carried out.

EC\_MSW\_Shishambada

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6. These stipulations would be enforced among others under the provisions of Water (Prevention and Control of Pollution) Act, 1974 the Air (Prevention and Control of Pollution) Act 1981, the Environment (Protection) Act, 1986, the Public Liability (Insurance) Act, 1991 and Municipal Solid Wastes (Management and Handling) Rules, 2000 including the amendments and rules made thereafter.
7. All other statutory clearances such as the approvals for storage of diesel from Chief Controller of Explosives, Fire Department, Civil Aviation Department, Forest Conservation Act, 1980 and Wildlife (Protection) Act, 1972 etc. shall be obtained, as applicable by project proponents from the respective competent authorities.
8. The project proponent should advertise in at least two local Newspapers widely circulated in the region, one of which shall be in the vernacular language informing that the project has been accorded Environmental Clearance and copies of clearance letters are available with the Uttarakhand Environment Protection & Pollution Control Board (UEP&PCB) and may also be seen on the website of the Ministry of Environment, Forests & Climate Change at <http://www.envfor.nic.in>. The advertisement should be made within Seven days from the date of receipt of the Clearance letter and a copy of the same should be forwarded to the Regional Office of this Ministry at Dehradun.
9. This Clearance is subject to final order of the Hon'ble Supreme Court of India in the matter of Goa Foundation Vs. Union of India in Writ Petition (Civil) No. 460 of 2004 as may be applicable to this project.
10. Any appeal against this clearance shall lie with the National Green Tribunal, if preferred, within a period of 30 days as prescribed under Section 16 of the National Green Tribunal Act, 2010.
11. Status of compliance to the various stipulated environmental conditions and environmental safeguards will be uploaded by the project proponent in its website.
12. A copy of the clearance letter shall be sent by the proponent to concerned Panchayat, Zilla Parishad/Municipal Corporation, Urban Local Body and the Local NGO, if any, from whom suggestions/ representations, if any, were received while processing the proposal. The clearance letter shall also be put on the website of the company by the proponent.
13. The proponent shall upload the status of compliance of the stipulated EC conditions, including results of monitored data on their website and shall update the same periodically. It shall simultaneously be sent to the Regional Office of MoEF, the respective Zonal Office of CPCB and the UEP&PCB.
14. The project proponent shall also submit six monthly reports on the status of compliance of the stipulated EC conditions including results of monitored data (both in hard copies as well as by e-mail) to the respective Regional Office of MoEF, the respective Zonal Office of CPCB and the UEP&PCB.

EC\_MSW\_Shishambada

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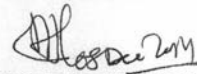
- (xiv) The leachate from the facility shall be collected and treated to meet the prescribed standards before disposal.
- (xv) The Clearance is subject to the outcome of the court cases relating to the project.
- (xvi) The proponent shall abide by all the commitments and recommendations made in the EIA/EMP report so also during their presentation to the EAC.

**B. General Conditions:**

- (i) The project proponent should set up separate environmental management cell for effective implementation of the stipulated environmental safeguards under the supervision of a Senior Executive.
- (ii) The project proponent should extend full support to the officers of this Ministry/Regional Office during inspection of the project for monitoring purposes by furnishing full details and action plan including action taken reports in respect of mitigation measures and other environmental protection activities.
- (iii) The Ministry reserves the right to add additional safeguard measures subsequently, if found necessary, and to take action including revoking of the environment clearance under the provisions of the Environmental (Protection) Act, 1986, to ensure effective implementation of the suggested safeguard measures in a time bound and satisfactory manner.
- (iv) In the event of a change in project profile or change in the implementation agency, a fresh clearance shall be obtained from the Ministry of Environment, Forests & Climate Change.
- (v) A copy of the clearance letter will be marked to concerned Panchayat/local NGO, if any, from whom any suggestion/representation has been made received while processing the proposal.
- (vi) The environmental safeguards contained in the EIA Report should be implemented in letter and spirit.
- (vii) A copy of the environmental clearance letter shall also be displayed on the website of the concerned State Pollution Control Board. The EC letter shall also be displayed at the Regional Office, District Industries centre and Collector's Office/ Tehsildar's office for 30 days.
- (viii) The funds earmarked for environmental protection measures shall be kept in separate account and shall not be diverted for other purpose. Year-wise expenditure shall be reported to this Ministry and its concerned Regional Office.

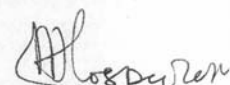


15. The environmental statement for each financial year ending 31<sup>st</sup> March in Form-V as is mandated to be submitted by the project proponent to the concerned State Pollution Control Board as prescribed under the Environment (Protection) Rules, 1986, as amended subsequently, shall also be put on the website of the company along with the status of compliance of EC conditions and shall also be sent to the respective Regional Office of MoEF&CC by e-mail.

  
(Dr. Manoranjan Hota)  
Director

Copy to: -

- (1) The Secretary, Department of Environment & Forests, Government of Uttarakhand, Civil Secretariat, Dehradun.
- (2) The Chairman, Central Pollution Control Board, Parivesh Bhawan, CBD-cum-Office Complex, East Arjun Nagar, Delhi - 110 032.
- (3) The Member Secretary, Uttarakhand Environment Protection & Pollution Control Board, 6<sup>th</sup> Vasant Vihar, Phase-I, Dehradun.
- (4) Additional Principal Chief Conservator of Forests (C), Ministry of Environment, Forests and Climate Change, Regional Office, Pearson Road, FRI Campus, New Forest, Dehradun - 248 006.
- (5) IA - Division, Monitoring Cell, MOEF, New Delhi - 110003.
- (6) Guard file

  
(Dr. Manoranjan Hota)  
Director

### 3. Letter from Uttarakhand Pey Jal Nigam

**S.K. SHARMA**

Assistant Engineer (Retd.)  
UTTARANCHAL PEYJAL NIGAM  
DEHRADUN

Residence :  
C-69, Nehru Colony  
Dehradun (UTTARANCHAL)  
Phone : 0135 2672967  
Mobile : ~~933268864~~  
9927161732

Ref. No. ....

Date : 01-7-2010

To -

Senior Health Officer  
Nagar Nigam  
Dehradun

Subject :- Regarding Bore well depth near Shishan Barr.

Sir, Please ref - above subject, as you desire to know the depth of water table at Shishan Barr. site which is said to be allotted for compost plant & sanitary land fill of Municipal solid waste of Dehradun Nagar Nigam.

Near that area, I have constructed four bore well for irrigation purpose.

There's depth are between 65 to 75 mts. & so the water table is found average below the ground level in that area.

Yours Sincerely

S.K. SHARMA  
11/7/10

S.K. SHARMA  
Assistant Engineer (Retd.)  
UTTARANCHAL PEYJAL NIGAM  
C-69, NEHRU COLONY, DEHRADUN

**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

**Integrated Solid Waste Processing and Disposal System  
in Build, Operate and Transfer mode  
(BOT) at Dehradun**

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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 - 248 001, 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 (GoI), has formulated the Municipal Solid Wastes (Management and Handling) Rules, 2000 ("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 including collection, transportation, processing and disposal of waste generated in the city, decided to set up an integrated Solid Waste Processing and Disposal System at Dehradun on Build, Operate and Transfer (BOT) 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 Parties hereto are required to enter into the Concession Agreement, being these presents, to record the terms, conditions and covenants of the Concession.

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.

**"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 8.6.

**"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. COD maybe given if the waste processing plant is ready with at least the segregation, recycling, composting plant and phase 1 of landfill construction.

**"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.

**"Compost Facility" or Processing** shall mean the composting process by which MSW is transformed into new or recycled products as defined in the MSW Rules.

**"Conforming Waste"** shall mean ,

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

**"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 Landfill Drawings and Composting Plant Drawings attached as Annexure 1.

**"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:

1. the existence, cleanup and/or remedy of contamination on real property;
2. the emission or discharge of hazardous substances into the environment;
3. the control of hazardous substances; or
4. the use, generation, transport, treatment, storage, disposal, removal or recovery of hazardous substances, including building materials;

**“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.

**“Land Filling”** shall mean disposal of the Landfill Waste in the Sanitary Landfill in accordance with the terms of this Agreement, as per the process described in the DPR and as per the applicable rules and regulations.

**"Landfill Facility"** shall mean the Engineered Sanitary Landfill and all other related facilities located thereon, and any other offsite facilities created for the Project duly designed, engineered, constructed, operated and maintained in accordance with the provisions specified thereto in Schedule 3 and Schedule 6 for the purpose of Land filling.

**"Landfill Waste"** : shall mean the Residual Inert Matter, duly certified as fit for land filling by the Project Engineer in accordance with the Operations Specifications and this Agreement.

**"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 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 7.2.2.

**"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 design, financing, construction, operation and maintenance of Project at Project Site 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 primary storage, processing & disposal of waste provided by NND to Concessionaire for the 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, Composting Facility, Transfer Station, Maintenance Workshop, Landfill 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 Site, 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 admeasuring approximately \_\_\_\_\_ acre at Dehradun more fully shown and described in Schedule 1.

**"Project Vehicles"** : shall mean all vehicles (motorized or non-motorized) provided by NND to the Concessionaire for the Concession Period for the Project in accordance with provisions of this Agreement.

**"Processing Incentive "** : shall mean the amounts payable by NND to Concessionaire in accordance with Clause 7.2 and as quoted by the Bidder in its Financial Proposal and the output quantity from processing.

**"Processing Rate" or " Processing Incentive Rate":** shall mean the amount payable by NND to the Concessionaire per tonne of output produced from processing of MSW, recycled waste or other processed output from the MSW by NND or its nominee as set out in Clause 7.2 and Schedule 2.

**"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.

**"Royalty Fee"** : shall mean the amounts payable by the Concessionaire to NND in accordance with Clause 7.3 and as quoted by the Bidder in its Financial Proposal.

**"Royalty Fee Rate":** shall mean the amount payable by the Concessionaire to NND per tonne of output produced from processing of MSW collected by the Concessionaire in accordance with the amount per MT quoted by the Bidder in its Financial Proposal, as set out in Clause 7.4, Schedule 2 and as per provisions of this Agreement.

**"Royalty Statement"** : shall have the meaning as ascribed thereto in Clause 7.3.

**"Rupees" or "Rs."** refers to the lawful currency of the Republic of India.

**"SPCD" or "Scheduled Project Completion Date"** shall mean the date 11 months from the Appointed Date.

**"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 Statement" or "Processing Incentive Statement":** shall have the meaning as ascribed thereto in Clause 7.2.

**"Transfer Station"** : shall mean the facility / station for temporary storage of MSW to be designed, engineered and constructed, within the area earmarked on the Site, by the Concessionaire in accordance with the provisions of DPR and this Agreement;

**"Works"** means the Permanent Works and the Temporary Works or either of them as appropriate.

**"Waste Supply Stoppage Date"** shall have the meaning as ascribed thereto in Article 5.13.

## 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 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 design, engineer, procure, finance and construct the Project Facility, to operate and maintain the Project Facility and to exercise and/ or enjoy the rights, powers, benefits, privileges, authorisations and entitlements as set forth in this Agreement, (the "Concession").

### **2.2. Concession Period**

The Concession hereby granted is for a period of 15 (fifteen) years from the Appointed Date inclusive of the Construction Period. (hereinafter referred to as the "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.

### **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/dischage all of its obligations in accordance with the provisions hereof.

## Project Site & Equipment

## ARTICLE 3

### 3.1. Handover of Project Site & Equipment

- (a) 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. Waste Processing Plant
  - ii. Landfill Facility

Above land shall be handed over to the Concessionaire in following manner:

- Land required for waste processing plant
  - Land required for first 10 years of landfill activities
  - Balance land shall be kept in reserve for future landfill use or any other alternative waste processing technology.
- (b) Upon the Project Site being handed over pursuant to the preceding Clause (a), 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.

### **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**

- a) NND shall appoint a **Project Engineer Firm** prior to appointed date of this agreement. The firm/agency shall be referred to as project engineer hereafter but shall mean a firm engaged to provide necessary and qualified manpower for project monitoring.
- b) The scope of work of the Project Engineer shall include that set out in **Schedule 5**.
- c) The initial term of the Project Engineer shall be for the entire Concession Period. NND shall have the sole jurisdiction in appointment of Project Engineer.

**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 and paid by NND.
- (b) The concessionaire shall always provide one month's advance payment to NND towards remunerations of the Project Engineer and in case of failure to do so, NND may claim the same from performance guarantee or deduct from any payments due to the concessionaire.
- (b) The Project Engineer shall, submit its invoice to the NND for payment of the Remuneration (hereinafter referred to as "Project Engineer Invoice").

**4.3. Replacement of the Project Engineer**

- (a) The NND may replace the Project Engineer in any of the following circumstances by giving a 30 days written notice :
  - (i) If, NND 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 NND 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. 125,00,000/- (Rupees One Crore Twenty Five 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. **Capital Grant from NND shall be Rs {as per bid amount} (Rs. {as per bid amount in words} ) and this shall be released according to the breakup provided by the Concessionaire at the time of bidding and in the manner as detailed in Schedule 2.**

The concessionaire shall provide NND the total project cost details and its financing arrangement for the same. The provision for project equity and arrangement for the project loan, Financial Close, should be completed as per Article 15 of this agreement.

The concessionaire shall also make arrangements for the adequate working capital finance for the project to ensure timely payment of all O&M costs like salaries etc.

### **5.3. Drawings**

#### **(a) Preparation of Drawings**

- (i) The Concessionaire may, subject to the Construction Requirements, adopt with or without modifications the Drawings made available by NND or adopt its own Drawings. Provided that, the Concessionaire shall in any event be solely responsible for the adequacy of the Drawings.
- (ii) If the Concessionaire proposes any modifications to the Drawings made available by NND or submits alternate Drawings or Drawings in respect of any item for which no Drawings are made available by NND, the same shall be subject to review by the Project Engineer as hereinafter provided in Clause (b) below.

#### **(b) Review of Drawings**

- (i) The Concessionaire shall promptly and in such sequence as is consistent with the Construction Requirements, submit a copy of each of the Drawings to the Project Engineer and NND.
- (ii) By forwarding the Drawings to the Project Engineer and NND pursuant to the preceding sub-clause (i), the Concessionaire shall be deemed to have represented that it has verified and determined that the Drawings forwarded are in conformity with the Construction Requirements.
- (iii) Within 15 days of receipt of the 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 Drawings with Construction Requirements. If the comments/ observations of the Project Engineer indicate that the Drawings are not in conformity with the Construction Requirements, such Drawings 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 15 days of receipt of such revised Drawings, which shall be taken into account by the Concessionaire while finalizing the Drawings.
- (iv) If, within the period stipulated in the preceding sub-clause (iii), the Project Engineer does not respond to the Drawings submitted to it by the Concessionaire, the Concessionaire shall be entitled to proceed with the construction of the Project Facility on the basis of such Drawings submitted by it to the

Project Engineer.

- (v) 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 Drawings and their conformity with the Construction Requirements, and shall not be relieved or absolved in any manner whatsoever of any of its obligations hereunder.
- (vi) The Concessionaire shall be responsible for delays in meeting the Construction Requirements caused by reason of any Drawings not being in conformity with the Construction Requirements, and shall not be entitled to seek any relief in that regard from NND.
- (vii) The Concessionaire shall in consultation with the Project Engineer finalize an Implementation Schedule for the Project in accordance with the Construction Requirements.
- (viii) Within 30 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" Drawings of the Construction Works which have been completed as on COD, in a manner as set out in Construction Requirements.

#### **5.4. Project Implementation**

- (a) Unless otherwise permitted by NND, no Construction Works shall begin until the Project Engineer is in place and has assumed charge.
- (b) The Concessionaire shall within 10 (ten) days from the Appointed Date submit to the NND/ Project Engineer the Implementation Plan for execution of the Construction Works and shall adhere to the same.
- (c) The Concessionaire shall submit such documents and reports as are reasonably required by the Project Engineer for issue of the Completion Certificate.
- (d) The Concessionaire shall get the Drawings approved by competent authority and as per Applicable Laws. NND shall assist the Concessionaire in obtaining approvals from the concerned authority.
- (e) 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.
- (f) 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,

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employees of his subcontractor and persons authorized by NND or Project Engineer.

- (g) The Concessionaire shall adhere to Construction Requirements; 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 three months 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 or 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.

- (h) 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.
- (i) The Concessionaire shall, before commencement of Construction Works;
- (i) have requisite organization and designate and appoint suitable officers/ representatives as it may deem appropriate to supervise the Project, to deal with the Project Engineer/ NND and to be responsible for all necessary exchange of information required pursuant to this Agreement;
  - (ii) provide and maintain a reasonably furnished site office accommodation for the Project Engineer, at the Project Site.
- (j) For the purposes of determining that Construction Works are being undertaken in accordance with the Construction Requirements, 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.
- (k) 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 are not complete, if following Tests the Project Engineer determines that the Project Facility can be safely and reliably opened for operations, the Project Engineer 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 Project Engineer and the



Concessionaire ("Punch List"). All Punch List items shall be completed by the Concessionaire within such time as may be determined by the Project Engineer, but not exceeding 60 days from the date of issue of the Provisional Completion Certificate. Upon satisfactory completion of all Punch List items, the Project Engineer, shall promptly and in any case within 7 days thereof, issue the Completion Certificate.

- (l) If the Concessionaire fails to complete the Punch List items within the said period of 60 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 Project Engineer), within 7 days from the date of receipt of a claim in respect thereof from NND. The Project Engineer may issue Project Facility Completion Certificate only upon such reimbursement being made by the Concessionaire to NND.
- (m) The Project Engineer, 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.
- (n) 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 hereof.

Provided if COD is delayed beyond 90 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.

- (l) The construction works and commissioning of all the plants shall be completed as per prescribed timelines below :

Time Limit set for Project Commissioning (Months from start)			
i)	Project Site assessment and development	1	Months
ii)	Procurement of Processing Technologies/ Machineries	3	Month
iii)	Start of Civil Work including landfill	3	Months
iv)	Completion of complete Civil Work, erection of Plant Machineries and other supporting infrastructures	10	Months
v)	Completion of landfill (Phase-1)	10	Months
vi)	Trial Operations of Processing and Landfill components	10	Months

## 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 Project Engineer/ 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 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.
- (d) In the event the Concessionaire has failed to operate and maintain the Project Facility in accordance with the O&M Requirements, and such failure has not been remedied despite a notice to that effect issued by the Project Engineer/NND ("Notice to Remedy"), NND may, without prejudice to any of its other rights/remedies under this Agreement, be entitled to cause the repair and maintenance of the Project Facility at the risk and cost of the Concessionaire. The Concessionaire shall reimburse one and half times the costs incurred by NND on account of such repair and maintenance within fifteen (15) days of receipt of NND's claim therefor.
- (e) The Concessionaire shall be deemed to be in material breach of O&M Requirements, if NND, acting reasonably and in accordance with the provisions of this Agreement, has determined that due to breach of its obligations by the Concessionaire,
  - (i) the maintenance of the Project Facility or any part thereof has deteriorated to a level which is below the acceptance level prescribed by the O&M Requirements;
  - (ii) there has been a serious or persistent breach in adhering to the O&M Requirements and thereby the Project Facility or any part thereof is not safe for operations;

For avoidance of doubt, persistent breach shall mean :

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- (i) any breach of O&M Requirements by the Concessionaire which has not been remedied by the Concessionaire despite a Notice to Remedy in respect thereof issued by the NND;
  - (ii) recurrence of a breach by the Concessionaire, during the pendency of Notice to Remedy by the NND requiring the Concessionaire to remedy a breach, and
  - (iii) repeated occurrence of a breach notwithstanding that earlier breaches have been remedied pursuant to Notice to Remedy or otherwise.

Upon occurrence of Material Breach of O&M Requirements, NND shall, without prejudice to and notwithstanding any other consequences provided therefor under this Agreement, be entitled to terminate this Agreement.

- (f) No demolition shall be allowed during the last five (5) years of the Concession Period, unless specifically approved by NND.

#### **5.6. Insurance**

##### **(a) 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.

##### **(b) 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) liability to third parties;
- (iv) 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.

##### **(c) 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.

##### **(d) Validity of Insurance**

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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.

**(e) 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.

**(f) 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.

**5.7. 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.

#### **5.8. Project Vehicles / Equipments**

- 5.8.1. Concessionaire shall procure the new Project Vehicles and new Project Equipments in accordance with the specification provided in **Schedule 3** and/or compatible to existing vehicles. The Concessionaire shall operate and maintain all the Project Vehicles and Project Equipments in accordance with the O&M Plan and Good Industry Practice throughout the Concession Period.
- 5.8.2. All the project assets shall be in the name of project of SPV and shall be transferred to NND after the termination or completion of the concession period.
- 5.8.3. The Project Engineer shall certify that all the Project Vehicles and Project Equipments purchased by the Concessionaire are as per the specifications provided in this Agreement.
- 5.8.4. In case the Project Engineer certifies that any Project Vehicles or Project Equipments procured are not as per the specifications provided in this Agreement the same shall be intimated to NND within 15 days from the date of issue of Certificate.
- 5.8.5. NND shall inspect the Project Vehicles or Project Equipments certified by the Project Engineer, procured by the Concessionaire and not meeting specifications as per this Agreement. In case the Project Vehicles or Project Equipments are not meeting the specifications as per this Agreement, NND shall send a notice to the Concessionaire to replace those Project Vehicles or Project Equipments.
- 5.8.6. In case the Concessionaire does not replace those Project Vehicles or Project Equipments, NND may at its sole discretion deduct the amount of Project Vehicles or Project Equipments not meeting the specifications as per this Agreement from the amount of Capital Grant payable to the Concessionaire.

#### **5.9. Receiving Waste from NND**

- 5.9.1. The Concessionaire shall receive the Municipal Solid Waste only from NND. The concessionaire maybe allowed receiving the waste from other sources but only with prior permission from NND.

- 5.9.2. Only NND shall have the sole right for permitting collection of waste from any other source and also the sole right of setting terms and conditions for such arrangements.

#### **5.10. Capital Grant Disbursement Committee**

- 5.10.1. A Capital Grant Disbursement Committee shall be formed to monitor the disbursement of capital grant as specified in this agreement. The Committee shall include Municipal Commissioner, Dehradun Nagar Nigam, Finance Controller of the Finance Department, Government of Uttarakhand and a technical expert nominated by NND/GoUK as its members. No disbursement of the Capital Grant shall for Project Assets shall take place under this Agreement unless this Committee has been set up. Municipal Commissioner may depute any technical person for the compliance of above.
- 5.10.2. The Committee shall be responsible for ensuring that the capital support provided by the Government under this Agreement is utilized for the procurement of Project Assets in accordance with the terms of this Agreement.
- 5.10.3. The Committee shall certify that the Project Assets procured by the Concessionaire are in accordance with the specifications mentioned in this Agreement.
- 5.10.4. The Committee shall submit its report to the government regarding the procurement of Project Assets in accordance with this Agreement with specific recommendation(s) if any. The findings of the Committee would be considered to be final and binding.
- 5.10.5. In case the Project Assets procured by the Concessionaire does not meet the specifications mentioned in this Agreement the Committee shall ask the Concessionaire to replace the relevant Project Asset.
- 5.10.6. The Concessionaire shall replace all the Project Assets which do not meet the specifications set out in this Agreement and as mentioned by the Committee in its reports within sixty (60) days.
- 5.10.7. The Capital Grant would be paid to the Concessionaire after receiving the utilization certificate duly approved by the Committee and as per JNNURM process of payment.
- 5.10.8. Committee shall have jurisdiction only on the procurement of project components that are proposed to be financed by the Capital Grant from GoUK. The concessionaire shall be free to procure all other assets as per its own procurement policies.
- 5.10.9. The Concessionaire shall keep NND informed of any new assets procured by itself, and financing mechanism, during the concession period

#### **5.11. Weighbridge**

#### **5.11.1. Daily Information**

- a. The Concessionaire 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.
- b. The weigh bridges are to be procured and maintained by the Concessionaire but operated and managed by the Project Engineer Firm.
- c. The 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 truck
  - iv. Time of entry of the truck
  - v. Total unladen weight of the truck
  - vi. Net weight of Municipal Solid Waste
  - vii. Time of exit of the truck
  - viii. Origin ULB and ward number/s
- d. The weigh bridges/weighing equipments shall be installed also at the landfill site, recycling area & the compost/RDF/other processing facilities to ascertain input and outputs of each facility.
- e. The format for recording shall be finalized in consultation with the Project Engineer, and the same shall be documented as part of the O&M Manual.
- f. The cost of procurement and maintenance of Weigh Bridges is to be borne by the concessionaire and it shall be maintained by the concessionaire.
- g. The concessionaire shall setup MIS for the integrated waste processing and disposal system and ensure that daily detailed reporting in electronic form is made available 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.
- h. All the weighbridge and weighing equipment record shall be stored safely by the concessionaire for future audit purposes for at least 2 years.

#### **5.11.2. Accuracy of Weighbridge**

- a. The Concessionaire shall, at its cost, ensure that the weighbridge is 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.

**5.11.3. 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.

**5.11.4. Adjustment**

- a. If a calibration test conducted under Clause 5.13.2 or an audit conducted under Clause 5.13.3 shows that the weighbridge has been inaccurately measuring any of the items referred to in Clause 5.13.1, 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 5.13.1, the Parties shall assume that the weighbridge had been:
  - i. accurately measuring the relevant items referred to in Clause 5.13.1 from the date of the last accurate calibration test until the Halfway Point; and
  - ii. inaccurately measuring the relevant items referred to in Clause 5.13.1 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. Weight, Acceptance and Rejection of MSW**

5.12.1. The Concessionaire shall weigh the MSW at all key points in the waste processing area as mentioned in clause 5.13. and shall maintain daily records as prescribe

5.12.2. The Concessionaire may decline to accept MSW if the quantum exceeds more than 250 MT of MSW on any 5 (five) days in any given month.



5.12.3. In case the MSW collected contains Hazardous Waste and/or Biomedical Waste is nature of Non Conforming Waste, the Concessionaire upon becoming aware of the same shall decline to accept such MSW, and cause the same to be unloaded in "Assigned Place" for inspection by the Project Engineer, whereupon the Project Engineer shall inspect and certify whether the particular lot of MSW is fit for being accepted by the Concessionaire. In case the Project Engineer certifies that MSW is not fit for acceptance by the Concessionaire, NND shall remove the same within 2 (two) days from the day of issue of such certificate, at NND's cost and risk.

5.12.4. The Concessionaire may decline to accept Non Conforming Wastes in excess of 10 (ten) percent of the total MSW received for any given day.

**5.13. Processing of MSW and Sale/Distribution of Compost/Other Products**

5.13.1. The Concessionaire may adopt such processes and methods as it considers necessary or expedient for Processing of MSW and Land Filling at the Project Facilities, in accordance with Municipal Solid Waste (Management and Handling) Rules 2000, Applicable Laws and O&M Plan

5.13.2. The Concessionaire shall endeavor to carry out Processing of the entire MSW collected and in any case carry out for any given month during the Operations Period, Processing of at least 80% (eighty percent) percent of the quantity of MSW collected during the month. For avoidance of doubt, it is clarified that in exceptional circumstances NND and the Concessionaire may mutually agree to change above mentioned minimum threshold for processing of MSW.

5.13.3. The Processing of waste will be a measured KPI of project performance and based on achieving levels of this KPI the quantum of deduction from Processing Incentive payable or additions to Royalty Fee payable by the concessionaire for the month will be decided.

5.13.4. In the event of failure to carryout Processing of the said percentage of MSW, the Concessionaire shall be liable to a penalty for the quantum of wastefor which Processing as per Operations Specifications has not been undertaken. The penalty shall be calculated as explained in Schedule 2.

5.13.5. The Concessionaire shall be free to sell or otherwise dispose of the recyclables, compost or organic manure, energy (power) and/ or other material recovered after Processing the MSW, at the Project Facilities at such price and to such Persons and using such marketing and selling arrangements and strategies as it may deem appropriate subject to meeting the O&M Plan.

5.13.6. The concessionaire shall ensure that all processed waste products are removed from the waste processing facility within 3 months by way of sales or removal to any other alternative storage location by the concessionaires at its own cost.

**5.14. Land Filling**

5.14.1. The Concessionaire shall carry out Land Filling, including carrying out of relevant Tests, maintenance of records and ensure certification by Project Engineer, in accordance with O&M Plan. The Concessionaire shall weigh the Landfill Waste prior to disposal of the same in the Sanitary Landfill, which shall not exceed, unless otherwise agreed by NND, to monthly quantum of maximum 20% of the total MSW collected by Concessionaire in the preceding month.

5.14.2. However, for arriving at the cap of the quantum of waste to be Land filled, the inert material and Non Confirming Waste collected by the Concessionaire as part of MSW shall not be included. For avoidance of doubt, it is clarified that in exceptional circumstances NND and the Concessionaire may mutually agree to change above mentioned maximum threshold for Land filling. If the landfill waste disposed off by the Concessionaire exceeds the cap limit mentioned in this Clause then the Concessionaire will be charged a Penalty as mentioned in KPIs :

**5.15. Disposal of Certain MSW**

5.15.1. As provided in Clause 5.12.3, NND shall promptly divert from the Project Site and dispose of, at no cost to the Concessionaire and at the Concessionaire's request, all of the Non Conforming Waste to the Assigned Place.

5.15.2. The Concessionaire shall treat the leachate collected in the leachate collection system (LCS) at its own cost and expense.

**5.16. Maintenance and Certification of Records**

5.16.1. The Concessionaire shall maintain records of the quantum (measured in tonnes) of MSW and other wastes collected, MSW and other waste processed at Composting Facility and deposited at Landfill, duly countersigned by the Project Engineer and provide monthly, quarterly and annual reports of the same to NND.

**5.17. Employment & Wages**

5.17.1. The wages payable to the workers of sanitary workers shall not be less than the wages payable to them at the time of offer for employment or as per Applicable Labour Laws issued by Ministry of Labour and Employment, Government of India whichever is higher.

**5.18. Training**

5.18.1. In the event of Termination or expiry of the Agreement, the Concessionaire shall make best efforts to provide or cause to be provided such training to the employees of NND as may be required for NND to continue to operate and maintain the Project Facilities after the Termination / expiry. Such training shall commence :

- a. Upon occurrence of any event under the provisions of Clause 9.1;
- b. Upon the Termination / Expiry of the Project

5.18.2. The training shall be completed prior to the Hand Back of the Project Facilities and shall be for a period not exceeding 3 (three) months. The training plan shall be mutually agreed between the Parties prior to the

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commencement of training.

#### **5.19. Management Information System**

The Concessionaire shall establish a Management Information System (MIS) and install appropriate software to maintain records of the Project operations. MIS shall include details of all the information as specified in **Schedule10.**

#### **5.20. Shareholding<sup>1</sup>**

The Concessionaire shall ensure that M/s \_\_\_\_\_<sup>2</sup> holds not less than 51% of the paid up share capital of the Special Purpose Vehicle for the first Ten (10) years of the Concession Period.

#### **5.21. 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.

#### **5.22. General Obligations**

The Concessionaire shall at its own cost and expense :

- (a) investigate, study, design, 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

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<sup>1</sup> Shareholding of Special Purpose Vehicle for the implementation of the Project.

<sup>2</sup> Name of the selected Bidder

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. The Concessionaire shall not permit any of its employees to maintain any temporary or permanent living quarters within the structure forming a part of the Construction Works.
- (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
- iii. 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 in the neighbourhood of the Construction Works against such conduct.

#### **5.23. 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.

#### **5.24. Access and Assured Availability of the Project Facilities**

The Concessionaire shall, at all times during the Concession Period, allow access to and usage of Project Facilities to NND / Person nominated by NND.

#### **5.25. 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.

#### **5.26. Erection of Sign Board**

- (a) The Concessionaire shall erect a signboard, of a size not less than 2 ft. by 4 ft, adjacent to the main entrance to the Project Site in a manner such that it is ordinarily visible to any person using such entrance. The signboard shall prominently display the following text in black upper case letters on a white/yellow background:

"This property belongs to the Nagar Nigam Dehradun , Government of Uttarakhand and has been handed over to \_\_\_\_\_"

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(name of the Concessionaire) for build, operate and transfer Integrated Solid Waste Processing & Disposal System from \_\_\_\_\_ (Insert the in Appointed Date) to \_\_\_\_\_(Insert the Expiry Date)".

- (b) The Concessionaire shall ensure that the signboard is maintained in good condition throughout the Concession Period.

**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) Prior to handover of the Project Site to the Concessionaire, NND shall remove all encroachments from the Project Site;
- (c) NND shall pay Processing Incentive or collect Royalty Fee as per the provisions of the Agreement.
- (d) The Capital Support to the Concessionaire as part of its Financial Proposal in the RFP Document shall be disbursed to the Concessionaire in the manner set out in Schedule 2 on achievement of respective Project Milestones.

Provided that the Capital Support shall be released only when the Concessionaire submits to NND, respective bill ('Invoice') for the actual value of the Works executed and Project Assets procured and as per the payment schedule prescribed by NND. The Invoice shall be duly certified by the Project Engineer certifying therein that the works have been carried out as per the Construction Requirements.

- (e) NND shall pay Processing Incentive to the Concessionaire in accordance with clause 7.2.
- (f) NND shall grant in a timely manner all such approvals, permissions and authorizations which the Concessionaire may require or is obliged to seek from NND under this Agreement, in connection with implementation of the Project and the performance of its obligations.
- (g) Provided where authorization for an ailment of utilities such as power, water, sewerage, telecommunications or any other incidental services/ utilities is required, the same shall be provided by NND, within 15 days from receipt of request from the Concessionaire to make available such authorization.

**6.2. General Obligations**

NND shall:

- (a) upon written request from the Concessionaire, assist the Concessionaire in obtaining access to all necessary infrastructure facilities and utilities, including water, electricity and telecommunication facilities at rates and on terms no less favourable to the Concessionaire than those generally available to commercial customers receiving substantially equivalent facilities/utilities;
- (b) assist the Concessionaire in obtaining police assistance, upon payment of prescribed costs and charges, if any, for traffic regulation, patrolling and provision of security on the Project Site

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- Project Facility and implementing this Agreement in accordance with the provisions hereof;
- (c) observe and comply with all its obligations set forth in this Agreement.

### **6.3. Door to Door Collection of MSW and other waste**

- (a) NND shall or cause to :
- ii. Collect MSW from door to door from all the wards of Dehradun Municipal limits, in accordance with Municipal Solid Waste (Management and Handling) Rules 2000, O&M Plan and Good Industry Practices
  - iii. collect construction waste from the generators of such waste;
  - iv. collect domestic hazardous waste from the generator of such waste
  - v. collect segregated/unsegregated waste from all households and other waste generators present in all wards of the Dehradun Municipal limits;
  - vi. Encourage source segregation of waste through awareness campaigns and training programmes or other such activities as deemed fit. The cost for such activities shall be borne by the Concessionaire;
  - vii. transport all waste in accordance with the O & M plan.
- (b) NND may collect or allow concessionaire to receive solid waste from outside the Dehradun Municipal Limits. In such cases, NND shall negotiate the terms with residents or ULBs for collection and processing of the waste. The Concessionaire shall receive waste only from NND or with the permission of NND as the case maybe.

### **6.4. Assured Waste Quantity**

- 6.4.1. The NND hereby undertakes that 200MT of Non-segregated and comingled Waste shall be delivered to the site free of cost, per day averaged over each Financial Year ("Assured Waste Quantity").
- 6.4.2. Minimum Assured Waste quantity maybe changed and 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).
- 6.4.3. 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.
- 6.4.4. For avoidance of doubt, it is clarified that for calculation of MSW received by Concessionaire and its comparison with respect to the above mentioned guarantee by the NND, Non Conforming Waste delivered by the NND in excess of 10% of total MSW quantity delivered shall not be considered.
- 6.4.5. The Concessionaire and NND shall, within 6 (six) months from the



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Appointed Date, jointly agree upon a methodology for transportation of MSW, as per O& M Plan and with the help of Project Engineer.

6.4.6. In case the MSW received by the Concessionaire contains Hazardous Waste and/or Bio-medical Waste or is nature of Non Conforming Waste, the Concessionaire shall segregate the same from MSW, and shall cause the same to be unloaded or disposed off at location(s) mutually agreed between NND and the Concessionaire for inspection by the Project Engineer, whereupon the Project Engineer shall inspect and certify whether the particular lot of MSW is unfit for Processing or not. The Concessionaire shall have right to utilize the recyclable waste from MSW collected, as deemed fit by it.

6.4.7. The Concessionaire may decline to collect Non Conforming Wastes in excess of 10 (ten) percent of the total MSW for any given day. Such excess Non Conforming Wastes shall be transferred back for disposal by the NND.

#### **6.5. Transportation of MSW and other waste**

6.5.1. The NND shall or shall cause to transport the solid waste to the processing site at its own cost.

#### **6.6. Monitoring and Assessment**

6.6.1. NND shall ensure that the Project Engineer appointment is done in a timely manner. NND and concessionaire shall ensure the replacement of the Project Engineer, if required, is also done in timely manner and as prescribed in the concession agreement.

6.6.2. 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.

#### **6.6.3. 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 Additonal Municipal Commissioner
- ii. Municipal Health Officer
- iii. Representative from public group/ any stake holder

- (d) Since the treatment of MSW and disposal 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.

**7.1. Capital Grant**

- (a) 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 Capital Grant quoted as part of its Financial Proposal in accordance with the Project Milestones set out in Schedule 2 and as per the breakup of cost components provided by the concessionaire in financial proposal.
- (b) The Capital Grant would be paid to the Concessionaire after receiving the utilization certificate duly approved by the Procurement Committee.

**7.2. Processing Incentive**

- 7.2.1. 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 Processing Incentive quoted by the Concessionaire in Appendix 10 to the RFP Document and as part of its Financial Proposal in accordance with Schedule 2 and Clause 7.2.2 below.

- 7.2.2. Payment by NND to Concessionaire shall be as explained in Schedule 2

**7.3. Royalty Fee**

- 7.3.1. Subject to the provisions of this Agreement and in consideration of NND giving the Concession in accordance with the terms, conditions and covenants set forth in this Agreement, the Concessionaire agrees and undertakes to pay to NND, the Royalty Fee quoted by the Concessionaire in Appendix 10 to the RFP Document as part of its Financial Proposal in accordance with Schedule 2 and Clause 7.3.2 below.

- 7.3.2. Payment by Concessionaire to NND shall be as explained in Schedule 2

**7.4. Advertisement Rights**

- 7.4.1. 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 receive 100% advertising revenues. The concessionaire shall be required to carry these advertisements or permit to place advertisements as per instructions of NND. The concessionaire shall also ensure that all the advertising and advertisement material etc. is appropriately handled and maintained by its employees.

## **7.5. Deposit of project fund and revenues**

**7.5.1.** All project revenues, including but not limited to Processing Incentive , sale of waste processing output, recycling revenue etc. must be deposited into a designated escrow account as detailed in **Article 14**

## **7.6. Change of Scope**

7.6.1. 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. 4,00,00,000/- (Rupees Four 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.

### **7.6.2. Procedure for Change of Scope**

- (a) NND shall whenever it desires provision of addition/ deletion of items of work and services referred to in Clause 7.8 above, 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

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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.

- 7.6.3. 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 7.6.2(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.
- 7.6.4. All claims by the Concessionaire pursuant to this Clause 7.6 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.

### 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;
  - (iii) the nature of and the extent to which, performance of any of its obligations under this Agreement is affected by the Force Majeure Event;
  - (iv) 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
  - (v) 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:
  - (i) assess the impact of the underlying Force Majeure Event,
  - (ii) to determine the likely duration of Force Majeure Event and,
  - (iii) 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,

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- 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) (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.

- (ii) (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

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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 the Appointed Date, the period set forth in the Clause 9.1.1 for achieving the Financial Close 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

### 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 5.26:

- (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 90 days of the SPCD;
- (ii) The Concessionaire has failed to achieve COD within 90 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 60 days;
- (iv) The Concessionaire has failed to make the Royalty Payment 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 120 days have elapsed since such payment became due;
- (vi) The Concessionaire has collected user charges in excess of the rates provided in schedule 11.
- (ix) At any time during the Operations Period the Concessionaire has failed to carry out Processing of at least 50% (fifty percent) of the aggregate waste received for any month in accordance with Clause 5.13 for a continuous period of three (3) months or an aggregate period of 8 (eight) months during the Concession Period.
- (x) 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 ;
- (xi) Any representation made or warranty given by the Concessionaire under this Agreement is found to be false or misleading;
- (xii) A resolution has been passed by the shareholders of the Concessionaire for voluntary winding up/ dissolution of the Concessionaire;
- (xiii) 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

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has unconditionally assumed all surviving obligations of the Concessionaire under this Agreement;

- (xiv) 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;
- (xv) The Concessionaire has abandoned the Project Facility ;
- (xvi) The Concessionaire has repudiated this Agreement or has otherwise expressed an intention not to be bound by this Agreement;
- (xvii) 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
- (xviii) The Concessionaire has failed to perform/ discharge its obligations under Clause 5.22 of this Agreement for a continuous period of 24 hours.

**(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 provide land at the Site to the Concessionaire as per the provisions of Clause 3;
- (ii) NND has failed to make Capital Grant, Processing Incentive or any payments due to the Concessionaire and more than 3 (three) months have elapsed since such default;
- (iii) 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;
- (iv) 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
- (v) NND has repudiated this Agreement or otherwise expressed its intention not to be bound by this Agreement;
- (vi) 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;
- (vii) 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.

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- (viii) Any representation made or warranties given by the NND under this Agreement has been found to be false or misleading.
  - (ix) The NND has failed to deliver the Minimum Assured Quantity of MSW in accordance with Clause 6.4 for a continuous period of 5 (five) days or an aggregate period of 15 (fifteen) days in any Month;

## **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 s, 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:

- (a) Debt Due; and
- (b) 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 the 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.



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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.

## **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 Project Site and Project Facility to NND free of cost and in good operable condition.
- ii. At least 12 months before the expected expiry of the Concession Period a joint inspection of the Project Site and Project Facility shall be undertaken by NND, Concessionaire and Project Engineer. NND and Project Engineer shall, within 45 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. NND/ 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 24 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.

### **10.3. NND's Obligations**

NND shall, subject to NND's right to deduct amounts 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.

**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.

### **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**

13.2.1. 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.

13.2.2. During the period of Suspension hereunder, all rights and liabilities vested in the Concessionaire in accordance with the provisions of this Agreement shall continue to vest therein and all things done or actions taken, including expenditure incurred by the 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**

13.3.1. 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.

- 13.3.2. 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**

- 13.5.1. 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.
- 13.5.2. Notwithstanding anything to the contrary contained in this Agreement, in the event that Suspension is not revoked within 180 (one hundred and eighty) days from the date of Suspension hereunder or within the extended period, if any, set forth in Clause 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**

14.1.1. The Concessionaire shall, prior to the Appointed Date, open and establish an Escrow Account with a Bank (the "Escrow Bank") in accordance with this Agreement read with the Escrow Agreement.

14.1.2. 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 Government, the Escrow Bank and the Senior Lenders through the Lenders' Representative, which shall be substantially in the form set forth in Schedule-11.

### **14.2. Deposits into Escrow Account**

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

- a. all funds constituting the Financial Proposal;
- b. all revenues from or in respect of the processing and disposal of municipal solid waste, including the proceeds of deposits, capital receipts or insurance claims; and

### **14.3. Withdrawals during Concession Period**

14.3.1. The Concessionaire 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) all taxes due and payable by the Concessionaire for and in respect of the project;
- b) all payments relating to construction of the project, subject to and in accordance with the conditions, if any, set forth in the Financing Agreements;
- c) Salary expenses of the employees.
- d) O&M Expenses, other than salaries, subject to the ceiling, if any, set forth in the Financing Agreements;
- e) O&M Expenses and other costs and expenses incurred by the Authority in accordance with the provisions of this Agreement, and certified by the Government as due and payable to it;
- f) Royalty Fee due and payable to the Authority;
- g) monthly proportionate provision of Debt Service due In an Accounting Year;
- h) all payments and Damages certified by the Authority as due and payable to it by the Concessionaire, including repayment of Revenue Shortfall Loan;

- 
- i) monthly proportionate provision of debt service payments due 10 an Accounting Year in respect of Subordinated Debt;
  - j) any reserve requirements set forth in the Financing Agreements; and
  - k) balance, if any, in accordance with the instructions of the Concessionaire.

14.3.2. 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:

- a. all taxes due and payable by the Concessionaire for and in respect of the project;
- b. all payments and Damages certified by the Authority as due and payable to it by the Concessionaire;
- c. retention and payments relating to the liability for defects and deficiencies set forth in Article 10;
- d. outstanding Debt Service including the balance of Debt Due;
- e. outstanding Subordinated Debt;
- f. incurred or accrued O&M Expenses;
- g. any other payments required to be made under this Agreement; and balance, if any, in accordance with the instructions of the Concessionaire.

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.

### **15.1. Financial Close**

- 15.1.1. The Concessionaire hereby agrees and undertakes that it shall achieve Financial Close within 120 (one hundred and twenty) days from the date of this Agreement and in the event of delay, it shall be entitled to a further period not exceeding [60 (sixty)] days, subject to payment of Damages to the NND in a sum calculated at the rate of 0.1 % (zero point one per cent) of the Performance Security for each day of delay, provided that the Damages specified herein shall be payable every week in advance; provided further that no Damages shall be payable if such delay in Financial Close has occurred solely as a result of any default or delay by the NND or due to Force Majeure. For the avoidance of doubt, the Damages payable hereunder by the Concessionaire shall be in addition to the Damages, if any, due and payable under the provisions of this Agreement.
- 15.1.2. The Concessionaire shall, upon occurrence of Financial Close, notify the NND forthwith, and shall have provided to the Authority, at least 2 (two) days prior to the Financial Close, 3 (three) true copies of the Financial Package and the Financial Model, duly attested by a Director of the Concessionaire, along with 3 (three) soft copies of the Financial Model in MS Excel version or any substitute thereof, which is acceptable to the Senior Lenders.

### **15.2. Termination due to failure to achieve Financial Close**

- 15.2.1. Notwithstanding anything to the contrary contained in this Agreement, but subject to Clause 8.6, in the event that Financial Close does not occur, for any reason whatsoever, within the period set forth in Clause 15.1.1 or the extended period provided thereunder, all rights, privileges, claims and entitlements of the Concessionaire under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Concessionaire, and the Concession Agreement shall be deemed to have been terminated by mutual agreement of the Parties.
- 15.2.2. Upon Termination under Clause 15.2.1, the Government shall be entitled to encash the Performance Security and appropriate the proceeds thereof as Damages; provided, however, if Financial Close has not occurred solely as a result of the NND being in default of any of its obligations under Article 6, it shall, upon Termination, return the Performance Security.

**16.1. 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.

**16.2. 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.

**16.3. 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.

#### **16.4. 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.

#### **16.5. 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.

#### **16.6. Survival**

Termination of this Agreement:

- (a) shall not relieve the Concessionaire or NND of any obligations already incurred hereunder which expressly or by implication survives Termination hereof, and
- (b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, shall not relieve either Party of any 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.

#### 16.7. 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.

#### 16.8. 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.

#### **16.9. 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.

#### **16.10. 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.

#### **16.11. 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.

#### **16.12. 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.

#### **16.13. 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 :

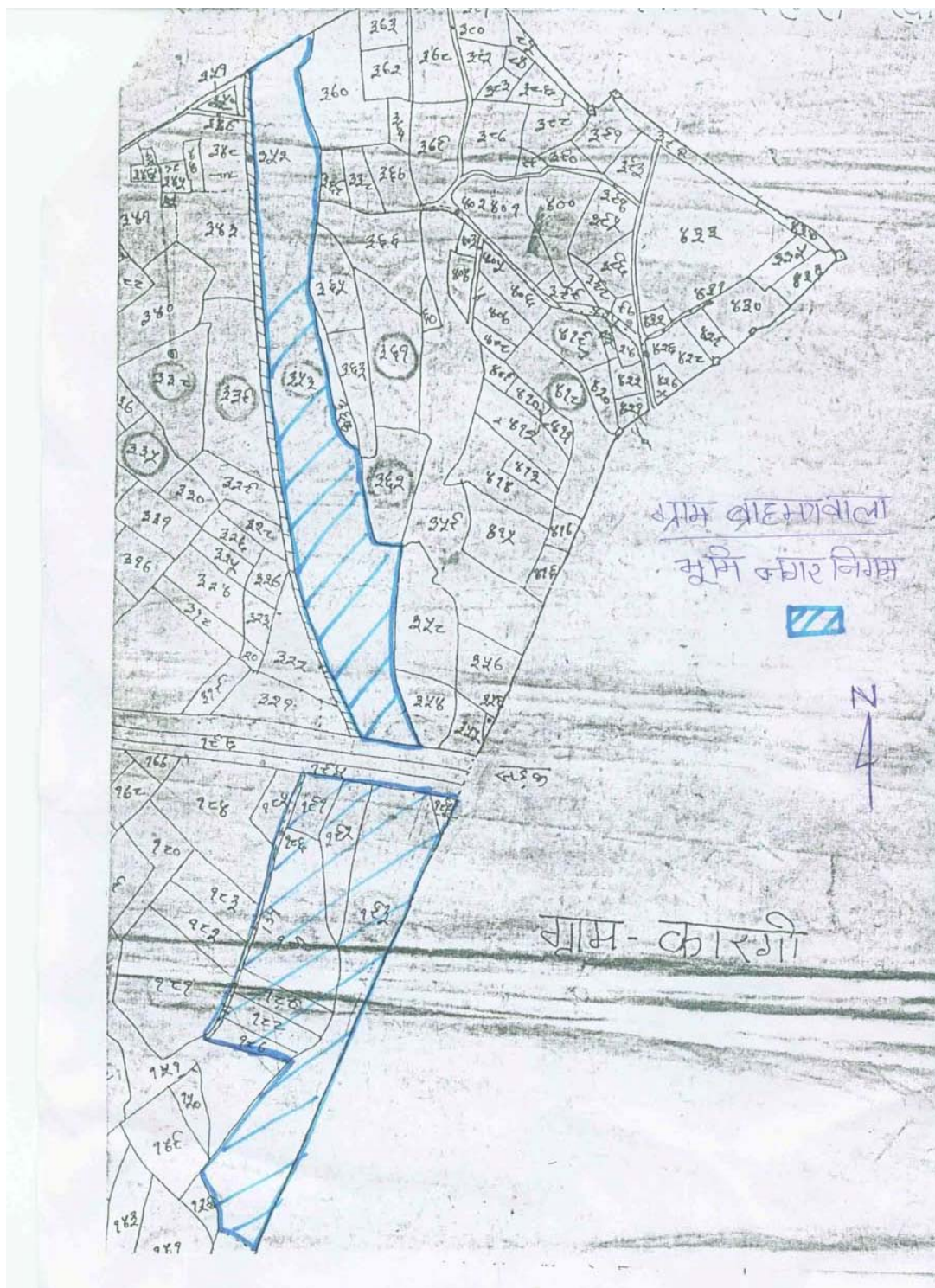
1)

2)

Project Site

SCHEDULE 1

(i) Transfer Station Site Map



(ii) Transfer Station Khasara Number

ग्राम ब्रौह्मण वाला

बाई पास के दक्षिण की तरफ

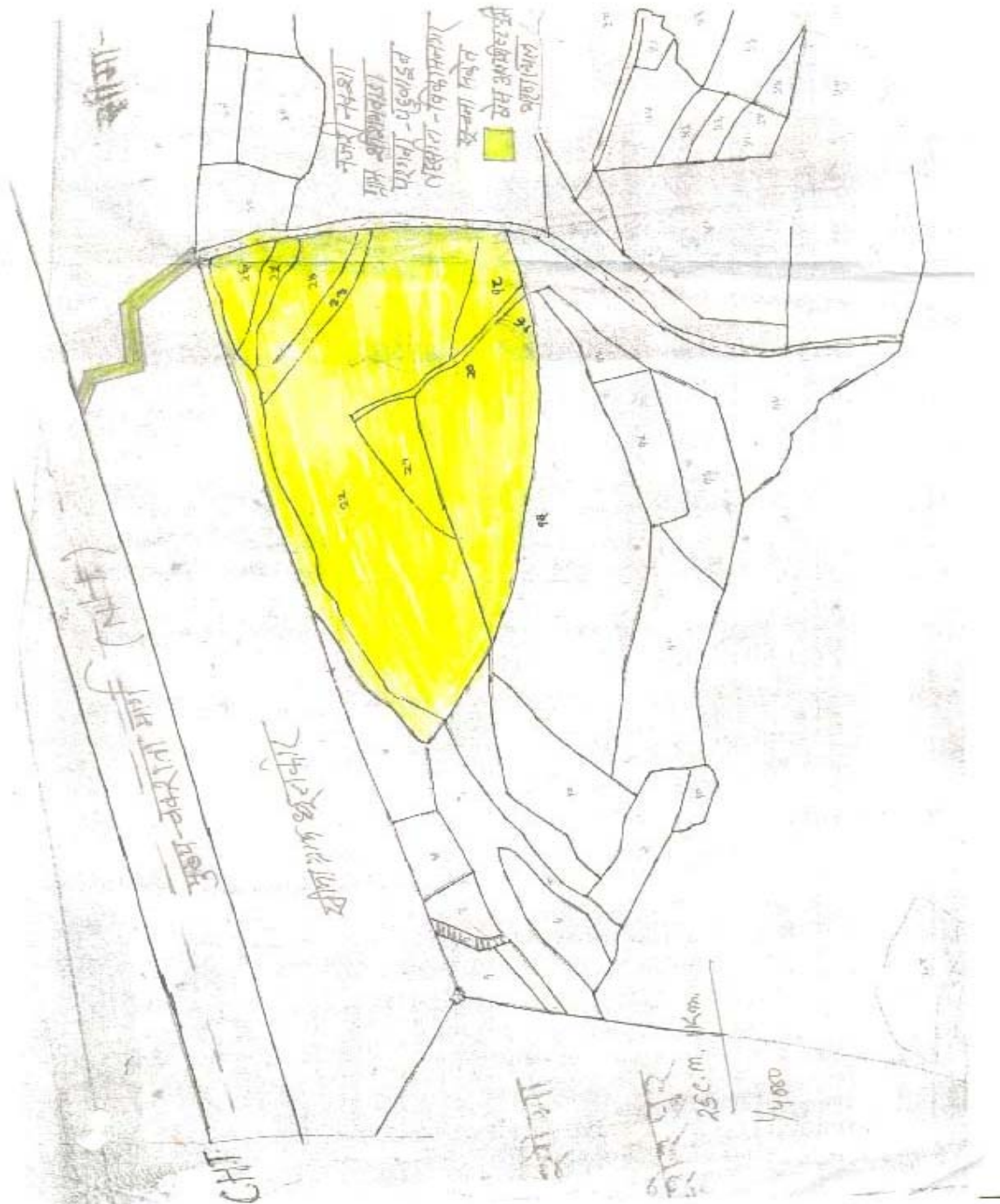
खसरा नं०	वर्ग मीटर	भूमिका प्रकार
186	900	नदी
187	1400	"
188	2200	"
189	2400	"
190	8700	"
191	1700	"
192	3700	"
193	21550	"
194	400	"
<del>कुल</del> कुल	42,950	"

बाई पास के उत्तर की ओर

352	1800	नदी
353 के	35030	"
कुल	36,830	

23/2/08  
डाफ़्ट्समैन





The site allocated for sanitary landfill for MSW disposal at Dehradun is at Sherpur, having an area of about 8.323 Ha, beyond the IMA. The site is a flat land. The river is about 300 - 400 m away from the site. For EIA, EAC has recommended the case to MoEF. Already Hon'ble SC has issued direction to MoEF and NND accordingly. Direction may be examined at web site of Hon'ble SC or copy may be taken from NND.



**Capital Grant and Processing Incentive/Royalty Fees****SCHEDULE 2****1. Capital Grant**

- 1.1. NND shall pay the concessionaire the capital grant amount as quoted in the financial proposal of the concessionaire :

Description	Amount in Figures	Amount in Words
Capital grant required from Nagar Nigam Dehradun		

- 1.2. NND shall pay the amount of Capital Grant to the Concessionaire on completion of following milestones as the Project Milestone and as certified by the Project Engineer.

i)	After achieving Financial Closure	10%
ii)	Procurement of Processing Technologies/ Machineries	10%
iii)	Completion of complete Civil Work, erection of Plant Machineries and other supporting infrastructures & Completion of landfill (Phase-1)	30%
iv)	Trial Operations of Processing and Landfill components	50%

- 1.3. Estimated cost breakdown for components that would eligible for the capital grant expenses is given below. The capital grant shall not be allowed for expenditure towards any other components of the project, the indicated costs are only estimates and maximum possible amount for the respective component :

Sr.	Particulars	Estimated Cost in Rs. (Cr.) 2015
A	Complete Mechanical & Civil Cost on the Proposed Compost Plant with processing capacity 150MTPD with provision of capacity enhancement upto 50MTPD.	9.45
B	Workshop (Civil, tools and Instrumentation etc cost)	1.00
C	Sanitary Land fill (Civil Infrastructure & Support machineries)	11.66
<b>Total Project Costing as per previous DPR's revised project financials (2015)</b>		<b>22.11</b>

<b>A</b>	<b>Complete Mechanical &amp; Civil Cost on the Proposed Compost Plant with processing capacity 150MTPD with provision of capacity enhancement upto 50MTPD.</b>
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SR	PARTICULAR		UNIT	AREA	Total Cost
a)	TECHNOLOGY	CAPACITY	Nos	SqM	In Cr. (Approx.)
1)	Weigh Bridge with Civil	30Ton	2	150	<b>5.50</b>
2)	Pre-processing Unit / Sorting Unit	30TPH	2	625	
3)	Preparatory Section	15TPH	2	625	
4)	Finishing Section	7.5TPH	2	500	
5)	Erection & Commissioning Charges	150TPD	2	500	
6)	Packaging & Forwarding	150TPD	2	250	
7)	Complete Integrated RDF Processing Unit	50MT	1	625	
<b>b)</b>	<b>CIVIL INFRASTRUCTURES</b>				
2)	Parking with Shed	-	-	2000	<b>2.95</b>
3)	Tipping Floor with Storm water catch & drains with Shed	-	1	2500	
5)	Windrows Area with Storm water catch & drains with Shed	-	1	10000	
6)	Monsoon bed with Shed	-	1	3500	
7)	Storage Section with Shed	-	1	2500	
8)	Workshop floor with Shed	-	1	2500	
10)	Security Room	-	1	10	
<b>c)</b>	<b>MECHANICAL / ELECTRICAL/ FABRICATION</b>				
1)	Transformer	600KVA	1	-	<b>1.00</b>
2)	Genset	250KVA	1	-	
3)	Earthing	Points	20	-	
4)	Motors	250	HP	-	
5)	Feeder Conveyor Belt	Nos	8	-	
6)	Electrical & Plumbing Work	Mtr	-	700	
7)	Weigh Machine for other purpose	150Kgs	1	-	
8)	Weigh Bridge for vehicle load measurement	30Tons	1	-	
8)	Sprinklers & Spraying M/cs	-	-	-	
9)	Compressors etc	-	2	-	
10)	Steel (MS) Fabrication Works	Kgs	-	50000	
<b>Total Cost on Proposed Compost Plant (Rs. In Crore)</b>					<b>9.45</b>

B	Workshop Details	Unit	Qty	Total (Rs. In Cr.)
	Repairing Sheds (machinery shed/ electric/ hydraulic/ tyre mtc), mechanic room, store rooms, driver room, rest room, vehicle shed, security office, parking shed and other necessary infrastructure and back up support facility like administration wing/ time recorder office/ security office/ data maintenance office, fuel filling station etc	Lumpsum	1	0.20
	Washing/ servicing ramp with water tank of 10000ltrs. Capacity/ necessary structure & high pressure water jet machine	Unit	1	0.40
	Maintenance equipment:			0.02
	Welding Machine 3 Phase	Nos	2	0.02
	Vehicle Washing Machine (nozzle type)	Nos	1	0.01
	Battery Charger Machine (10 Batteries)	Nos	1	0.02
	Battery testing and other auto electric testing machine/ equipment	Nos	1	0.01
	Msc. Smithy shop machine	Lot	1	0.01
	Lathe/ Radial Drill/ Hexo cutter Machine	Unit	1	0.03
	Unit Handling Cranes	Nos	3	0.02
	Gear Box, Differential mounting trolley 4 to 5Nos	Unit	4	0.03
	Overhead crane 2/3 tons capacity with structure	Nos	1	0.03
	Engine cleaning machine	Unit	1	0.01
	Other misc. handy machines/ tools like drill, grinder, cutter, riveter, bench vice etc	Lot	1	0.01
	Air compressor 3 Nos (1 of approx. 5HP for tyre room/ 1of 2HP for hydraulic repair room/ 1 of 2HP for schedule checking/ paint facility) with required attachment of Air pr./ spray/ greasing/ gauge etc	Unit	3	0.10
	Tube vulcanizing machine and related facilities	Unit	1	0.01
	Automatic tyre changer machine	Nos	1	0.03
	Smoke testing machine (diesel)	Nos	1	0.01
	Trolley jacks hydraulic operated for vehicle lifting 10/ 5/ 2tons capacity	Nos	3	0.03
<b>Total Workshop Detail (Rs. In Crore)</b>				<b>1.00</b>

C	Sanitary Land fill (Civil Infrastructure & Support machineries)	
Total Concession Period / Design Period	30	years
Existing Waste Generation Capacity	297.00	TPD
Expected Waste to Landfill (Max)	20%	
Density of Landfill Waste	0.85	T/m3
Annual Rate of Increase in MSW	3.0%	
Vol of Landfill Waste in initial year (cum)	25,507	m3

Area for Landfill (Approx)		
Total Waste Generation in 30years	12,13,509	
Ramp for the landfill	15%	182026
Vol. of Daily Cover	10%	121351
Vol. of Liner and Cover System	12.50%	151689
Settlement / Compaction	10%	121351
<b>Estimated Landfill Vol.</b>	<b>m3</b>	<b>1547224</b>
Likely shape of the Landfill	Rectangular	
Type of Landfill	Combination	
Total Surface Area	SqM	104791
Total Landfill height (Base to Above GL)	m	15
Area	m2	103148
Conversion in Acre	m2/acre	4047
<b>Required Area of Landfill</b>	<b>Acres</b>	<b>25</b>
<b>Required Area of Landfill</b>	<b>Hectare</b>	<b>10</b>
<b>This Landfill facility shall have a side slope of 1:2 and is lined with Clay liner of 90 cms thick, 1.5 mm thick of High Density Poly Ethylene (HDPE) sheet, Drainage layer of 30 cms thick with Leachate collection and removal system. Final covering slope of the landfill 1:3.</b>		

VEHICLES SUPPORT FOR LANDFILL				Approx. (Rs. in Cr.)
1	Handcarts	-	6	
2	JCB (with Catcher bucket)	-	2	
3	Tractor Trolley	4CuM	2	
4	Tractor Loader	-	2	
5	Landfill Compactor/ bull dozer	-	1	
6	Windrow Turner	-	1	
<b>Total Cost on Landfill Support Mechanism (Rupees in Crore)</b>				<b>0.86</b>
<b>Total Cost on Landfill with support Mechanism (Rs. in Crore)</b>				<b>11.66</b>

1.4. Capital grant shall be limited to the amount as per financial bid of the concessionaire. In the event of any cost escalation concessionaire would be responsible for arranging finance to complete the works for all the project components.

## 2. Processing Incentive / Royalty Fees

2.1. NND shall pay the concessionaire the Processing Incentive /Royalty Fee as per amount as quoted in the financial proposal of the concessionaire :

	For the 1 <sup>st</sup> year of operation
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Processing Incentive (Rs / MT in figures)	
Processing Incentive (Rs in words)	
Royalty Fees (Rs in figures)	
Royalty Fees (Rs in words)	

2.2. NND shall pay the Processing Incentive to concessionaire/collect royalty fee from the concessionaire as per detailed process below :

- a. The agreed Processing Incentive payable to the Concessionaire or Royalty Fees payable by Concessionaire to NND shall be paid on a monthly basis.
- b. The NND would appoint a Project Engineer for inspection and monitoring of the project deliverables on continuous basis during the entire Concession Period
- c. The Project Engineer would certify the quantity of waste transported to the sites - Composting, land filling, RDF plant etc on daily basis.
- d. The quantity of recyclable products would be verified at appropriate place.
- e. No payment would be made to the Concessionaire if any quantity is not endorsed by Project Engineer.
- f. The Project Engineer, NND and the Concessionaire would reconcile the records at the end of each month before arriving at final amount payable.
- g. The Processing Incentive or Royalty Fee rate applicable for the month would be determined on the basis of Clause 2.3.2 of Schedule 6. Based on this Processing Incentive or Royalty Fee rate and certified waste processing figures of the month shall be calculated.
- h. Any breach of service levels mentioned in Clause 2.3.2 of Schedule 6 shall also be calculated for the billing month and same shall be deducted from actual Processing Incentive or Royalty Fee to be paid for the month.

- i. The Processing Incentive or Royalty Fee would be calculated as below :
  - i. Total produced output of compost for the month (MT)= C
  - ii. Total Produced output of RDF for the month (MT)= R
  - iii. Total output of any other processed or recycled produce for the month (MT)= O
  - iv. Processing Incentive Rate as per 2.2(g) ( Rs. /MT) = PI
  - v. Royalty Fee Rate as per 2.2(g) ( Rs. /MT) = RF

Total Payable Processing Incentive or Royalty Fee =  
PI or RF x (C+R+O)

- j. If any malpractices or any activities are observed which lead to inflating of figures for processed waste quantity then the concessionaire shall be penalized at double rate of Processing Incentive/Royalty Fee for the inflated quantities.
- k. If the concessionaire processes and other waste, apart from the waste supplied or authorized to be supplied by the authority, then the any increase in processed waste on account of such additional quantity will not be admissible for payment of Processing Incentive. In case authority fails to provide the assured waste quantity then such additional waste can be permitted for processing and the processing incentive shall be permissible for the processed output relative to the difference between the assured waste quantity and the supplied waste quantity.
- l. Any such additional waste can be processed only after due authorization from the authority. Proper accounting should be maintained for such additional waste quantity.

### 2.3. Mechanism of Payment for Processing Incentive

- 2.3.1. NND shall, within Twenty days from the date of receipt of the Processing Incentive Statement, duly indicating all the deductions on account of KPIS, Pay to the concessionaire, :
  - i. at least 80% of the Processing Incentive statement in case of any disputes relating to the Processing Incentive statement.
  - ii. 100% of the Processing Incentive statement in case of no disputes to the amount.
  - iii. The balance 20%, in case of disputes, shall be paid within 45 days from the receipt of tipping statement, with due resolution of the dispute. In case dispute is not resolved due to delays from NND then this amount shall be automatically payable to the concessionaire by NND. In case of delay of dispute resolution from the concessionaire, NND shall pay only after due resolution by the concessionaire.

2.3.2. The Processing Incentive Statement shall be verified and

approved by the Project Engineer before it is being sent to NND.

2.3.3. NND shall before releasing the payment to the Concessionaire, deduct applicable taxes based on Applicable Laws.

16.13.1. Any delay in making any payment in accordance with the Processing Incentive 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.

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

2.3.5. In case of any excess payments to either party on account of Processing Incentive and any other charges or penalties shall be settled in next billing cycle, i.e. subsequent month's billing.

#### **2.4. Mechanism of Payment for Royalty Fee**

2.4.1. The Concessionaire shall, within one month from the date of release of the Royalty Fee Statement, pay to NND, Royalty Fee calculated in accordance with Clause 2.2 (i) of this Schedule as stated in such Royalty Fee Statement,

2.4.2. The Royalty Fee Statement shall be verified and approved by the Project Engineer before it is being sent to NND.

2.4.3. The Concessionaire shall before releasing the payment to the NND, deduct applicable taxes based on Applicable Laws. Any delay in making any payment in accordance with the Royalty 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.

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

2.4.5. The concessionaire shall pay the royalty fees within 20 days of finalization of the royalty fee statement.

#### **2.5. Mechanism Increase or Decrease of Processing Incentive or Royalty Fee**

2.5.1. The bidder shall quote only the Processing Incentive or Royalty Fee for 1<sup>st</sup> Year of Operation, starting from COD. This processing fee shall be increased on decreased based on changes in Wholesale Price Index (WPI). In case WPI is discontinued in future by RBI then the Consumer Price Index or any other appropriate mechanism shall be used for increase or

decrease of **Processing Incentive or Royalty Fees**.

- 2.5.2. The rate revision shall be affected on April 1 of every subsequent year based on the following formula :

$$P_{FA} = P_{FB} + P_{FB}((WPI_A - WPI_B) / WPI_B)$$

$P_{FA}$  : Applicable Processing fee

$P_{FB}$  : Processing Fee for previous year (B)

$WPI_A$  : Wholesale price index of closest WPI index data made available by RBI or as on March 31 of the year

$WPI_B$  : Wholesale price index of closest WPI index data made available by RBI or as on March 31 of the previous year

Illustration: If the revision is to be made for the year 2017-18

WPI index data made available by RBI as on or closest to March 31, 2018 shall be taken as  $WPI_A$  .

WPI index data made available by RBI on March in the year 2017 shall be taken as  $WPI_B$

- 2.5.3. The same formula shall apply for increase or decrease of Royalty Fee as well.

## Construction Requirements & Equipment Specifications

## SCHEDULE 3

### 1. TECHNICAL SPECIFICATIONS OF COMPOSTING PLANT

Sr.	Equipment Description	Size (LxB) Mtrs	Qty
<b>Pre-sorting Section (30Tons/ Hr)</b>			
1	Apron feed conveyor	5x1.2	1
2	Traumel feed conveyor	15x1.2	1
3	Traumel 100mm	7.5x2.5(dia)	1
4	Undersize conveyor	22x1.2	1
5	Oversize conveyor	10x1	1
6	Reversible conveyor	6x1.2	1
7	Electric control panel	Separate for this section with Connection load 80HP, 3 Phase, 440V	1
<b>Preparatory Section (15Tons/ Hr)</b>			
1	Traumel feed conveyor	14x1	1
2	Traumel 35mm	7 x2.25(dia)	1
3	Undersize conveyor	17x1	1
4	Oversize conveyor	10x1	1
5	Traumel 16mm	7x2.25	1
6	Undersize conveyor	14x1	1
7	Oversize conveyor	10x1	1
8	Magnetic Separator		1
9	Multi port drag chain conveyor for curing section	15x.6	
10	Electric control panel	Separate for this section with Connection load 70HP, 3 Phase, 440V	1
<b>Finishing Section (7.5Tons/ Hr)</b>			
1	Traumel feed conveyor	13x1	1



2	Traumel 4mm	6 x2(dia)	1
3	Undersize conveyor	18x0.8	1
4	Oversize conveyor	10x0.6	1
5	Reject stone conveyor	6x0.6	1
6	De-stoner		2
7	Compost Conveyor	16x1	1
8	Reversible Conveyor	6x1	1
9	Magnetic separator		1
10	Compost packing conveyor	5x0.8	1
11	Electric control panel	Separate for this section with Connection load 75HP, 3 Phase, 440V	1
<b>Bagging &amp; Packing Section (7.5Tons/ Hr)</b>			
1	Belt conveyor	5x0.6	1
2	Electronic Weighing machine	100Kgs	2
3	Hand held stitching machine		4
4	Electrical Control Panel	Separate for this section with Connection load 3HP, 3 Phase, 440V	1
<b>Technical Specification of Belt Conveyor</b>			
Width	1000mm	800mm	600mm
MoC of Belt	Nylon	Nylon	Nylon
Cover/ Construction Grade	M-24-400/4	M-24-315/3	M-24-315/3
Thickness – Top/ Bottom	5/2	3/1.5	3/1.5
Bearing	NTN/ SKF or equivalent	NTN/ SKF or equivalent	NTN/ SKF or equivalent
Impact Idler spacing	500mm	500mm	500mm
Return Idler spacing	2000mm	2000mm	2000mm
Motor	Electrical	Electrical	Electrical
Finishing	1 coat of	1 coat of epoxy primer	1 coat of epoxy

	epoxy primer and 2 coats of epoxy paint	and 2 coats of epoxy paint	primer and 2 coats of epoxy paint
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### 1.1. TRAUMELS

Description	Traumel 100mm	Traumel 35mm	Traumel 16mm	Traumel 4mm
Location	Pre-sorting	Preparatory	Preparatory	Refinement
Size (Mtr)	7.5x2.5	7x2.25	7x2	6x2
Mounting	Inclined – 5Deg	Inclined – 5Deg	Inclined – 5Deg	Inclined – 5Deg
Bag Opening Knife	Provided	Provided	Not required	Not required
MoC of Screen	6mm thick MS conforming to IS: 2062 and spring steel mesh for finishing Traumel of 4mm			
MoC of Shell	10mm thick MS conforming to IS: 2062 and 8mm for Traumel 4mm			
Motor	Electrical			
Maintenance	Can be opened from top and sides for easy inspection and maintenance. Platform provided			
Finishing	One coat of primer and two coat of epoxy paint			

### 1.2. CONTROL PANEL

Material of Construction	CRC sheet of suitable thickness
Power Indications	3 Phase RYB indicators
Isolation of Panel	MCB provided
Status indicators	Provided
Operating push buttons	Provided separately for each equipment
Emergency Stop	Provided
Finishing	Powder coated

### 1.3. DE-STONER

Material to be handled	Finished MSW compost
Material to be separated	Staines/ glass/ sand/ pebbles
Bulk density	0.8 – 0.9 ton/m <sup>3</sup>
Particle size	Upto 4mm
Base Structure	Heavy duty structural steel
Material of Construction	Mild Steel
Blower	Centrifugal type
Dust collection system	Provided

#### 1.4. COMPOST FACILITY AREA REQUIREMENT

Sr	Narration	Height (Mtrs)	Area (SqM)
A	Administrative Block		
1)	Security Office at Entry Point	3.5	12
2)	Control Room for Weigh Bridge	3.5	12
3)	Weigh Bridge	-	18
4)	Canteen Building	3.5	35
5)	Office Block with Laboratory	3.5	150
6)	Electrical Control Room	3.5	50
B)	Pre Engineered Shed		
7)	Tipping Floor	9	1250
8)	Pre-sorting with manual sorting station	8	500
9)	Workshop	4	350
10)	Monsoon Shed	7	2000
11)	Preparatory	8	1000
12)	Curing Shed	8	1100
13)	Refinement, Bagging & loose	8	1500

	bag storage		
14)	RDF, Fluff and bagged storage	8	1400
15)	Earth Moving Vehicles Parking/ Garage	4	300
16)	General Parking	4	150
17)	Platform for DG set with foundation	-	20
18)	Windrows Platform – Uncovered	-	10000

## 2. RDF Unit having Capacity of 50MTPD

Sr	Equipment Description	Specifications (LxB)	Qty
1)	Primary Shredder Feed Conveyor	24 mtr x 1.2mtr	1
2)	Over band Magnetic Separator	-	1
3)	Eddy Current Separator	-	1
4)	Aerobic Gravity Separator	-	
5)	Heavy Fractions Conveyor	6 mtrs x 1 mtr	1
6)	Light Fractions Hood	-	1
7)	Primary Shredder	Model T10/ 150	1
8)	Primary shredder output conveyor	16mtrs x 1.2mtr	1
9)	Secondary Shredder Feed Conveyor	6mtrs x 1mtr	2
10)	Secondary Shredder	Model T5/ 100	2
11)	Secondary Shredder output conveyor	12mtrs x 1mtr	1
12)	Traummel Feed Conveyor	24mtrs x 1mtr	1
13)	Traummel 6mm	7mtrs x 2mtr	1
14)	RDF Conveyor	8mtr x 1mtr	1
15)	Reject Conveyor	13mtr x 1mtr	1

16)	Cleated belt feed conveyor	10mtr x 1mtr	1
17)	Single Shaft fine Shredder	Model SS – 1300	1
18)	Cleated belt RDF conveyor	8mtrs x 1mtr	1
19)	Electric Control Panel	-	2

**List of Equipments and their respective Applications**

Sr.	Equipment	Application
1)	Primary Shredder Feed Conveyor	Manual sorting and feeding of MSW to the primary shredder
2)	Magnetic Separator	Continuous online removal of ferrous content
3)	Eddy current separator	Continuous removal of non-ferrous content like aluminium
4)	Aerobic Gravity Separator	Separation of heavy concrete/ bricks etc not suitable for RDF through centrifugal fan
5)	Heavy Fractions Conveyor	Transfer of unwanted material from the AGS
6)	Light Fractions Conveyor	Covering between the AGS and the primary shredder
7)	Primary Shredder	Shredding of large size MSW to smaller size
8)	Primary shredder output conveyor	Shredded material conveyed to secondary shredder line.
9)	Secondary Shredder feed conveyor	Feeding of shredded MSW to secondary shredder.
10)	Secondary Shredder	Further Shredding of MSW
11)	Secondary Shredder output conveyor	Transfer of shredded RDF
12)	Traummel feed conveyor	Feeding RDF to Traummel
13)	Traummel 6mm	Removal of dust/ sand from the RDF thereby increasing its calorific value and reducing the ash content
14)	RDF Conveyor	Final RDF output
15)	Reject Conveyor	Sand/dust transferred into bins

16)	Cleated Belt Feed Conveyor	Feeding of RDF to fine shredder
17)	Single Shaft Fine Shredder	Fine shredder to achieve output size less than 30-40 mm
18)	Cleated Belt RDF Conveyor	Fine shredded RDF transfer
19)	Electric Control Panel	Controlling the entire operation of the plant

### **3. Design and Construction Requirements for Landfill Site**

#### **3.1. Landfill Design Facilities**

The landfill design will have to be based on geological and hydro geological conditions, projected waste generation, and volume along with procedures to reduce potential impacts to the existing natural and social environment of the site.

The basic steps essential for the landfill designs are:

- 1) Landfill sizing
- 2) Site layout
- 3) Landfill layout
- 4) Leachate management
- 5) Landfill gas management

#### **3.2. Landfill Sizing**

The volume of waste to be land filled is worked out for the active period of landfill taking into account (1) the current waste generation per annum and (2) the expected increase in waste generation rate based on population growth and influx of floating population. The life of the landfill site proposed should at least be 10 - 15 years considering the hilly terrain. The current waste generation rate is about 200 metric tonnes for 2007 of which about 50 TPD waste would be going to the landfill.

It is also assumed that the waste generation rate would increase by 3.9% per annum for 20 years period. This is basically due to the change in life styles of the people. The current identified site will not last for 15 years and hence the NND should look for additional site for disposal of rejects into sanitary landfill.

#### **3.3. Site Layout**

The infrastructure facilities to be created at the proposed landfill site are as follows:

- 1) Approach road

- 2) Site drainage facilities
- 3) Location of leachate collection facilities
- 4) Landfill gas collection/monitoring and management system
- 5) Weigh bridge
- 6) Administration building and laboratory
- 7) Garage and vehicle washing area

The waste coming to the landfill will be weighed and then brought to the site for disposal.

#### **3.4. Landfill Layout**

The site allocated for sanitary landfill for MSW disposal at Dehradun is at Sherpur, having an area of about 8.323 Ha, beyond the IMA. The site is a flat land. The river is about 300 - 400 m away from the site.

#### **3.5. Leachate Management**

A proper leachate collection system will be provided to carry the leachate into the leachate collection tank. The leachate will travel through the gravel into the lateral pipes. These will carry the leachate to the header pipes from where it will be taken to the tank.

( To add leachate treatment plant)

#### **3.6. Landfill Gas Management**

The proposed system of Solid Processing & Disposal at Dehradun will consist of transporting the comingled & mixed waste to processing facility. The organic waste would be converted into manure while the rejects would go to landfill. The recyclable material would be collected separately and given to the recycling route. The inert material collected at source mainly comprising of soil from road sweeping would come to landfill.

With the provision of composting, only inert material will be deposited in the landfill. Some quantity of rejects of large size organics from the compost plant will also get into the landfill. It is expected that not more than 5 % of the waste in the landfill would be biodegradable. As the particle size of organic rejects of compost plant is large, its degradation will be very slow and will continue for a long time in the Dry Tomb Landfill.

It would thus be necessary to provide passive gas vents instead of proper gas collection system. The design of passive vents for release of landfill gas has to be designed keeping this in mind.

#### **3.7. Landfill Construction**

#### **3.7.1. Landfill Base Liner Preparation**

The base liner at the Dehradun landfill will be a composite liner comprising of GCL overlaid with 1.5 mm HDPE Liner. The leachate collection system will be placed over the geomembrane and comprises of 300 mm thick gravel layer, constituting smooth, round gravel, 12 - 25mm in size. Perforated HDPE leachate collection pipes will be embedded in this gravel layer. Non-Woven geotextile is laid over gravel layer. Protective soil layer of 300mm is laid on the geotextile.

#### **3.7.2. Supply and Installation of Geosynthetic Clay Liner**

A Geosynthetic Clay Liner is suggested on top of the finished soil layer at the bottom. This is important as the base liner of the landfill must be constructed in such a way that it should take about 25 years for any percolated leachate to pass through it. Technical specifications are separately mentioned.

#### **3.7.3. Sub grade Preparation**

Sub-grade surfaces consisting of granular soils or gravel may not be acceptable due to their large void fraction and puncture potential. In high head (greater than one foot) applications, sub-grade soils should possess a particle size distribution such that at least 80 percent of the soil is finer than a #60 sieve (0.250 mm).

When the GCL is placed over an earthen sub-grade, the sub-grade surface must be in accordance with the project specifications. Engineer's approval of the sub-grade must be obtained prior to installation. The finished surface should be firm and unyielding, without abrupt elevation changes, voids, cracks, or standing water.

The Sub grade surface must be smooth and free of vegetation, sharp-edged rocks, stones, sticks, construction debris, and other foreign matter that could contact the GCL. The sub grade should be rolled with a smooth-drum compactor to remove any wheel ruts, footprints, or other abrupt grade changes. Furthermore, all protrusions extending more than 0.5 inch (12 mm) from the sub grade surface shall be removed, crushed, or pushed into the surface with a smooth-drum compactor.

#### **3.7.4. Installation**

GCL rolls should be taken to the working area of the site in their original packaging. Prior to deployment, the packaging should be carefully removed without damaging the GCL. The orientation of the GCL (i.e., which side faces up) may be important if the GCL has two different geotextiles. Unless otherwise specified, however, the GCL should be installed such that the product name printed on one side of the GCL faces up.

Equipment, which could damage the GCL, should not be allowed to travel directly on it. Acceptable installation, therefore, may be accomplished such that the GCL is unrolled in front of the backwards-moving equipment. If the



installation equipment causes rutting of the sub grade, the sub grade must be restored to its originally accepted condition before placement continues.

If sufficient access is available; GCL may be deployed by suspending the roll at the top of the hill with a group of labourers pulling the material off of the roll and down the slope.

GCL rolls should not be released on the slope and allowed to unroll freely by gravity.

Care must be taken to minimize the extent to which the GCL is dragged across the sub grade in order to avoid damage to the bottom surface of the GCL. A temporary Geosynthetic sub grade covering commonly known as a slip sheet or rub sheet may be used to reduce friction damage during placement.

The GCL should be placed so that seams are parallel to the direction of the slope. End-of-roll seams should also be Located at least 3 ft. (1 m) from the toe and crest of slopes steeper than 3H: 1V.

All GCL panels should lie flat on the underlying surface, with no wrinkles or folds, especially at the exposed edges of the panels.

The GCL should not be installed in standing water or during rainy weather. Only as much GCL shall be deployed as can be covered at the end of the working day with soil, a geomembrane, or a temporary waterproof tarpaulin. The GCL shall not be left uncovered overnight. If the GCL is hydrated when no confining stress is present, it may be necessary to remove and replace the hydrated material. The project engineer and CQA inspector should be consulted for specific guidance if premature hydration occurs.

#### **3.7.5. Anchorage**

The end of the GCL roll should be placed in an anchor trench at the top of a slope. The front edge of the trench should be rounded to eliminate any sharp corners that could cause excessive stress on the GCL. Loose soil should be removed or compacted into the floor of the trench.

Anchorage should be as per the project drawings and specifications.

In case of difficulty, the Project Manager should be contacted for his instructions. If a trench is used for anchoring the end of the GCL, soil backfill should be placed in the trench to provide resistance against pullout. The size and shape of the trench, as well as the appropriate backfill procedures, should be in accordance with the project drawings and specifications.

#### **3.7.6. Seaming**

GCL seams are constructed by overlapping their adjacent edges. Care should be taken to ensure that the overlap zone is not contaminated with loose soil or

other debris. In some types of GCL's supplemental bentonite in granular form may be required for seaming. This should be provided as per the manufacturer's recommendations.

Unless otherwise specified, the minimum dimension of the longitudinal overlap should be 6 inches (150 mm). End-of-roll overlapped seams should be similarly constructed, but the minimum overlap should measure 24 inches (600 mm).

Seams at the ends of the panels should be constructed such that they are shingled in the direction of the grade to prevent the potential for runoff flow to enter the overlap zone. End panel overlap seams on slopes are not permissible.

End of panel seams are constructed first by overlapping the adjacent panels, exposing the underlying edge, and then applying a continuous bead or fillet of granular sodium bentonite (supplied with the GCL) along a zone defined by the edge of the underlying panel and the 12- inch (300 mm) Line. The minimum application rate at which the bentonite is applied is one-quarter pound per linear foot (0.4 kg/m).

#### **3.7.7. Seaming Around Penetrations & Structures**

Cutting the GCL should be performed using a sharp utility knife. Frequent blade changes are recommended to avoid irregular tearing of the geotextile components of the GCL during the cutting process.

The GCL should be sealed around penetrations and structures embedded in the sub grade. Granular bentonite or bentonite mastic shall be used liberally (approx. 2 Lbs./ In ft. or 3 kg/m) to seal the GCL to these structures.

When the GCL is placed over an earthen sub grade, a "notch" should be excavated into the sub grade around the penetration. The notch should then be backfilled with granular bentonite or bentonite mastic.

A secondary GCL layer of 300 mm overlap should also be placed to avoid any leakages. The granular bentonite should be applied between the 1st and the 2nd GCL layers.

When the GCL is terminated at a structure or wall that is embedded into the sub grade on the floor of the containment area, the sub grade should be notched as described above.

The notch is filled with bentonite, and the GCL should be placed over the notch and up against the structure. The connection to the structure can be accomplished by placement of soil or stone backfill in this area.

#### **3.7.8. Construction of Synthetic Membrane Liner**

A 1.5 mm thick textured HDPE liner will be laid over the GCL. This layer will prevent any infiltration of leachate into the soil layer below. The sub base is properly prepared for installation of synthetic membrane. The sub base needs

to be compacted as per design specifications (95% modified Proctor density for clay or amended soil). It must not contain any particles greater than 1.25 cm in order to prevent damage to the geomembrane.

An organic herbicide should be used on the sub base below the synthetic membrane to inhibit vegetative growth. The liner will be laid according to the phasing plan elaborated in the drawing. The geomembrane supplier will be responsible for laying the liner and welding the liner as and where required making it an impervious barrier. Under no circumstances vehicles will be allowed to operate on the liner directly. Only the seaming equipment, seam testing equipment and necessary minimum number of personnel should be allowed on the liner. The geomembrane should be covered with soils, or select waste, and tarpaulin, to prevent any damage. Technical specifications are separately mentioned.

### **3.8. Leachate Management**

When water comes in contact with the waste material and the product of waste decomposition in the landfill, leachate production takes place. It gets generated due to the permeation of rainwater and surface water into the landfill and percolation of this water through the waste layers. The compaction and degradation of waste over a period of time also results in leachate production. It is a polluted liquid that contains a number of dissolved and suspended materials. Leachate quality depends on the waste composition, temperature, moisture and availability of oxygen.

#### **3.8.1. Leachate Collection System**

The leachate collection system (LCS) consists of three main components; a drainage layer, a series of collector pipes, and a non-woven geotextile separator layer. These components are discussed in more detail below.

The leachate collection system and its components will be laid over the HDPE geomembrane. The LCS layer consists of a 30 cm thick gravel drainage layer of 12-25 mm sized rounded gravel and perforated HDPE pipes embedded in this gravel layer. The HDPE pipes will collect the leachate and are connected to a LCS tank. The leachate collected should be transported to the Sewage treatment plant for treatment.

In the proposed landfill, it has been suggested that 2 header pipes of OD 160 mm size and OD 110 mm laterals be provided for the removal of leachate formed. The leachate collection pipes must be wrapped in Non-woven geotextiles so as to reduce the clogging of the pipes.

#### **3.8.2. Geotextile layer**

Non-woven geotextile installed above the entire gravel drainage blanket will further provide protection from clogging in the LCS. The geotextiles on top of

the gravel will act as a separator layer between the drainage blanket and the protective layer and also provides additional filtering capacity to help maintaining the high permeability of the underlying drainage layer. The geotextile will cover the base and side slopes of the base and will be tucked into a trench running along the periphery of the landfill limit.

#### **3.8.3. Protective Soil Layer:**

A layer of 300mm thick native soil should be placed on the non-woven geotextile. This soil layer acts as an additional filter media and prevents any large size particles from going into the leachate collection system. This layer also acts as a buffer layer so that vehicles can move without damaging the lower system. Care should be taken while placing this material in place, as heavy vehicles are not allowed to move on the geotextile directly. This has to be done manually and need not be compacted. The waste of 1m is placed on this protective layer and then compacted with compactors.

In order to dump subsequent layers of waste, soil should be pushed gently by a light dozer to make a path. Dumping of soil directly on the geotextile should be avoided as much as possible. One or two main routes with 60-90 cm of soil should be created for use by heavier equipment for the purposes of soil moving. Damage to the membrane due to traffic can be severe and undetectable and hence should be avoided at all times. The first lift of waste should be spread and compacted with light vehicles.

It is preferable not to compact the first foot of waste. No bulky items should be dumped in the first lift. If the water enters through closure, the geonets, would drain out the water and not allow it to come into the landfill. The Geo-composite would be provided on the slopes prepared with geotextile for strengthening. This would act as a protective layer to the liner and also help in draining the leachate formed to the main pipe.

#### **3.8.4. Standards for treated leachate, as per MSW Rules, 2000**

Sr.	Parameter	Standards (Mode of Disposal)		
		Inland surface	Public Sewers	Land Disposal
1	Suspended solids, mg/L, max	100	600	200
2	Dissolved solids (inorganic) mg/L, max.	2100	2100	2100
3	PH value	5.5 to 9.0	5. 5 to 9.0	5.5 to 9.0
4	Ammonical nitrogen (as N), mg/L, max.	50	50	-
5	Total Kjeldahl nitrogen (as N). mg/L, max.	100	-	-

Sr.No.	Parameter	Standards (Mode of Disposal)		
		Inland surface water	Public sewers	Land disposal
6	Biochemical oxygen demand (3 days at 27° C) max. (mg/L)	30	350	100
7	Chemical oxygen demand, mg/L, max.	250	-	-
8	Arsenic (as As). mg/L, max	0.2	0.2	0.2
9	Mercury (as Hg), mg/L, max	0.01	0.01	-
10	Lead (as Pb), mg/L, max	0.1	1	-
11	Cadmium (as Cd), mg/L, max	2	1	-
12	Total Chromium (as Cr), mg/L, max.	2	2	-
13	Copper (as Cu), mg/L, max.	3	3	-
14	Zinc (as Zn), mg/L, max.	5	15	-
15	Nickel (as Ni), mg/L, max	3	3	-
16	Cyanide (as CN), mg/L, max.	0.2	2	0.2
17	Chloride (as Cl), mg/L, max.	1000	1000	600
18	Fluoride (as F), mg/L, max	2	1.5	-
19	Phenolic compounds (as C <sub>6</sub> H <sub>5</sub> OH) mg/L, max.	1	5	-

**3.8.5. Construction of the base and liner system should consider the following points:**

1. Good sub grade preparation to provide a sound and stable base for liner construction.
2. The quality of the Geosynthetic liner delivered to site. The quality of joints in the geomembrane.
3. The risk of damage during handling, storage and installation, including that due to weather conditions, e.g. wind, rainfall and temperature.
4. Storm water management during construction.
5. The risk of subsequent damage from other construction activities, such as placement of materials over the geomembrane and geotextile.

6. Storm water management on side slopes to prevent infiltration under the liner system.

### **3.9. Waste Placement**

The objective is to emplace the waste into its final position within the landfill in accordance with the design objectives without compromising safety, environment or the local amenity. Areas where waste is to be placed should be set out for line and level in advance of tipping, so that the waste is placed in accordance with the detailed construction plan.

The waste deposition in the landfill will be started at the lower end proceeding upwards. The profile of waste will be as shown in the details. The average height of waste is assumed as 14m with which the landfill capacity has been worked out. The landfill capacity mentioned above has been worked out taking into consideration the loss of volume due to daily cover as well as temporary cover before onset of monsoon.

A designated operator should visually inspect every discharged load into the tipping area. This could be a machine driver or the landfill operator depending upon the traffic density. Working area personnel should be trained and competent at waste identification in order that they can recognize waste, which may be non-confirming. In event of reasonable doubt as to the waste acceptability the operator should inform the waste reception facility or the site manager immediately. The consignment should be isolated pending further inspection.

Once the waste has been discharged from the vehicle it should be consolidated and layered to ensure that tipping areas remain well defined and tipping slopes are maintained at the designated gradients.

### **3.10. Waste Compaction**

It is a conventional practice to level and compact the waste as soon as it is discharged at the working areas. Compaction offers many benefits including, enabling the maximum amount of waste to be emplaced within the space available, reducing the impact from litter, flies, vermin, birds and fires and minimizing short-term settlement. The waste should be compacted to a density of about 1 tonnes/m<sup>3</sup> is the optimum.

### **3.11. Daily cover**

The daily soil cover required would have to be stored at site in a demarcated area. If the soil is not available from the site itself it will have to be brought from outside and stacked. The soil of 4 to 6 inches should be applied on the waste coming in. The advantages of using daily cover are primarily in preventing

wind blow and odours, deterrence to scavengers, birds and vermin and in improving the site's visual appearance. Soils will give a pleasing uniform appearance from the site boundary.

Where cover is used for public health or nuisance protection, the cover material should be such that the permeability of the waste and cover as a whole should (Eventually) be sufficient to allow leachate to pass and gas to be extracted without creating perched conditions or preferential paths.

### **3.12. Intermediate Cover**

Waste should be covered at the end of each working day with a daily cover. If a stretch of waste is not to be filled over in the immediate future (for example - for one week), it should be covered with a thicker interim cover. Prior to the commencement of monsoon season, an intermediate cover of 40-65 cm thickness of soil should be placed on the landfill with proper compaction and grading to prevent infiltration during monsoon.

The intermediate cover will follow the slopes and grading of the underlying waste. Placement of tarpaulin covers may be required at locations where either stagnation is observed or at locations where there is a possibility of erosion of the interim cover.

### **3.13. Landfill Closure**

The landfill cover system will extend above the bunds to the top of the waste. The Landfill will be capped as per the MSW 2000 Rules. The waste will have to be graded to the necessary stable slopes. The various layers that will be placed on the waste are gravel of 300 mm thick for the gas to be released to the gas vents. Passive Gas vents will be suitably placed in this layer so that the small quantity of gas that is formed would be released into air.

The possibility of having large quantity of landfill gases is very less as the waste going into the landfill would be of inert nature. A geotextile of 350 gm/M<sup>2</sup> would be placed on the gravel layer to separate it from the soil layer. A soil layer (native soil) of 600 mm thick compacted to 95% Proctor density compaction will be placed on top of the geotextile. A 1 mm thick textured HDPE liner would be provided on top of the soil layer. This is to reduce the infiltration of water into the landfill. A 150 mm thick gravel layer would be placed as a drainage layer over which a geotextile would be placed. A soil layer of 450 mm thick would be placed on the geotextile for vegetation.

The 150 mm thick gravel layer would help in draining of the excessive water entering the topsoil layer. The Final Closure work would have to be carried out in all cells with the quantum of Closure differing at each phase. It is important to note that with the final Closure in place, there would be an advantage of

reducing your Leachate substantially.

#### **3.14. Gas Collection layer**

The first layer to be placed over the waste is a 300 mm thick gas-venting layer constituting 12-25 mm sized rounded gravel. In this gravel are embedded gas-venting pipes. The position of gas venting pipes is shown in drawing enclosed.

A gas-venting pipe has been provided for every 2500 m<sup>2</sup> of top cover. This is so done, as the waste going into the landfill are the rejects of the composting process and the inert material collected from the system. Very little gas is expected from the landfill because of its inert nature. Care is to be taken to embed the gas collection pipes in the gravel layer

#### **3.15. Placement of Geotextile**

A geotextile cover will be placed over the gas-venting layer, which will act as a barrier between the overlying soil layer and the gravel layer of the gas collection layer. At the periphery of the landfill, this geotextile is tucked into the peripheral trench.

#### **3.16. Compacted Clay Layer**

A 600 mm. compacted clay liner will be laid over the geotextile. This layer will act as a primary barrier to prevent the infiltration of runoff water into the sanitary landfill. The clay liner should have a permeability less than or equal to  $5 \times 10^{-7}$  cm/s. The placement of clay liner must meet the following requirements:

- Modified proctor density: 95%
- Moisture content: 5-7%

While clay is being compacted, measures should be taken to avoid the formation of cracks and fissures. A thick layer will help to maintain the integrity of the liner against desiccation cracks. It is advisable to compact the clay liner using a sheep foot roller, in lifts of not exceeding a maximum compacted thickness of 30 cm, and the above parameters (proctor density and moisture content) are monitored for each lift.

There must be effective bonding between successive lifts that includes kneading between lifts or scarification and moisture conditioning between successive lifts. Kneading or blending a thinner, new lift with the previously compacted lift may be achieved by using a footed roller with long feet that can fully penetrate a loose lift of clay. If the protruding rods or feet of a sheep foot roller are sufficient in length to penetrate the top lift and knead the previous lift, good bonding may be achieved. Another method includes scarifying (roughening), and possibly wetting, the top inch or so of the last lift before placing the next lift.

The maximum lift thickness and number of lifts is intended to promote



uniformity within each lift and reduce the probability that preferential flow paths may align and adversely impact on the hydraulic conductivity of the overall liner.

If it is necessary to tie in new sections of a clay liner into an existing liner, lateral extension should be made about 3-6 m into the existing liner in a stair stepped manner following the individual lifts of the existing liner. Materials forming the existing liner must be scarified over a minimum horizontal distance of 1 m to maximize bonding.

A minimum horizontal overlap of 1m between successive layers must be achieved to have confidence that a preferential pathway for leachate flow is not being created. It is important to assess the integrity of the bond between different layers of liner construction at a similar elevation.

The method used to place the clay liner on side slopes depends on the angle and length of the slope. Gradual inclines from the toe of the slope enable continuous placement of clay layers up the slopes and provide better continuity between the bottom and sidewalls of the clay liner. When steep slopes are encountered, however, the clay may need to be placed and compacted horizontally due to the difficulties of operating heavy compaction equipment on steeper slopes.

At the side slopes, the clay liner should be laid in swaths which are approximately 10 metres in width and the compaction of the clay should be accomplished by running the roller up the slope, instead of across the slope - on the grade.

### **3.17. QA/QC Details**

The clay liner should be tested periodically prior to placement of drainage layer. It is suggested that the Contractor provide the results of the following testing methods. Testing methods used to characterize proposed liner soils should include grain size distribution, Atterberg limits, and permeability.

### **3.18. Primary Drainage Cover and Topsoil**

A primary drainage cover, 150 mm thick, constituting gravel 12-25 mm in size will be laid over the HDPE liner to drain the runoff percolating from the topsoil into the peripheral storm water trenches. Over the drainage cover, a geotextile layer would separate the final top soil cover layer of 450 mm. The topsoil should be seeded with appropriate plant species having minimal root depth in order to maintain the integrity of the top most layers.

### **3.19. Vegetative Cover**

The main aim of the vegetative cover is to see that topsoil cover is not eroded. In order to do so, the MSW 2000 Rules, suggest a vegetative cover that should

be provided over the completed site in accordance with the following specifications:

1. Selection of locally adopted non-edible perennial plants which are resistant to drought and extreme temperatures
2. Plants grown should be such that their roots do not penetrate more than 30 mm. This condition shall apply till the landfill is stabilized.
3. Selected plants should have ability to thrive on low-nutrient soil with minimum nutrient addition.

### **3.20. Storm water Management**

The landfill cover system is designed to minimize infiltration into the waste. The top two cover layers - the topsoil and the drainage layer drain into the peripheral storm water drains built along the 4 sides of the landfill around the perimeter. The trenches will be trapezoidal channels made in brick work on the side slopes and will have native soil at the base, to promote growth of grass. The storm water trenches drain runoff only from the landfill area and will open into the proposed storm water management pond. The storm water drains will open in lower most drain, from where the water will be taken to the pond and then let out in the natural watercourse.

The maximum runoff will occur when the landfill is completed, as the surface area would be maximum. The top will be divided into regions so that the rainwater does not percolate into the landfill but will flow off as fast as possible. This will help in reducing the infiltration and thus reducing the formation of Leachate. There are drains provided at berms to facilitate the smooth flow of water into the storm drains that are located at the bottom of the landfill. Depending upon the site conditions, the storm water should be channeled into the nearest nalla. A pond could also be made to store this water and then use for irrigating the green belt.

### **3.21. Monitoring Requirements**

#### **3.21.1. Groundwater Quality Monitoring**

According to MSW Rules, 2000, specified groundwater monitoring requirements are as follows:

- a) Before establishing any landfill site, baseline data of ground water quality in the area shall be collected and kept in record for future reference. The ground water quality within 50 meters of the periphery of landfill site shall be periodically monitored to ensure that the ground water is not contaminated beyond acceptable limit as decided as per the Ground Water Board or the State Board or the Committee.
- b) Such monitoring shall be carried out to cover different seasons in a year that is, summer, monsoon and post monsoon period. Usage of groundwater in and around landfill sites for any purpose (including drinking and irrigation) is to be considered after ensuring its quality. Groundwater samples are to be

collected quarterly and analyzed for the following parameters, as suggested by MSW Rules, 2000. "The following specifications for drinking water quality shall apply for monitoring purpose, namely:"

**Standards for Groundwater Quality Monitoring**

Sr.	Parameters	IS:10500:1991 Desirable limit
1.	Arsenic	0.05
2.	Cadmium	0.01
3.	Chromium	0.05
4.	Copper	0.05
5.	Cyanide	0.05
6.	Lead	0.05
7.	Mercury	0.001
8.	Nickel	-
9.	Nitrate as NO <sub>3</sub>	45.0
10.	PH	6.5-8.5
11.	Iron	0.3
12.	Total hardness (as CaCO <sub>3</sub> )	300.0
13.	Chlorides	250
14.	Dissolved solids	500
15.	Phenolic compounds (as C <sub>6</sub> H <sub>5</sub> OH)	0.001
16.	Zinc	5.0
17.	Sulphate (as SO <sub>4</sub> )	200

- c) In addition, the initial testing should include bacteriological parameters such as total coliform, faecal coliform and faecal streptococci. Such testing could be done from time to time, but is not required as a routine.
- d) Proper sampling and analysis protocols should be followed to ensure that, the results obtained are correct. It is highly recommended that a specialist be hired to undertake the sampling and analysis. The Operator is responsible for preparing an appropriate quality control/quality assurance procedure. For example, a blind sample could be considered for each sampling round.
- e) Annual reporting on the results of the groundwater-monitoring program should be forwarded to the Pollution Control Board. The report should undertake analysis of trends in the data to show potential impacts from the landfill. Prediction of future off-site contamination is to be undertaken as part of the analysis.
- f) Based on the results of the monitoring, additional environmental control systems may be required. These contingency measures should be developed when the monitoring indicates a future problem is imminent. The ground

water must be monitored for 15 years after the closure of the landfill.

### 3.21.2. Ambient Air Quality Monitoring

Ambient air quality monitoring should be carried out 4 times a year, as suggested by MSW Rules, 2000. The parameters to be monitored and the prescribed standards as follows:

**Standards for Air Quality Monitoring**

Sr.	Parameters	Acceptable levels
(i)	Sulphur dioxide	120
(ii)	Suspended Particulate Matter	500
(iii)	Methane	Not to exceed 25 per cent of the lower explosive limit (equivalent to 650 <sup>2</sup> )
(iv)	Ammonia daily average (Sample duration 24 hrs)	0.4 mg/m <sup>3</sup> (400)
(v)	Carbon monoxide	1 hour average: 2 mg/m <sup>3</sup> 8 hour average: 1 mg/m <sup>3</sup>

It is proposed to monitor air quality in three to five locations around the site. Landfill gas quantity and quality measurements are included in the overall air quality-monitoring programme. Portable methane detection units should be used to test for methane concentrations in monitoring wells, at the fill surface and at various points within and just outside the site boundaries.

Measurements of landfill gas concentrations just outside the site boundaries are very important to ensure that gas is not migrating offsite to neighbouring lands. Portable methane detection units are readily available and would be simple to operate by landfill personnel with minimal training. The Air quality must be monitored for 15 years after the closure of the landfill.

### 3.21.3. Surface Water Monitoring

A long-term monitoring programme should be established to monitor any impact from the landfill on the quality of surface water. Monitoring should commence prior to and early in the construction period to establish the baseline conditions.

Monitoring surface water chemistry at the site will be valuable for ongoing monitoring of any environmental impacts associated with landfill operations. Chlorides and conductivity are generally accepted indicators of leachate contamination that can be analyzed using field test kits at minimal cost to the operators.

Storm water collected in the storm water retention pond needs to be monitored periodically to check for any deviations from the prescribed standards. Given

that only municipal solid waste is handled at the landfill and that all precautions are taken to prevent runoff from coming in contact with the waste, it is considered safe to use the storm water runoff for on- land irrigation purposes.

It is proposed that the quality of storm water runoff be monitored once every quarterly, after the occurrence of any rainfall event. Samples should also be collected after every major storm event, particularly during the monsoon season. Since, this water is to be used for onsite application; it should meet with standards for treated leachate for land disposal. The surface water must be monitored for 15 years after the closure of the landfill.

#### **3.21.4. Closure of Landfill Site and Post- Closure Care**

The post-closure care of landfill site should be conducted for at least fifteen years and the following conditions should be continually monitored:

- 1) Maintaining the integrity and effectiveness of final cover, making repairs and preventing run-on and run-off from eroding or otherwise damaging the final cover.
- 2) Monitoring leachate collection system in accordance with the standards specified.
- 3) Maintaining ground water quality monitoring of ground water in accordance with standards specified.
- 4) Maintaining the passive venting landfill gas collection system to meet standards

Use of the closed landfill site after fifteen years of post-closure monitoring can be considered for gardens, golf courses, parks apart from human settlement.

Deleted

SCHEDULE 4

Deleted

## **Scope of Work of Project Engineer**

## **SCHEDULE 5**

### **1. Role of the Project Engineer**

- 1.1. 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:
- (i) 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,
  - (ii) Certify on a daily basis, the following quantum of MSW:
    - i. Received by Concessionaire
    - ii. processed at the Waste Processing facility
    - iii. land filled at the Landfill Facility
    - iv. returned from the Project Facility as Non-conforming Waste
  - (iii) report to the Parties on the various physical, technical and financial aspects of the Project based on inspections, site visits and Tests,
  - (iv) assist the Parties in arriving at an amicable settlement of disputes, should the need arise, and

### **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. Implementation Period - Design and Planning**

Review of the following submitted by the Concessionaire:

- (i) Quality Assurance Plan;
- (ii) Implementation/ Construction Plan;
- (iii) Drawings
- (iv) O & M Plan - Construction Period;

## **2.2. Implementation Period - Construction**

2.2.1. 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 NND;
- 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; Reject the works which fail to meet specified quality standards,
- 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 5.8.** of this Agreement.
- xiii. review and assist in finalization of the O&M Manual and first annual O&M Plan prepared by the Concessionaire.
- xiv. Provide services of experts to approve the quality of material and workmanship of various project components and operations
- xv. Manage the weighbridge operations at all the key points of MSW management workflow as per this agreement

## **2.3. Operations Period**



2.3.1. 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 finalizing 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.
- vii. Manage the weighbridge operations at all the key points of MSW management workflow as per this agreement and ensure daily/weekly/monthly reporting to NND
- viii. Monitor and measure all the Service Level Benchmarks and KPIs of the project, submit appropriate reports and certify performance
- ix. Provide services of experts to approve the quality of material and workmanship of various project components and operations

2.3.2. The Project Engineer shall certify the quantity of MSW collected, Processed in the Processing Facility and Landfill by the Concessionaire on a daily basis.

2.3.3. 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.

#### **2.4. Handback of Project Facilities to NND**

2.4.1. At the time of handing back the Project Facilities to NND 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.

## **2.5. 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.

## **2.6. 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 extraordinary 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 organizational 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 waste received, Processing and Landfill 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 NND 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 specifications broadly cover the design, manufacture, inspection, testing, and delivery to Project Site, storing and handling at Project Site, erection, commissioning and carrying out acceptance test of the Project Facility.
- 1.2. It is not the intent to specify completely herein, all the details of design and construction of the equipment/ Project Facility. However the Project Facility shall conform, in all respects, to high standards of engineering, design and workmanship and capable of performing in continuous operations.
- 1.3. 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.
- 1.4. The Concessionaire shall take appropriate measures to minimize traffic disruption on the roads adjoining the Project Site.
- 1.5. In the design, planning and implementation of all works and functions associated with the operation and maintenance of the Project Facilities, the Concessionaire shall take all such actions and do all such things (including without limitation, organizing itself, adopting measures and standards, executing procedures including inspection procedures, and engaging contractors, if any, agents and employees) in such manner, as will :
  - (i) keep the Project Facilities from undue deterioration and wear;
  - (ii) ensure the safety of personnel deployed for operation & maintenance of facilities like lifts, street lighting, common area lighting etc.
  - (iii) permit unimpaired performance of statutory duties and functions of any party in relation to the Project.
- 1.6. 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 processing and disposal, 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) An operating plan for Treatment Facility
- (h) An operating plan for Landfill Site  
Specifications of service level standards including segregation, processing and disposal of waste;
- (i) Manpower deployment plan, including the designation of key personnel for the management and supervision of all Project-related activities;
- (j) A broad revenue generation structure of the Project including collection of Processing Incentive (if quoted), sale of by products and any other source;

- (k) Format of the Monthly Project Progress Report giving details of the progress in implementation of the Project ("Monthly Project Progress Report");
- (l) Environment Management plan; and
- (m) Quality Assurance plan.

**2.3. Penalties for non compliance of services levels & KPIs :**

2.3.1. All the KPIs shall be applicable from the COD of the project.

2.3.2. NND shall levy following penalties on the Concessionaire for non compliance of service levels indicated in the O&M Plan :

Sl. No.	Key Performance Indicator	Measurement Method	Penalty
KPI 1	Daily Landfill to be maximum 20% of the waste received per day	The certified data for the month shall be analyzed and the concessionaire shall demonstrate average landfill per day to be less than 20% of the average waste collected per day.	If the concessionaire crosses the average daily landfill percentage then 2 penalty points for each percentage point would be scored.  Eg. If average daily landfill is 25% Then KPI 5 penalty points = $(25 - 20) \times 100 \times 2 = 10$
KPI 2	Total weight of processed output from the waste processing mechanisms should be at least 50% of the total collected waste of the month	Certified data from the month's total waste collection and weight of output shall be analyzed and compared.  In case of any conversion to energy per unit energy to weight ratio shall be taken into for calculations	If the concessionaire fails to perform as per the prescribed norm, then 1 penalty point for each percentage point difference shall be scored.

**Total penalty = (Sum of Penalty Points for KPI 1 & KPI2) X 0.01**

**Processing Incentive Rate applicable for the month would be = Processing Incentive Rate X ( 1 - total penalty deduction )**

Or

Royalty Fee Rate applicable for the month would be = Royalty Fee Rate X ( 1 + total penalty deduction )

2.3.3. NND shall levy penalties on account of following issues as well :

Sr. No.	Service Level Violated	Penalty	Process
1	For no operation of waste processing plant(s)	Rs. 20000.00 per day	<ul style="list-style-type: none"><li>■ Based on the reports from PE/NND Employees report.</li><li>■ Any stoppage of such operations, apart from schedule maintenance days, shall result into penalties applied to Processing Incentive mechanism and also the additional penalty as mentioned here.</li><li>■ The penalty shall be applicable on pro-rata hourly basis for any such unscheduled stoppage of operations of less than a day.</li></ul>
2	For no non-removal of processed output from processing facility	Rs. 100.00 per MT/Day	<ul style="list-style-type: none"><li>■ Based on volume of undisposed processed outputs at the waste processing facility.</li><li>■ Not more than three month's output shall be allowed to be kept at the waste processing facility.</li><li>■ Based on the O&amp;M plan such quantity shall be fixed for the processed output.</li><li>■ For any such deviations Rs. 100 MT/Day penalty shall be applicable and maximum 7 days above the prescribed quantity shall be permissible.</li><li>■ The concessionaire shall make a suitable arrangement to store such excess quantity at alternate location at its own cost.</li></ul>

3	Failure to Deposit of all the revenues into prescribed escrow account	Rs. 20000.00/Day	<ul style="list-style-type: none"> <li>■ Based on records of revenue receipt and deposit dates.</li> <li>■ The concessionaire shall ensure that all the revenues from the project operations shall be deposited into designated escrow account within 24 hours of their receipt by the concessionaire.</li> <li>■ Any failure to do so, without reasonable explanation and permission from NND, shall result into the prescribed penalty of Rs. 20000/day</li> </ul>
4	Collection of any waste from outside NND jurisdiction or NND permitted areas without prior permission of NND	1.5 times Processing Incentive Rate X Collected Waste Quantity	<ul style="list-style-type: none"> <li>■ Based on records of vehicle origin, route weighing records.</li> <li>■ Also based on any such complaints received and verified by NND</li> <li>■ On occurrence of such digressions by the concessionaire a penalty of 1.5 times Processing Incentive Rate X Collected Waste Quantity shall be applicable.</li> </ul>
5	Malpractices of Inflating the processed waste quantity	2 times Processing Incentive Rate X Inflated Processed Waste Quantity	<ul style="list-style-type: none"> <li>■ Based on records of vehicle origin, route weighing records, processing data and conversion norms</li> <li>■ Also based on any such complaints received and verified by NND</li> <li>■ On occurrence of such digressions by the concessionaire a penalty of 2xProcessing Incentive Rate X Inflated Processed Waste Quantity shall be applicable.</li> </ul>

2.4. The O & M Plan shall

- a. Not be inconsistent with the terms and conditions of this Agreement.
- b. contain an obligation on Concessionaire to provide NND or its nominee with information relating to the delivery of MSW under this Agreement on a daily basis, including information on:
  - i. delivery vehicle identification;
  - ii. weight of loads; and
  - iii. times of delivery



- c. contain an obligation on the Parties to keep necessary records in relation to the delivery of MSW including the information on:
    - i. The weight of MSW received;
    - ii. The numbers of vehicles and their identification;
    - iii. Time of delivery; and,
    - iv. Number of vehicles containing largely Non-Conforming Waste and hence diverted under.
  - d. provide that each Party shall have access to and the right to audit the other Party's records as referred to in **Clause 5.11.3;**
  - e. give each Party the right to inspect MSW loads that are declared Non- Conforming and decide on its disposal; and
  - f. Contains the methodology of dealing with Non Conforming Waste.
  - g. Contains the methodology of managing cash/other forms of revenues and their deposit into designated escrow account.
  - h. Contains the methodology Human Resource Management including but not limited to attendance, replacements, payroll etc..
  - i. Contains the methodology of MIS/GIS/Technology deployment for the project to monitor, measure and report project performance
  - j. Contains the maintenance and emergency management schedule for project equipment & vehicles
- 2.5. As provided in Schedule 3, prior to making application for the Completion Certificate for the Project the Concessionaire shall finalize in consultation with the NND/ Project Engineer:
- I. the O&M Manual for Project Site
  - II. the O&M Plan for the first year of construction & operations
  - III. the O&M Plan for the first year of the contract operations
- 2.6. Six weeks prior to the anniversary of COD each year, the Concessionaire shall submit an annual O&M Plan for the next year of operations.

### **3. Maintenance Requirements**

#### **3.1. Maintenance Standards**

During Operations Period, the Project Facility shall be maintained in accordance with the standards ("Maintenance Standards") set out below :

##### **3.1.1. Routine Maintenance Activities**

- 3.1.1.1. In order to ensure smooth and uninterrupted use of the Project Facility during normal operating conditions for all 24 hours of a day, routine maintenance of the Project Facility shall include but not be limited to:
  - (i) repairs to equipment, pavement, building and other civil works which are part of the Project Facilities;
  - (ii) replacement of Project Equipment/Vehicles, consumables,

- (iii) maintenance of the Project Facilities in accordance with Good Industry Practice;
- (iv) 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;
- (v) taking all practical measures to prevent damage to the Project Facilities;
- (vi) undertaking maintenance works in accordance with the O & M Plan and O&M Manual;
- (vii) preventing, with the assistance of concerned law enforcement agencies/ NND where necessary, any unauthorized entry to and exit from and any encroachments on the Project Facilities;
- (viii) taking all reasonable measures for the safety of all the workmen, material, supplies and equipment brought to the Project Site. Explosives, if any, shall be stored, transported and disposed of by the Concessionaire in accordance with Applicable Laws/ Applicable Permits.

3.1.1.2. 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.

3.1.1.3. 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.

3.1.1.4. 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.

### **3.2. Emergency Maintenance Activities**

3.2.1. 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.

3.2.2. 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.

**3.2.3. 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.

**4. Safety**

- 4.1. The Concessionaire shall make provision for round-the-clock security of the Project Facilities.
- 4.2. The concessionaire shall also make safety provisions for all the employees in accordance to prevailing norms for such facilities and operations.
- 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.

**5. Inspections & Frequency**

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

**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.

**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.

### **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.

### **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.

## **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.

### **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.

### **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

### **6.3. O & M Manual**

- 6.3.1. 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.
- 6.3.2. The O&M Manual shall have separate sections for operations and maintenance.
- 6.3.3. 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. All the issues described regarding O&M plan at 2.4 of this schedule
  - v. Inspection Procedures;
  - vi. Maintenance Standards (including Maintenance Intervention Levels);
  - vii. Maintenance Programme;
  - viii. Management information system;
  - ix. Report Formats.

### **7. Miscellaneous**

- 7.1. 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.
- 7.2. 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.
- 7.3. 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)<sup>3</sup>

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 Build, Operate and Transfer Integrated Solid Waste Processing & Disposal system gram at Dehradun, Uttarakhand for a period of 15 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. 1,25,00,000.00 (Rupees One Crore Twenty Five 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

<sup>3</sup> 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 1,25,00,000.00 (Rupees One Crore Twenty Five 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 \_\_\_\_\_<sup>4</sup> <sup>5</sup> 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. \_\_\_\_\_.
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 \_\_\_\_\_.

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<sup>4</sup> 36 months from the date of signing the Concession Agreement

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.



**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 build, operate and transfer Integrated Solid Waste Processing and Disposal system 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**

## 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

NND, 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

- A. By the Concession Agreement entered into between NND and \_\_\_\_\_, (name of the Successful Bidder), 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.
- B. 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 Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only) as security for due and punctual performance/discharge of its obligations under the Concession Agreement, relating to handback of the Project Facility.
- C. 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 :

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 performance by M/s. \_\_\_\_\_ (hereinafter called "the Concessionaire") of all its obligations relating to handback of the Project Facility.
3. The Guarantor shall, without demur, pay to NND sums not exceeding in

Aggregate Rs. 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.

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 \_\_\_\_\_<sup>5</sup> 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. \_\_\_\_\_ (Rupees \_\_\_\_\_ 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.

SIGNED AND DELIVERED

by \_\_\_\_\_ Bank  
by the hand of Shri \_\_\_\_\_  
its \_\_\_\_\_ and authorised official.

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<sup>5</sup> 30 months from the date of issue of the Handback Guarantee in accordance with Clause 10.2 of the Concession Agreement

**MANAGEMENT INFORMATION SYSTEM**

**SCHEDULE 10**

1. The Concessionaire shall install Management Information System ( MIS) which shall be accessible to authorized NND officials through web based platforms.
2. The purpose of the MIS is collect data of the entire Processing & Disposal 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.
3. The MIS should also help in collecting KPI related data for the project and help in generating bills & invoices as well.
4. 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. **Waste Processing and Landfill Data :** System should be able to track and monitor all aspects of waste processing information, including the sales data for processed outputs
  - 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.
5. This system should be put in place within 3 months of signing of the contract and design should be finalized in consultation with NND. NND authorized personnel should have requisite access to data for reporting etc.

**USER CHARGES**

**SCHEDULE 11**

Deleted

## 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" 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 23rd December 2011 with the Concessionaire (the "Concession Agreement") for Integrated Solid Processing & Disposal System in Build, Operate and Transfer mode (BOT) basis
- 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 Concessionaire to establish an Escrow Account, inter alia, on the terms and conditions stated therein.

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

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

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

The Escrow Bank hereby agrees to act as such and to accept all payments and other amounts to be delivered to and held by the Escrow Bank pursuant to the provisions of this Agreement. The Escrow Bank shall hold and safeguard the Escrow Account during the term of this Agreement and shall treat the amount in the Escrow Account as monies deposited by the Concessionaire, Senior Lenders 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, the Lenders' Representative and the Concessionaire or their nominees, successors or assigns, in accordance with the provisions of this Agreement.

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

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

2.3.2 The Escrow Bank shall maintain the Escrow Account in accordance with the terms of this Agreement and its usual practices and applicable



regulations, and pay the maximum rate of interest payable to similar customers on the balance in the said account from time to time.

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

**2.4 Escrow Bank's fee**

The Escrow Bank shall be entitled to receive its fee and expenses in an amount, and at such times, as may be agreed between the Escrow Bank and the Concessionaire. For the avoidance of doubt, such fee and expenses shall form part of the 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, the Lenders' Representative and the Concessionaire in the monies held in the Escrow Account are set forth in their entirety in this Agreement and the 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 funds constituting the Financial Proposal;
  - (ii) all revenues from or in respect of operating and managing of the integrated solid processing and disposal system project under the terms of concession agreement
- 3.1.2 The Concessionaire may at any time make deposits of its other funds into the Escrow Account, provided that the provisions of this Agreement shall apply to such deposits.

**3.2 Deposits by the Government**

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

- (a) Grant and any other monies disbursed by the Government to the Concessionaire;
- (b) Processing Incentive payments;
- (c) Termination 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 due and payable to it by the Concessionaire and the balance remaining shall be deposited into the Escrow Account.

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

The Lenders' Representative agrees, confirms and undertakes that the Senior Lenders shall deposit into and/or credit the Escrow Account with all disbursements made by them in relation to or in respect of the Project; provided that notwithstanding anything to the contrary contained in this Agreement, the Senior Lenders shall be entitled to make direct payments to the EPC Contractor under and in accordance with the express provisions contained in this behalf in the Financing Agreements.

### **3.4 Interest on deposits**

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

## **4 WITHDRAWALS FROM ESCROW ACCOUNT**

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

4.1.1 The Concessionaire 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. all taxes due and payable by the Concessionaire for and in respect of the project;
- b. all payments relating to construction of the project, subject to and in accordance with the conditions, if any, set forth in the Financing Agreements;
- c. Salary expenses of the employees

- d. O&M Expenses, other than salaries, subject to the ceiling, if any, set forth in the Financing Agreements;
- e. O&M Expenses and other costs and expenses incurred by the Government in accordance with the provisions of this Agreement, and certified by the Government as due and payable to it;
- f. Royalty Fee due and payable to the Government;
- g. monthly proportionate provision of Debt Service due In an Accounting Year;
- h. all payments and Damages certified by the Authority as due and payable to it by the Concessionaire,
- i. monthly proportionate provision of debt service payments due 10 an Accounting Year in respect of Subordinated Debt;
- j. any reserve requirements set forth in the Financing Agreements; and
- k. balance, if any, in accordance with the instructions of the Concessionaire.

4.1.2 The Concessionaire shall not in any manner modify the order of payment specified in Clause 4.1.1, except with the prior written approval of the Government.

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

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

- (a) all taxes due and payable by the Concessionaire for and in respect of the project
- (b) 90% (ninety per cent) of Debt Due excluding Subordinated Debt;
- (c) outstanding Processing Incentive ;
- (d) all payments and Damages certified by the Authority as due and payable to it by the Concessionaire pursuant to the Concession Agreement and any claims in connection with or arising out of Termination;
- (f) outstanding Debt Service including the balance of Debt Due;
- (g) outstanding Subordinated Debt;
- (h) incurred or accrued O&M Expenses;
- (i) any other payments required to be made under the Concession Agreement; and
- U) balance, if any, in accordance with the instructions of the Concessionaire:

Provided that the disbursements specified in Sub-clause U) of this Clause 4.2 shall be undertaken only after the Vesting Certificate has been issued by the Government.

#### **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.

#### **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 HSRP, 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**

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

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

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

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

#### **5.5 Regulatory approvals**

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

### **6 ESCROW DEFAULT**

#### **6.1 Escrow Default**

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

- (a) the Concessionaire commits breach of this Agreement by failing to deposit any receipts into the Escrow Account as provided herein and fails to cure such breach by depositing the same into the Escrow Account within a Cure Period of 5 (five) business days;
  - (b) the Concessionaire causes the Escrow Bank to transfer funds to any account of the Concessionaire in breach of the terms of this Agreement and fails to cure such breach by depositing the relevant funds into the Escrow Account or any Sub-Account in which such transfer should have been made, within a Cure Period of 5 (five) business days; or
  - (c) the Concessionaire commits or causes any other breach of the provisions of this Agreement and fails to cure the same within a Cure Period of 5 (five) business days.
- 6.1.2 Upon occurrence of an Escrow Default, the consequences thereof shall be dealt with under and in accordance with the provisions of the Concession Agreement.

## **7 TERMINATION OF ESCROW AGREEMENT**

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

This Agreement shall remain in full force and effect so long as any sum remains to be advanced or is outstanding from the Concessionaire in respect of the debt, guarantee or financial assistance received by it from the Senior Lenders, or any of its obligations to the 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 Concessionaire may, by not less than 45 (forty five) days prior notice to the Escrow Bank, the Government and the Lenders' Representative, terminate this Agreement and appoint a new Escrow Bank, provided that the new Escrow Bank is acceptable to the Lenders' Representative and arrangements are made satisfactory to the Lenders' Representative for transfer of amounts deposited in the Escrow Account to a new Escrow Account established with the successor Escrow Bank.

The termination of this Agreement shall take effect only upon coming into force of an Escrow Agreement with the substitute Escrow Bank.

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

The Escrow Bank shall, at the request of the Concessionaire and the Lenders' Representative made on or after the payment by the Concessionaire of all outstanding amounts under the Concession

Agreement and the Financing Agreements including the payments specified in 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 Concessionaire. Upon closure of the Escrow Account hereunder, the Escrow Agreement shall be deemed to be terminated.

## **8 SUPPLEMENTARY ESCROW AGREEMENT**

### **8.1 Supplementary escrow agreement**

The Lenders' Representative and the Concessionaire shall be entitled to enter into a supplementary escrow agreement with the Escrow Bank providing, *inter alia*, for detailed procedures and documentation for withdrawals from Sub- Accounts pursuant to 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 and the Senior Lenders, acting through the Lenders' Representative, harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of any breach by the Concessionaire of any of its obligations under this Agreement or on account of failure of the Concessionaire to comply with Applicable Laws and Applicable Permits.

9.1.2 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 \*\*\* 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 CONCESSIONAIRE has been affixed pursuant to the resolution passed by the Board of Transport Commissioners of the Concessionaire at its meeting held on the . . . . . day of . . . . . , 20..... hereunto affixed in the presence of, Transport 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  
SENIOR LENDERS by the  
Lenders' Representative:

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

SIGNED, SEALED AND  
DELIVERED

For and on behalf of  
[Department of Transport] by:

(Signature)

(Name)

(Designation)

(Address)

(Fax No.)

(E-mail address)

To be affixed in accordance with the articles of association of the  
Concessionaire.