



## **Nagar Nigam, Jaipur**

(Pandit Deendayal Upadhyay Bhawan, Lal Kothi, Tonk Road, Jaipur-302015 Raj.)

### **Request for Proposal (RFP)**

**for**

**Integrated Solid Waste Management on VGF Basis**

**under**

**SBM-14**

**For**

**DOOR TO DOOR COLLECTION, SECONDARY STORAGE**

**&**

**TRANSPORTATION OF WASTE (C&T)**

**UNDER**

**THE GUIDELINES OF SWACHH BHARAT MISSION (SBM)**

**For**

**Cluster - 65**

**Package No. 7 – Hawamahal (West) and Amber Zone, Nagar  
Nigam, Jaipur**

**Single Stage - Two Envelopes  
(Two Parts) Bid**

**Request for Proposal (RFP)**  
**for Integrated Solid Waste Management on VGF basis under SBM-14**

**For**  
**Cluster 65**  
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**Single Stage-Two Envelopes (Two Parts) Bid**

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## Notice Inviting Request for Proposal (RFP)

(For Publication on State Public Procurement Portal)



**Nagar Nigam, Jaipur**  
(Pandit Deendayal Upadhyaya Bawan, Lal Kothi, Tonk Road, Jaipur-302015 Raj.)

No. 09/XEN(P.) 2014-15

NIT NO - 345/2015

Date :- 11-02-15

### Notice Inviting Request for Proposal (RFP)

(For publication on [www.sppp.rajasthan.gov.in](http://www.sppp.rajasthan.gov.in) & [www.eproc.rajasthan.gov.in](http://www.eproc.rajasthan.gov.in))

Single stage two envelopes unconditional sealed on line bids are invited for Door to door collection, Secondary storage & transportation of waste (C&T) for Jaipur under the guidelines of Swachh Bharat Mission (SBM) The Ministry of Urban Development (MoUD) GoI for implementation of Municipal Solid Waste (Management & Handling) Rules 2000 and revised from time-to-time.

S. No.	Cluster No.	Package No.	Name of Package	Population (As per census 2011)	Qty of garbage generated @ 400 gm p.capita p.day (in MT)	Cost of solid waste management @ Rs 1000 p MT p day (in Lacs)	Cost of solid waste management p Year (in Lacs)	Cost of solid waste management for 5 Year (in Lacs)	Bid Security @2% (in Lacs)
1	2	3	4	5	6	7	8	9	10
1	65	1	Mansarovar Zone	352627	141.05	1.41	514.84	2574.18	51.48
		2	Moti Doongari Zone	296373	118.55	1.18	432.70	2163.52	43.27
		3	Vidhyadhar Nagar Zone	726309	290.52	2.91	1060.41	5302.06	106.04
		4	Sanganer Zone	424564	169.83	1.70	619.86	3099.32	61.99
		5	Civil line Zone	541362	216.54	2.17	790.39	3951.94	79.04
		6	Hawa Mahal (East) Zone	357456	142.98	1.43	521.89	2609.43	52.19
		7	Hawa Mahal (West & Amer) Zone	343218	137.29	1.37	501.10	2505.49	50.11

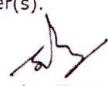
The bidder, who meets the eligibility criteria mentioned in RFP and evaluated as the most preferred bidder as per the RFP document for respective package, shall be considered for award of contract.

Cost of RFP document (non-refundable)	Rs 5000/- (Rupees Five Thousand Only) for each package.
Bid Security (refundable)	2% of estimated cost for each package.
Publishing Date & Time	11.02.2015 at 14:00 Hrs
Request for Proposal Download start Date & Time	12.02.2015 at 14:00 Hrs
Pre-bid conference will be held on	19.02.2015 at 11.00 Hrs at DLB conference hall, Jaipur
Websites for downloading Request for Proposal	<a href="http://sppp.rajasthan.gov.in">http://sppp.rajasthan.gov.in</a> , <a href="http://eproc.rajasthan.gov.in">http://eproc.rajasthan.gov.in</a>
Request for Proposal Submission End Date & Time	13.03.2015 at 15:00 Hrs on <a href="http://eproc.rajasthan.gov.in">http://eproc.rajasthan.gov.in</a>
Technical Bid Opening Date & Time	16.03.2015 at 15:00 Hrs at cluster ULB as per RFP
Financial Bid Opening Date & Time	Will be intimated later to technically responsive bidder

- The interested bidder may submit their proposals online along with a Non-refundable Demand Draft of Rs 5000/- (Rupees Five Thousand Only) drawn in favour of Chief Executive Officer, Nagar Nigam, Jaipur payable at Jaipur, towards the cost of Tender Document & RISL processing fee Rs 1000/- (Rupees One Thousand Only) drawn in favour of MD, RISL payable at Jaipur from any Scheduled Commercial Bank.
- Each bid must be accompanied by Bid Security of 2% of estimated cost in form of DD/Bank Guarantee in accordance to provisions The "Rajasthan Transparency in Public Procurement Act 2012 & Rule 2013"

in favour Chief Executive Officer Nagar Nigam,Jaipur. RFP Document can be seen at or obtained from website <http://sppp.rajasthan.gov.in>,<http://eproc.rajasthan.gov.in>

3. Bidder, who procured digital certificate as per IT Act 2000 to sign their electronic bids, shall submit their technical and financial offer on-line on above mentioned web site up to time and date mentioned herein above.
4. In case of the any bidder fails to physically submit the DD for tender fee and processing fee, DD/BG for EMD up to **16.03.2015 at 14:00 Hrs**, the bid of the respective bidder shall not be accepted.
5. The Bidders shall have to submit a valid 'VAT' clearance certificate from the concerned Commercial Taxes Officer and the 'PAN' issued by Income Tax Department along with their technical proposal.
6. The "Rajasthan Transparency in Public Procurement Act 2012 & Rule 2013" shall be applicable.
7. NNJ reserves the right to accept any bid, or reject any or all bids, without assigning any reason thereof and without incurring any liability, whatsoever in favour of the Bidder(s).

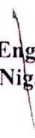
  
**Executive Engineer(Project),  
Nagar Nigam,Jaipur**

**No.**

**Date :-**

**Copy to following for information:**

1. PS to Principal Secretary LSG, GoR
2. PS to Director cum Joint Secretary LSG
3. PA to Mayor,Nagar Nigam,Jaipur
4. CAO, DLB
5. Notice Board
6. Guard File.

  
**Executive Engineer(Project),  
Nagar Nigam,Jaipur**




**Government of Rajasthan**  
**Local Self Government Department**  
**(Directorate of Local Bodies, Rajasthan, Jaipur)**  
G-3, Rajmahal Residency, Near Civil lines, Railway Crossing, Jaipur  
Tel No.: +91 141 2222469 Fax No.: +91 141 2222403 web site : www.lsgraj.org  
No: F 55 ( ) PA/CE/DLB/SWM-Collection-Transportation-processing/2014/ 21.80 Date 22.02.2015

**Notice Inviting Request for Proposal (RFP)**  
(For publication in the Newspapers)

Online Technical and Financial Bids in Single Stage two envelopes are invited up to **13.03.2015 at 15.00 Hrs** on behalf of Governor of Rajasthan by Directorate of Local Bodies for 111 clusters of ULBs for Door to door collection, Secondary storage & transportation of waste **(C&T)** and **Design, construction, operation and maintenance of processing facility (except Jaipur, Jodhpur, Kota cities) under the guidelines of Swachh Bharat Mission (SBM) The Ministry of Urban Development (MoUD), GoI for implementation of Municipal Solid Waste (Management & Handling) Rules 2000** and revised from time-to-time.

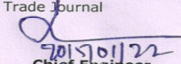
Details may be seen in the Request for Proposal (RFP) of respective package of cluster towns at our office or the website of the State Public Procurement Portal [www.cmar-india.org](http://www.cmar-india.org), <http://sppp.rajasthan.gov.in>, <http://eproc.rajasthan.gov.in> and may be downloaded from these websites.

  
(Purushottam Biyani)  
Director cum Joint Secretary

No: F 55 ( ) PA/CE/DLB/SWM-Collection-Transportation/2014/ 2181-2371 Date 22.01.2015

Copy to following for information:

1. SA to Hon'ble Minister UDH&LSG, GoR
2. PS to Principal Secretary LSG, GoR
3. PS to Director cum Joint Secretary, LSG
4. CAO, DLB
5. Chief Executive Officer/Commissioner/Executive Officer, Municipal Corporation/Council/Board ----- with the request to upload on <http://sppp.rajasthan.gov.in>, <http://eproc.rajasthan.gov.in> websites.
6. PRO, DLB/JMC for publication of NIB in One leading Regional daily newspaper, one State level leading daily newspapers having circulation of 50,000 copies or more, One all India level daily newspaper with wide circulation and Director General, Intelligence and Statistics, Kolkata for publication in Indian Trade Journal
7. Notice Board-----

  
Chief Engineer

**Section I: Instructions to Bidders**

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**Important Instruction:-** The Law relating to procurement “The Rajasthan Transparency in Public Procurement Act, 2012” [hereinafter called the Act] and the “Rajasthan Public Procurement Rules, 2013” [hereinafter called the Rules] under the said Act have come into force which are available on the website of State Public Procurement Portal <http://sppp.rajasthan.gov.in> Therefore, the Bidders are advised to acquaint themselves with the provisions of the Act and the Rules before participating in the Bidding process. If there is any discrepancy between the provisions of the Act and the Rules and this Request for Proposal, the provisions of the Act and the Rules shall prevail.

<b>1. General</b>			
1.1	Scope of Bid	1.1.1	In support of the Invitation to Request for Proposal(RFP) indicated in the Bid Data Sheet (BDS), the Procuring Entity as indicated in the BDS ,issues this RFP for the procurement of works as named in the BDS and as specified in Section V, Procuring Entity’s Requirements.
1.2	Interpretation	1.2.1	Throughout this Request for Proposal: the term “in writing” means communicated in written form through letter, fax, e-mail etc. with proof of receipt. if the context so requires, singular means plural and vice versa; and “Day” means calendar day
1.3	Code of Integrity	1.3.1	Any person participating in the procurement process shall,- i. not offer any bribe, reward or gift or any material benefit either directly or indirectly in exchange for an unfair advantage in procurement process or to otherwise influence the procurement process; ii. not misrepresent or omit that misleads or attempts to mislead so as to obtain a financial or other benefit or avoid an obligation; iii. not indulge in any collusion, bid rigging or anti-competitive behavior to impair the transparency, fairness and progress of the procurement process; iv. not misuse any information shared between the Procuring Entity and the Bidders with an intent to gain unfair advantage in the procurement process; v. not indulge in any coercion including impairing or harming or threatening to do the same, directly or indirectly, to any party or to its property to influence the procurement process; vi. not obstruct any investigation or audit of a procurement process; vii. disclose conflict of interest, if any; and viii. disclose any previous transgressions with any Entity in India or any other country during the last three years or any debarment by any other Procuring Entity.
		1.3.2	Conflict of Interest: A conflict of interest is considered to be a situation in which a party has interests that could improperly influence that party’s performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations. A Bidder may be considered to be in conflict of interest with one or more parties in this bidding process if, including but not limited to:

			<ul style="list-style-type: none"> <li>i. have controlling partners/ share holders in common; or</li> <li>ii. receive or have received any direct or in direct subsidy from any of them ;or</li> <li>iii. have the same legal representative for purposes of this Bid; or</li> <li>iv. have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the Bid of another Bidder, or influence the decisions of the Procuring Entity regarding this bidding process; or</li> <li>v. the Bidder participates in more than one Bid in this bidding process. Participation by a Bidder in more than one Bid will result in the disqualification of all Bids in which the Bidder is involved. However, this does not limit the inclusion of the same subcontractor, not otherwise participating as a Bidder, in more than one Bid; or</li> <li>vi. the Bidder or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the Works that are the subject of the Bid; or</li> <li>vii. the Bidder or any of its affiliates has been hired (or is proposed to be hired) by the Procuring Entity as Engineer-in-charge/ consultant for the Contract.</li> </ul>
			The Bidder shall have to give a declaration regarding compliance of the Code of Integrity prescribed in the Act, the Rules and stated above in this Clause along with its Bid, in the format specified in Section IV, Bidding Forms.
			Breach of Code of Integrity by the Bidder:- Without prejudice to the provisions of Chapter IV of the Rajasthan Transparency in Public Procurement Act, in case of any breach of the Code of Integrity by a Bidder or prospective Bidder, as the case may be, the Procuring Entity may take appropriate action in accordance with the provisions of sub-section (3) of section 11 and section 46 of the Act.



1.4	Eligible Bidders	1.4.1	<p>A Bidder may be a natural person, private Entity, government-owned Entity or, where permitted in the Request for Proposals, any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a Joint Venture [JV], Consortium or Association. In the case of a Joint Venture, Consortium or Association:-</p> <p>all parties to the Joint Venture, Consortium or Association shall sign the Bid and they shall be jointly and severally liable; and a Joint Venture, Consortium or Association shall nominate a representative who shall have the authority to conduct all business for and on behalf of any and all the parties of the Joint Venture, Consortium or Association during the Bidding process. In the event the Bid of Joint Venture, Consortium or Association is accepted, either they shall form a registered Joint Venture, Consortium or Association as company/firm or otherwise all the parties to Joint Venture, Consortium or Association shall sign the Agreement.</p>
		1.4.2	<p>A Bidder, and all parties constituting the Bidder, shall have the nationality of India. In case of International Competitive Bidding or Joint Venture, Consortium or Association [where permitted], A Bidder shall be deemed to have nationality of a country if the Bidder is a citizen or constituted or incorporated, and operates in conformity with the provisions of the Laws of that country. This criterion shall also apply to the determination of the nationality of proposed Sub-Contractors or suppliers for any part of the Contract including related services.</p>
		1.4.3	<p>A Bidder should not have a conflict of interest in the procurement in question as stated in the Rule 81 and this Request for Proposal.</p>
		1.4.4	<p>A Bidder debarred under section 46 of the Act shall not be eligible to participate in any procurement process undertaken by any Procuring Entity, if debarred by the State Government; and a Procuring Entity, if debarred by such Procuring Entity.</p>
		1.4.5	<p>The Bidder must be a <b>registered firm/consortium/Special Propose Vehicle (SPV)</b>. He shall furnish necessary proof for the same.</p>

		1.4.6	<p>i Any change in the constitution of the firm, etc., shall be notified forth with by the Bidder in writing to the Procuring Entity and such change shall not relieve any former partner/ member of the firm, etc from any liability under the Contract.</p> <p>ii No new partner/partners shall be accepted in the firm by the Bidder in respect of the contract unless he/they agree to abide by all its terms, conditions and deposit with the Procuring Entity a written agreement to this effect. The Bidder's receipt for acknowledgement or that of any partners subsequently accepted as above shall bind all of them and will be sufficient discharge for any of the purpose of the Contract.</p> <p>iii The status of the lead partner/ representative of the Joint Venture, Consortium or Association as a major stake holder shall not change without the consent of the Procuring Entity. New major stake holder must agree to abide by all terms and conditions of the Contract.</p>
		1.4.7	Bidders shall provide such evidence of their continued eligibility satisfactory to the Procuring Entity, should the Procuring Entity request.
		1.4.8	In case a prequalification or empanelment or registration process has been conducted prior to the bidding process, this bidding shall be open only to the pre-qualified, empanelled or registered Bidders.
		1.4.9	Each Bidder shall submit only one Bid except in case of alternative bids, if permitted.
		1.4.10	No Bidder who is not registered under the Sales Tax Act prevalent in the State of Rajasthan shall bid. The Sales Tax Registration Number should be quoted and a VAT/ Sales Tax Clearance certificate from the Commercial Taxes Officer of the Circle concerned shall be submitted without which the Bid is liable to be rejected. He is also required to provide proof of Permanent Account Number (PAN) given by Income Tax Department.

## 2. Contents of Request for Proposal

2.1	Sections of the Request for Proposal	2.1.1	<p>The Request for Proposal consists of Parts I, II ,and III, which include all the Sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITB Clause 2.3 [Amendment of Request for Proposal].</p> <p><b>Part I: Bidding Procedures</b>  Section I. Instructions to Bidders (ITB)  Section II. Bid Data Sheet (BDS)  Section III. Evaluation and Qualification Criteria  Section IV. Bidding Forms</p> <p><b>Part II: Requirements</b>  Section V. Procuring Entity's Requirements.</p> <p><b>Part III: Contract</b>  Section VI A. General Conditions of Contract [GCC]  Section VI B. Special Conditions of Contract [SCC]  Section VI C. Contract Forms</p>
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		2.1.2	The Invitation for Request for Proposal (RFP) issued by the Procuring Entity is also part of the Request for Proposal.
		2.1.3	i. The Request for Proposal shall be uploaded on the e-procurement portal, <a href="http://eproc.rajasthan.gov.in">eproc.rajasthan.gov.in</a> alongwith the Notice Inviting Bids. The complete Request for Proposal shall also be placed on the State Public Procurement Portal, <a href="http://sppp.rajasthan.gov.in">sppp.rajasthan.gov.in</a> . The prospective Bidders may download the Request for Proposal from these portals. The price of the Request for Proposal and processing fee of e-bid shall have to be paid to the Procuring Entity in the amount and manner as specified in Bid Data Sheet and e-procurement portal.
		2.1.4	The Procuring Entity is not responsible for the completeness of the Request for Proposal and its addenda, if they were not downloaded correctly from the e-procurement portal or the State Public Procurement Portal.
		2.1.5	The Bidder is expected to examine all instructions, forms, terms and specifications in the Request for Proposal. Failure to furnish all information or authentic documentation required by the Request for Proposal may result in the rejection of the Bid.
2.2	Clarification of Request for Proposal and Pre-Bid Conference	2.2.1	The Bidder shall be deemed to have carefully examined the conditions, Procurement Entity requirement etc. of the Works and Related Services to be provided. If any Bidder has any doubts as to the meaning of any portion of the conditions of RFP, it shall, before submitting the Bid, refer the same to the Procuring Entity and get clarifications. A Bidder requiring any clarification of the Request for Proposal shall contact the Procuring Entity in writing or e-mail at the Procuring Entity's address indicated in the BDS. The Procuring Entity will respond in writing or e-mail to any request for clarification, within seven days provided that such request is received no later than twenty-one (21) days prior to the deadline for submission of Bids as specified in ITB Sub-Clause 4.2.1[Deadline for Submission of Bids]. The clarification issued, including a description of the inquiry but without identifying its source shall also be placed on the State Public Procurement Portal and should the Procuring Entity deem it necessary to amend the Request for Proposal as a result of a clarification, it shall do so following the procedure under ITB Clause 2.3 [Amendment of Request for Proposal] through an addendum which shall form part of the Request for Proposal..
		2.2.2	The Bidder or his authorised representative is invited to attend the Pre- Bid Conference, if provided for in the BDS. The purpose of the Pre- Bid Conference will be to clarify issues and to answer questions on any matter related to this procurement that may be raised at that stage. If required, a conducted site visit may be arranged

			by the Procuring Entity.
		2.2.3	The Bidder is requested, to submit questions in writing, to reach the Procuring Entity not later than one week before the date of Pre-Bid Conference.
		2.2.4	Minutes of the Pre-Bid Conference, including the text of the questions raised, and the responses given, without identifying the source, will be transmitted promptly to all Bidders who attended the Pre-Bid Conference and shall also be placed on the State Public Procurement Portal and the e-procurement portal. Any modification to the Request for Proposal that may become necessary as a result of the Pre-Bid Conference shall be made by the Procuring Entity exclusively through the issue of an addendum (part of Bid document) and not through the minutes of the Pre-Bid Conference.
		2.2.5	At any time prior to the deadline for submission of the Bids, the Procuring Entity, suo motto, may also amend the Request for Proposal, if required, by issuing an addenda which will form part of the Request for Proposal.
		2.2.6	Non-attendance at the Pre-Bid Conference will not be a cause for disqualification of a Bidder.
2.3	Amendment of Request for Proposal	2.3.1	Any addendum issued shall be part of the Request for Proposal and shall be uploaded on the State Public Procurement Portal and the e-procurement portal.
		2.3.2	To give prospective Bidders reasonable time in which to take an addendum into account in preparing their Bids, the Procuring Entity may, at its discretion, extend the deadline for the submission of the Bids, pursuant to ITB Sub-Clause 4.2 [Deadline for Submission of Bids], under due publication on the State Public Procurement Portal and the e-procurement portal and newspapers.
<b>3. Preparation of Bids</b>			
3.1	Cost of Bidding	3.1.1	The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the Procuring Entity shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
		3.1.2	The Bidder shall furnish the scanned attested copies of following documents with its Bid:- i. Partnership Deed and valid registration certificate with the Registrar of Firms in case of Partnership Firms. Power of Attorney in favour of the partner signing/submitting the Bid, authorizing him to represent all partners of the firm. ii. VAT/ Sales Tax registration certificate and VAT/Sales Tax clearance certificate from the concerned

			<p>Commercial Taxes Officer and Permanent Account Number (PAN) given by the Income Tax Department.</p> <p>iii. Address of residence and office, telephone numbers e-mail address in case of sole Proprietorship.</p> <p>iv. Certificate of Registration and Memorandum of Association issued by Registrar of Companies in case of a registered company and in case of any other statutory or registered body, certificate of incorporation or registration issued by concerned authorities. Power of attorney in favour of the person signing the Bid.</p> <p>v. Where permitted to bid as Joint Venture, Consortium or Association, letter of formal intent to enter in to an agreement or an existing agreement in the form of a Joint Venture, Consortium or Association.</p>
3.2	Language of Bid	3.2.1	<p>The Bid, as well as all correspondence and documents relating to the Bid exchanged by the Bidder and the Procuring Entity, shall be written in English/ Hindi or a language specified in the BDS. Supporting documents and printed literature that are part of the Bid may be in an other language provided they are accompanied by an accurate translation of the relevant passages duly accepted by the Bidder in English/ Hindi or the language specified in the BDS, in which case, for purposes of interpretation of the Bid, such translation shall govern.</p>
3.3	Documents Comprising the Bid	3.3.1	<p>The Bid shall comprise of two covers, one containing the Technical Bid/ Proposal and the other the Financial or Price Bid/ Proposal.</p> <p>One more cover containing scanned copies of proof of payment in form specified in Bid Data Sheet, of the price of Request for Proposal, processing fee and Bid Security/ Bid Securing Declaration shall be enclosed separately.</p>
		3.3.2	<p>The Technical Bid/ Proposal shall contain the following :</p> <ul style="list-style-type: none"> <li>i. Technical Bid/ Proposal Submission Sheet and Technical Bid containing the filled up Bidding Forms and Declarations related to Technical Bid and Code of Integrity given in Section IV [Bidding Forms];</li> <li>ii. proof of payment of price of Request for Proposal, processing fee, Bid Security, in accordance with ITB Clause 3.10;</li> <li>iii. written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB Clause 3.11;</li> <li>iv. documentary evidence in accordance with ITB Clause 3.7 establishing the Bidder's eligibility to bid;</li> <li>v. documentary evidence in accordance with ITB Clause 3.8 establishing the Bidder's qualifications to perform the contract if its Bid is accepted;</li> <li>vi. Drawings/ designs in support of the Works to be executed;</li> <li>vii. the Notice Inviting Bids;</li> <li>viii. any other document required in the BDS; and</li> <li>ix. others considered necessary to strengthen the Bid submitted.</li> </ul>



		3.3.3	The Financial Bid/ Price Proposal shall contain the following : Financial Bid/ Price Proposal Submission Sheet and the applicable Price Schedules, in accordance with ITB Clauses 3.4, 3.5; <b>Any other document required in the BDS.</b>
3.4	Bid Submission Sheets and Price Schedules	3.4.1	The Bidder shall submit the Technical Bid and Financial Bid using the Bid Submission Sheets provided in Section IV [Bidding Forms]. These forms must be completed without any alterations to their format, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested.
		3.4.2	The Bidder shall submit as part of the Financial Bid, the Price Schedules for Works, using the forms provided in Section IV [Bidding Forms].
3.5	Bid Prices	3.5.1	i. In case of Viability Gap Funding (VGF) Contracts, combined single percentage rate must be quoted by the Bidder for all items of the Bill of Quantities. ii. A Schedule of Rates shall be specified in the Bid Data Sheet in order to regulate the amount to be added to or deducted from the fixed sum on account of additions and alterations not covered by the Contract. Payments shall be linked to various stages of completion of the Works specified in Activity Schedule given in Bid Data Sheet.
		3.5.2	Prices quoted by the Bidder shall be fixed during the Bidder's Performance of the Contract and not subject to variation on any account, unless otherwise specified in the BDS. A Bid submitted with an adjustable price quotation shall be treated as non-responsive and shall be rejected, pursuant to ITB Clause 5.7 [Responsiveness of Bids]. However, if in accordance with the BDS, prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract, a Bid submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero.
		3.5.3	All duties, taxes and other levies payable by the Bidder under the contract, or for any other cause, shall be included in the rates and prices, and the total Bid Price submitted by the Bidder.
3.6	Currencies of Bid.	3.6.1	The prices shall be quoted by the Bidder entirely in Indian Rupees unless otherwise specified in BDS. All payments shall be made in Indian Rupees only, unless otherwise specified in the BDS.
3.7	Documents Establishing the Eligibility of the Bidder	3.7.1	To establish their eligibility in accordance with ITB Clause 1.4 [Eligible Bidders], Bidders shall: complete the eligibility declarations in the Bid Submission Sheet and Declaration Form included in Section IV [Bidding Forms]; if the Bidder is an existing or intended Joint Venture [JV], Consortium or Association in accordance with ITB Sub-Clause 1.4.1, shall submit a copy of the Agreement, or a letter of intent to enter into such Agreement. The respective document shall be signed by all legally

			authorised signatories of all the parties to the existing or intended JV, Consortium or Association as appropriate; and the existing or intended JV shall authorise an individual/ partner in one of the firms as lead partner of the JV to act and commit all the partners of JV for the Bid.
3.8	Documents Establishing the Qualifications of the Bidder	3.8.1	To establish its qualifications to perform the Contract, the Bidder shall submit as part of its Technical Proposal the documentary evidence indicated for each qualification criteria specified in Section III, [Evaluation and Qualification Criteria].
3.9	Period of Validity of Bids	3.9.1	Bids shall remain valid for 90 days or the period specified in the BDS after the Bid submission deadline date as specified by the Procuring Entity. A Bid valid for a shorter period shall be rejected by the Procuring Entity as non-responsive.
		3.9.2	In exceptional circumstances, prior to the expiration of the Bid validity period, the Procuring Entity may request Bidders to extend the period of validity of their Bids. The request and the responses shall be made in writing. The Bid Security or a Bid Securing Declaration in accordance with ITB Clause 3.10 [Bid Security] shall also be got extended for thirty days beyond the dead line of the extended validity period. A Bidder may refuse the request without forfeiting its Bid Security or a Bid Securing Declaration. A Bidder granting the request shall not be permitted to modify its Bid.
3.10	Bid Security	3.10.1	Unless otherwise specified in the BDS, the Bidder shall furnish as part of its Bid, a Bid Security for the amount specified in the BDS.
		3.10.2	Bid Security shall be 2% of the value of the Works indicated in the NIB. The bid security shall be in Indian Rupees, if not otherwise specified in the BDS.
		3.10.3	The Bid Security may be given in the form of a banker's Cheque or demand draft or bank guarantee of a Scheduled Bank in India, in specified format, or deposited through eGRAS/ net banking, if permitted.
		3.10.4	In lieu of Bid Security, a Bid Securing Declaration shall be taken from Government Departments and State Government Public Sector Enterprises, Autonomous bodies, Registered Societies, Cooperative Societies which are owned or controlled or managed by the State Government, Public Sector Enterprises of Central Government. For the Bid Securing Declaration the Bidder shall use the form included in Section IV [Bidding Forms].
		3.10.5	Scanned copy of Bid Security instrument or a Bid Securing Declaration shall necessarily accompany the sealed Bid. Any Bid not accompanied by Bid Security or Bid Securing Declaration, if not exempted, shall be liable to be rejected.

		3.10.6	Bid Security of a Bidder lying with the Procuring Entity in respect of other Bids awaiting decision shall not be adjusted towards Bid Security for the this Bid. The Bid Security originally deposited may, however be taken into consideration in case Bids are re-invited.
		3.10.7	The issuer of the Bid Security and the confirmer, if any, of the Bid Security, as well as the form and terms of the Bid Security, must be acceptable to the Procuring Entity.
		3.10.8	Prior to submitting its Bid, a Bidder may request the Procuring Entity to confirm the acceptability of a proposed issuer of a Bid Security or of a proposed confirmer, if different than as specified in ITB Clause 3.10.3. The Procuring Entity shall respond promptly to such a request.
		3.10.9	The bank guarantee presented as Bid Security shall be got confirmed from the concerned issuing bank. However, the confirmation of the acceptability of a proposed issuer or of any proposed confirmer does not preclude the Procuring Entity from rejecting the Bid Security on the ground that the issuer or the confirmer, as the case may be, has become insolvent or is under liquidation or has otherwise ceased to be creditworthy.
		3.10.10	The Bid Security of unsuccessful Bidders shall be refunded soon after final acceptance of successful Bid and signing of Contract Agreement and submitting Performance Security by successful Bidder pursuant to ITB Clause 6.4 [Performance Security].
		3.10.11	The Bid Security taken from a Bidder shall be forfeited in the following cases, namely:- i. when the Bidder withdraws or modifies his Bid after opening of Bids; or ii. when the Bidder does not execute the agreement in accordance with ITB Clause 6.3 [Signing of Contract] after issue of letter of acceptance/ placement of Work order within the specified time period; or iii. when the Bidder fails to commence the Works as per Work Order within the time specified; or iv. when the Bidder does not deposit the Performance Security in accordance with ITB Clause 6.4 [Performance Security]; in the prescribed time limit after the work order is placed; v. if the Bidder breaches any provision of the Code of Integrity prescribed for Bidders in the Act and Chapter VI of the Rules or as specified in ITB Clause 1.3 [Code of Integrity]; or vi. if the Bidder does not accept the correction of its Bid Price pursuant to ITB Sub-Clause 5.5 [Correction of Arithmetical Errors].

		3.10.12	In case of the successful bidder, the amount of Bid Security may be adjusted in arriving at the amount of the Performance Security, or refunded if the successful bidder furnishes the full amount of Performance Security. No interest will be paid by the Procuring Entity on the amount of Bid Security.
		3.10.13	The Procuring Entity shall promptly refund the Bid Security of the Bidders at the earliest of any of the following events, namely:- i. the expiry of validity of Bid Security; ii. the execution of agreement for procurement and Performance Security is furnished by the successful bidder; iii. the cancellation of the procurement process; or iv. the withdrawal of Bid prior to the deadline for presenting Bids, unless the Request for Proposal stipulates that no such withdrawal is permitted.
		3.10.14	The Bid Security of a Joint Venture, Consortium or Association must be in the name of the Joint Venture, Consortium or Association that submits the Bid. If the Joint Venture, Consortium or Association has not been legally constituted at the time of Bidding, the members of the proposed consortium or JV shall enter in to an Agreement to form a legally constituted JV after the issue of Letter of Acceptance / Letter of Intent to them and also declare a partner as the lead partner in whose name the Bid Security may be submitted.
3.11	Format and Signing of Bid	3.11.1	All pages of the Technical and Financial Bid shall be digitally signed by the Bidder or authorised signatory on behalf of the Bidder. This authorisation shall consist of a written confirmation as specified in the BDS and shall be attached to the Bid. In case of a Joint Venture, Consortium or Association, if the Joint Venture, Consortium or Association has not been legally constituted at the time of Bidding, all the members of the proposed Joint Venture, Consortium or Association shall digitally sign the Bid.
<b>4. Submission and Opening of Bids</b>			
4.1	Sealing and Marking of Bids	4.1.1	Bidders shall submit their Bids to the Procuring Entity electronically only on the e-procurement portal, <a href="http://eproc.rajasthan.gov.in">eproc.rajasthan.gov.in</a> . In submission of their Bids, the Bidders should follow the step by step instructions given on the e-procurement portal.
		4.1.2	The Bidder shall enclose the Technical Bid and the Financial Bid in separate covers. The proof of payment of price of Request for Proposal, processing fee and Bid Security shall be enclosed in third cover. The price of Request for Proposal and Bid Security shall be paid in the name of the Procuring Entity and the processing fee shall be paid in the name of RISL.

4.2	Deadline for Submission of Bids	4.2.1	Bids shall be submitted electronically only upto the time and date specified in the Notice Inviting Bids and BDS or an extension issued thereof.
4.3	Withdrawal, Substitution and Modification of Bids	4.3.1	A Bidder may withdraw, substitute or modify its Bid after it has been submitted by submitting electronically on the e-procurement portal a written Withdrawal/ Substitutions/ Modifications etc. Notice on the e-procurement portal, duly digitally signed by the Bidder or his authorised representative, and shall include a copy of the authorisation in accordance with ITB Sub-Clause 3.11.1 [Format and Signing of Bid]. The corresponding Withdrawal, Substitution or Modification of the Bid must accompany the respective written Notice. All Notices must be received by the Procuring Entity on the e-procurement portal prior to the deadline specified for submission of Bids in accordance with ITB Sub-Clause 4.2. [Deadline for Submission of Bids].
		4.3.2	No Bid shall be withdrawn, substituted or modified in the interval between the deadline for submission of the Bid and the expiration of the period of Bid validity specified in ITB Clause 3.9.[Period of Validity of Bids] or any extension there of.
4.4	Bid Opening	4.4.1	The electronic Technical Bids shall be opened by the Bids opening committee constituted by the Procuring Entity at the time, date and place specified in the Bid Data Sheet in the presence of the Bidders or their authorised representatives, who choose to be present.
		4.4.2	The Bids opening committee may co-opt experienced persons in the committee to conduct the process of Bid opening.
		4.4.3	The Bidders may choose to witness the electronic Bid opening procedure online.
		4.4.4	The Financial Bids shall be kept unopened until the time of opening of the Financial Bids. The date, time, and location of electronic opening of the Financial Bids shall be intimated to the bidders who are found qualified by the Procuring Entity in evaluation of their Technical Bids.
		4.4.5	The Bids opening committee shall prepare a list of the Bidders or their representatives attending the opening of Bids and obtain their signatures on the same. The list shall also contain the representative's name and telephone number and corresponding Bidders' names and addresses. The authority letters brought by the representatives shall be attached to the list. The list shall be signed by all the members of Bids opening committee with date and time of opening of the Bids.
		4.4.6	First, covers marked as "WITHDRAWAL" shall be opened, read out, and recorded and the covers containing the corresponding Technical Bids and Financial Bids shall not be opened. No Bid shall be permitted to be withdrawn unless the corresponding withdrawal notice contains a valid authorisation to request the withdrawal



			<p>and is readout and recorded at Bid opening. If the withdrawal notice is not accompanied by the valid authorisation, the withdrawal shall not be permitted and the corresponding Technical Bid shall be opened.</p> <p>Next, covers marked as “SUBSTITUTION Technical Bid” shall be opened, read out, recorded. The covers containing the Substitution Technical Bids and/ or Substitution Financial Bids shall be exchanged for the corresponding covers being substituted. Only the Substitution Technical Bids shall be opened, read out, and recorded. Substitution Financial Bids will remain unopened in accordance with ITB Sub-Clause 4.4.4. No Bid shall be substituted unless the corresponding substitution notice contains a valid authorisation to request the substitution and is read out and recorded at Bid opening.</p> <p>Covers marked as “MODIFICATION Technical Bid” shall be opened thereafter, read out and recorded with the corresponding Technical Bids. No Technical Bid and/ or Financial Bid shall be modified unless the corresponding modification notice contains a valid authorisation to request the modification and is read out and recorded at opening of Technical Bids. Only the Technical Bids, both Original as well as Modification, are to be opened, read out, and recorded at the opening. Financial Bids, both Original as well as Modification, will remain unopened in accordance with ITB Sub-Clause 4.4.4.</p>
		4.4.7	<p>All other covers containing the Technical Bids shall be opened one at a time and the following read out and recorded-</p> <ul style="list-style-type: none"> <li>i. the name of the Bidder;</li> <li>ii. whether there is a modification or substitution;</li> <li>iii. whether proof of payment of Bid Security or Bid Securing Declaration, if required, payment of price of the Request for Proposal and processing fee have been enclosed;</li> <li>iv. any other details as the Bids opening committee may consider appropriate.</li> </ul> <p>After all the Bids have been opened, their hard copies shall be printed and shall be initialed and dated on the first page and other important papers of each Bid by the members of the Bids opening committee.</p>
		4.4.8	<p>Only Technical Bids shall be read out and recorded at the bid opening and shall be considered for evaluation. No Bid shall be rejected at the time of opening of Technical Bids except Alternative Bids (if not permitted) and Bids not accompanied with the proof of payment of the required price of Request for Proposal, processing fee and Bid Security.</p>
		4.4.9	<p>The Bids opening committee shall prepare a record of opening of Technical Bids that shall include, as a minimum: the name of the Bidder and whether there is a</p>

			withdrawal, substitution, modification, or alternative offer (if they were permitted), any conditions put by Bidder and the presence or absence of the price of Request for Proposal, processing fee and Bid Security. The Bidders or their representatives, who are present, shall sign the record. The members of the Bids opening committee shall also sign the record with date.
		4.4.10	After completion of the evaluation of the Technical Bids, the Procuring Entity shall invite Bidders who have submitted substantially responsive Technical Bids and who have been determined as being qualified to attend the electronic opening of the Financial Bids. The date, time, and location of the opening of Financial Bids will be intimated in writing by the Procuring Entity. Bidders shall be given reasonable notice of the opening of Financial Bids.
		4.4.11	The Procuring Entity shall notify Bidders in writing whose Technical Bids have been rejected on the grounds of being substantially non-responsive and not qualified in accordance with the requirements of the Request for Proposal.
		4.4.12	The Bids opening committee shall conduct the electronic opening of Financial Bids of all Bidders who submitted substantially responsive Technical Bids and have qualified in evaluation of Technical Bids, in the presence of Bidders or their representatives who choose to be present at the address, date and time specified by the Procuring Entity.
		4.4.13	<p>All covers containing the Financial Bids shall be opened one at a time and the following read out and recorded-</p> <ul style="list-style-type: none"> <li>i. the name of the Bidder;</li> <li>ii. whether there is a modification or substitution;</li> <li>iii. the Bid Prices;</li> <li>iv. any other details as the Bids opening committee may consider appropriate.</li> </ul> <p>After all the Bids have been opened, their hard copies shall be printed and shall be initialed and dated on the first page of the each Bid by the members of the Bids opening committee. All the pages of the Price Schedule and letters, Bill of Quantities attached shall be initialed and dated by the members of the committee. Key information such as prices, completion period, etc. shall be encircled and unfilled spaces in the Bids shall be marked and signed with date by the members of the Bids opening committee.</p>
		4.4.14	The Bids opening committee shall prepare a record of opening of Financial Bids that shall include as a minimum: the name of the Bidder and whether there is a withdrawal, substitution, or modification, the Bid Price, any conditions, any discounts and alternative offers (if they were permitted). The Bidders or their representatives, who are present, shall sign the record.

			The members of the Bids opening committee shall also sign the record with date.
<b>5. Evaluation and Comparison of Bids</b>			
5.1	Confidentiality	5.1.1	Information relating to the examination, evaluation, comparison, and post-qualification of Bids, and recommendation of contract award, shall not be disclosed to Bidders or any other persons not officially concerned with such process until information on Contract award is communicated to all Bidders.
		5.1.2	Any attempt by a Bidder to influence the Procuring Entity in its examination of qualification, evaluation, comparison of the Bids or Contract award decisions may resulting in the rejection of its Bid, in addition to the legal action which may be taken by the Procuring Entity under the Act and the Rules.
		5.1.3	Notwithstanding ITB Sub-Clause 5.1.2 [Confidentiality], from the time of opening the Bid to the time of Contract award, if any Bidder wishes to contact the Procuring Entity on any matter related to the Bidding process, it shall do so in writing.
		5.1.4	In addition to the restrictions specified in section 49 of the Act, the Procuring Entity, while procuring a subject matter of such nature which requires the procuring Entity to maintain confidentiality, may impose condition for protecting confidentiality of such information.
5.2	Clarification of Technical or Financial Bids	5.2.1	To assist in the examination, evaluation, comparison and qualification of the Technical or Financial Bids, the Bid evaluation committee may, at its discretion, ask any Bidder for a clarification regarding his Bid. The committee's request for clarification and the response of the Bidder shall be in writing.
		5.2.2	Any clarification submitted by a Bidder with regard to his Bid that is not in response to a request by the Bid evaluation committee shall not be considered.
		5.2.3	No change in the prices or substance of the Bid shall be sought, offered, or permitted, except to confirm the correction of arithmetical errors discovered by the Bid evaluation committee in the evaluation of the financial Bids.
		5.2.4	No substantive change to qualification information or to a submission, including changes aimed at making an unqualified Bidder, qualified or an unresponsive submission, responsive shall be sought, offered or permitted.
5.3	Deviations, Reservations and Omissions in Technical or Financial Bids	5.3.1	During the evaluation of Technical or Financial Bids, the following definitions apply: <ul style="list-style-type: none"> <li>i. "Deviation" is a departure from the requirements specified in the Request for Proposal;</li> <li>ii. "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Request for</li> </ul>

			<p>Proposal; and</p> <p>iii. "Omission" is the failure to submit part or all of the information or documentation required in the Request for Proposal.</p>
5.4	Nonmaterial Non conformities in Technical or Financial Bids	5.4.1	Provided that a Technical or Financial Bid is substantially responsive, the Procuring Entity may waive any nonconformities (with recorded reasons) in the Bid that do not constitute a material deviation , reservation or omission.
		5.4.2	Provided that a Technical or Financial Bid is substantially responsive, the Procuring Entity may request the Bidder to submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the Bid related to documentation requirements. Request for information or documentation on such nonconformities shall not be related to any aspect of the Financial Proposal of the Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.
5.5	Correction of Arithmetical Errors in Financial Bid	5.5.1	<p>Provided that a Financial Bid is substantially responsive, the Bid evaluation committee shall correct arithmetical errors during evaluation of Financial Bid on the following basis:</p> <p>i. if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Procuring Entity there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;</p> <p>ii. if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and</p> <p>iii. if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (i) and (ii) above.</p>
		5.5.2	If the Bidder that submitted the lowest evaluated Bid does not accept the correction of errors, its Bid shall be disqualified and its Bid Security shall be forfeited or its Bid Securing Declaration shall be executed.
5.6	Preliminary Examination of Technical or Financial Bids	5.6.1	The Procuring Entity shall examine the Technical or Financial Bids to confirm that all documents and technical documentation requested in ITB Sub-Clause 3.3 [Documents Comprising the Bid] have been provided, and to determine the completeness of each document submitted.

		5.6.2	<p>The Procuring Entity shall confirm, following the opening of the Technical or Financial Bids, that the following documents and information have been provided :</p> <ul style="list-style-type: none"> <li>i. Bid is signed, as per the requirements listed in the Request for Proposals;</li> <li>ii. Bid has been sealed as per instructions provided in the Request for Proposals;</li> <li>iii. Bid is valid for the period, specified in the Request for Proposals;</li> <li>iv. Bid is accompanied by Bid Security or Bid securing declaration;</li> <li>v. Bid is unconditional and the Bidder has agreed to give the required performance Security;</li> <li>vi. Price Schedules in the Financial Bids are in accordance with ITB Clause 3.4 [Bid Submission Sheets and Price Schedules];</li> <li>vii. written confirmation of authorisation to commit the Bidder;</li> <li>viii. Declaration by the Bidder in compliance of Section 7 and 11 of the Act; and</li> <li>ix. other conditions, as specified in the Request for Proposal are fulfilled.</li> </ul>
5.7	Responsiveness of Technical or Financial Bids	5.7.1	The Procuring Entity's determination of the responsiveness of a Technical or Financial Bid is to be based on the contents of the Bid itself, as defined in ITB Sub-Clause 3.3 [Documents Comprising the Bid].
		5.7.2	<p>A substantially responsive Technical or Financial Bid is one that meets without material deviation, reservation, or omission to all the terms, conditions, and specifications of the Request for Proposal. A material deviation, reservation, or omission is one that:</p> <p>(a) if accepted, would-</p> <ul style="list-style-type: none"> <li>i. affect in any substantial way the scope, quality, or performance of the Goods and Related Services specified in Section V, Schedule of Supply; or</li> <li>ii. limits in any substantial way, inconsistent with the Request for Proposal ,the Procuring Entity's rights or the Bidder's obligations under the proposed Contract; or</li> </ul> <p>(b) if rectified, would unfairly affect the competitive position of other Bidders presenting substantially responsive Bids.</p>
		5.7.3	The Procuring Entity shall examine the technical aspects of the Bid in particular, to confirm that requirements of Section V, Procuring Entity's Requirements have been met without any material deviation, reservation, or omission.



		5.7.4	If a Technical or Financial Bid is not substantially responsive to the Request for Proposal, it shall be rejected by the Procuring Entity and may not subsequently be made responsive by the Bidder by correction of the material deviation, reservation, or omission.
5.8	Examination of Terms and Conditions of the Technical or Financial Bids	5.8.1	The Procuring Entity shall examine the Bids to confirm that all terms and conditions specified in the GCC and the SCC have been accepted by the Bidder without any material deviation or reservation.
		5.8.2	The Procuring Entity shall evaluate the technical aspects of the Bid submitted in accordance with ITB Clauses 3.3 [Documents Comprising the Bid] and to confirm that all requirements specified in Section V [Procuring Entity's Requirements] of the Request for Proposal and all amendments or changes requested by the Procuring Entity in accordance with ITB Clause 2.3 [Amendment of Request for Proposal] have been met without any material deviation or reservation.
5.9	Evaluation of Qualification of Bidders in Technical Bids	5.9.1	The determination of qualification of a Bidder in evaluation of Technical Bids shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB Clause 3.8 [Documents Establishing the Qualifications of the Bidder] and in accordance with the qualification criteria indicated in Section III [Evaluation and Qualification Criteria]. Factors not included in Section III, shall not be used in the evaluation of the Bidder's qualification.
5.10	Evaluation of Financial Bids	5.10.1	The Procuring Entity shall evaluate each Financial Bid, the corresponding Technical Bid of which has been determined to be substantially responsive
		5.10.2	To evaluate a Financial Bid, the Procuring Entity shall only use all the criteria and methodologies defined in this Clause and in Section III, Evaluation and Qualification Criteria. No other criteria or methodology shall be permitted.
		5.10.3	To evaluate a Financial Bid, the Procuring Entity shall consider the following: <ul style="list-style-type: none"> <li>i. the Bid Price quoted in the Financial Bid;</li> <li>ii. price adjustment for correction of arithmetical errors in accordance with ITB Clause 5.5 [Correction of Arithmetical Errors];</li> <li>iii. adjustment of bid prices due to rectification of nonmaterial nonconformities or omissions in accordance with ITB Sub Clause 5.4.3 [Nonmaterial Nonconformities in Bids], if applicable.</li> </ul>
		5.10.4	If the Bid, which results in the lowest evaluated Bid Price, is considered to be seriously unbalanced, or front loaded, in the opinion of the Procuring Entity, the

			Procuring Entity may require the Bidder to produce detailed rate analysis for any or all items of the Bill of Quantities, to demonstrate the internal consistency of those rates with the construction methods and schedule proposed. After evaluation of the rate analysis, taking into consideration, the schedule of estimated Contract payments, the Procuring Entity may require that the amount of the Performance security be increased at the cost of the Bidder to a level sufficient to protect the Procuring Entity against financial loss in the event of default of the successful Bidder under the Contract.
5.11	Comparison of Bids	5.11.1	The Procuring Entity shall compare all substantially responsive Financial Bids to determine the lowest-evaluated Financial Bid in accordance with ITB Sub-Clause 5.10 [Evaluation of Financial Bids].
5.12	Negotiations	5.12.1	To the extent possible, no negotiations shall be conducted after the pre-Bid stage. All clarifications needed to be sought shall be sought in the pre-Bid stage itself.
		5.12.2	Negotiations may, however, be undertaken only with the lowest Bidder under the following circumstances- <ul style="list-style-type: none"> <li>i. when ring prices have been quoted by the Bidders for the subject matter of procurement; or</li> <li>ii. when the rates quoted vary considerably and considered much higher than the prevailing market rates.</li> </ul>
		5.12.3	The Bid evaluation committee shall have full powers to undertake negotiations. Detailed reasons and results of negotiations shall be recorded in the proceedings.
		5.12.4	The lowest Bidder shall be informed about negotiations in writing either through messenger or by registered letter and e-mail (if available). A minimum time of seven days shall be given for calling negotiations. In case of urgency, the Bid evaluation committee, after recording reasons, may reduce the time, provided the lowest Bidder has received the intimation and consented to holding of negotiations.
		5.12.5	Negotiations shall not make the original offer made by the Bidder inoperative. The Bid evaluation committee shall have option to consider the original offer in case the Bidder decides to increase rates originally quoted or imposes any new terms or conditions.
		5.12.6	In case of non-satisfactory achievement of rates from lowest Bidder, the Bid evaluation committee may choose to make a written counter offer to the lowest Bidder and if this is not accepted by him, the committee may decide to reject and re-invite Bids or to make the same counter-offer first to the second lowest Bidder, then to the third lowest Bidder and so on in the order of their initial standing in the bid evaluation and work order be awarded to the Bidder who accepts the counter-offer.
		5.12.7	In case the rates even after the negotiations are

			considered very high, fresh Bids shall be invited.
5.15	Procuring Entity's Right to Accept Any Bid, and to Reject Any or All Bids	5.13.1	The Procuring Entity reserves the right to accept or reject any Bid, and to annul the Bidding process and reject all Bids at any time prior to Contract award without assigning any reasons thereof and without there by incurring any liability to the Bidders.
<b>6. Award of Contract</b>			
6.1	Procuring Entity's Right to Vary Quantities	6.1.1	If the Procuring Entity does not procure any subject matter of procurement or procures less than the quantity specified in the Request for Proposal due to change in circumstances, the Bidder shall not be entitled for any claim or compensation except otherwise provided in the Request for Proposal.
		6.1.2	Order for additional quantity of an item of the Works upto 50 percent of the original quantity of that item in the Bill of Quantities and for extra items not provided for in the Bill of Quantities may be given but the amount of the additional quantities and extra items, taken together, shall not exceed 50 percent of the Contract Price.
6.2	Acceptance of the successful Bid and award of contract	6.2.1	The Procuring Entity after considering the recommendations of the Bid Evaluation Committee and the conditions of Bid, if any, financial implications, samples, test reports, etc., shall accept or reject the successful Bid.
		6.2.2	Before award of the Contract, the Procuring Entity shall ensure that the price of successful Bid is reasonable and consistent with the required specifications.
		6.2.3	A Bid shall be treated as successful only after the competent authority has approved the procurement in terms of that Bid.
		6.2.4	The Procuring Entity shall award the contract to the Bidder whose offer has been determined to be the lowest in accordance with the evaluation criteria set out in the Request for Proposal if the Bidder has been determined to be qualified to perform the contract satisfactorily on the basis of qualification criteria fixed for the Bidders in the Request for Proposal for the subject matter of procurement.
		6.2.5	Prior to the expiration of the period of validity of Bid, the Procuring Entity shall inform the successful Bidder in writing, by registered post or email, that its Bid has been accepted.
		6.2.6	If the issuance of formal letter of acceptance (LOA) is likely to take time, in the meanwhile a Letter of Intent (LOI) may be sent to the Bidder. The acceptance of an offer is complete as soon as the letter of acceptance or letter of intent is posted and/ or sent by email (if available) to the address of the Bidder given in the Request for Proposal.
6.3	Signing of Contract	6.3.1	In the written intimation of acceptance of its Bid sent to the successful Bidder, it shall also be requested to

			execute an agreement in the format given in the Request for Proposal on a non-judicial stamp of requisite value at his cost and deposit the Performance Security or a Performance Security Declaration, if applicable, within a period specified in the BDS or where the period is not specified in the BDS, then within fifteen days from the date on which the LOA or LOI is dispatched to the Bidder. In case the successful bidder is a JV still to be legally constituted, all parties to the JV shall sign the Agreement.
		6.3.2	If the Bidder, whose Bid has been accepted, fails to sign a written procurement contract or fails to furnish the required Performance Security or Performance Security Declaration within the specified time period, the Procuring Entity shall forfeit the Bid Security of the successful bidder / execute the Bid Securing Declaration and take required action against it as per the provisions of the Act and the Rules.
		6.3.3	The Bid Security, if any, of the Bidders whose Bids could not be accepted shall be refunded soon after the contract with the successful Bidder is signed and his Performance Security is obtained. Until a formal contract is executed, LOA or LOI shall constitute a binding contract.
6.4	Performance Security	6.4.1	Performance Security shall be solicited from the successful Bidder except State Govt. Departments and undertakings, corporations, autonomous bodies, registered societies, co-operative societies which are owned or controlled or managed by the State Government and undertakings of Central Government. However, a Performance Security Declaration shall be taken from them. The State Government may relax the provision of Performance Security in particular procurement.
		6.4.2	(i) The amount of Performance Security shall be ten percent, or as specified in the BDS, of the amount of the Work Order. The currency of Performance Security shall be Indian Rupees, if otherwise not specified in BDS
		6.4.3	Performance Security shall be furnished in one of the following forms as applicable- (a) <del>Deposit through eGRAS; or</del> (b) Bank Draft or Banker's Cheque of a Scheduled Bank in India; or (c) National Savings Certificates and any other script/ instrument under National Savings Schemes for promotion of small savings issued by a Post Office in Rajasthan, if the same can be pledged under the relevant rules. They shall be accepted at their surrender value at the time of Bid and formally transferred in the name of the Procuring Entity with the approval of Head Post Master; or (d) Bank guarantee. It shall be got verified from the issuing bank. Other conditions regarding bank guarantee

			<p>shall be same as specified in ITB Sub-Clause 3.10 [Bid Security]; or</p> <p>(e) Fixed Deposit Receipt (FDR) of a Scheduled Bank. It shall be in the name of the Procuring Entity on account of Bidder and discharged by the Bidder in advance. The Procuring Entity shall ensure before accepting the Fixed Deposit Receipt that the Bidder furnishes an undertaking from the bank to make payment/ premature payment of the Fixed Deposit Receipt on demand to the Procuring Entity without requirement of consent of the Bidder concerned. In the event of forfeiture of the Performance Security, the Fixed Deposit shall be forfeited along with interest earned on such Fixed Deposit.</p> <p>(f) The successful Bidder at the time of signing of the Contract agreement, may submit option for deduction of Performance Security from his each running and final bill @ 10% of the amount of the bill.</p>
		6.4.4	<p>Performance Security furnished in the form of a document mentioned at options (a) to (e) of Sub-Clause 6.4.3 above, shall remain valid for a period of sixty days beyond the date of completion of all contractual obligations of the Bidder, including operation and / or maintenance and defect liability period, if any.</p>
		6.4.5	<p>Failure of the successful Bidder to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security. In that event the Procuring Entity may either cancel the procurement process or if deemed appropriate, award the Contract at the rates of the lowest Bidder, to the next lowest evaluated Bidder whose offer is substantially responsive and is determined by the Procuring Entity to be qualified to perform the Contract satisfactorily.</p>
		6.4.6	<p>Forfeiture of Performance Security: Amount of Performance Security in full or part may be forfeited in the following cases:-</p> <ol style="list-style-type: none"> <li>when the Bidder does not execute the agreement in accordance with ITB Clause 6.3 [Signing of Contract] within the specified time; after issue of letter of acceptance; or</li> <li>when the Bidder fails to commence the Works as per Work order within the time specified; or</li> <li>when the Bidder fails to complete Contracted Works satisfactorily within the time specified; or</li> <li>when any terms and conditions of the contract is breached; or</li> <li>to adjust any established dues against the Bidder from any other contract with the Procuring Entity; or</li> <li>if the Bidder breaches any provision of the Code of Integrity prescribed for the Bidders specified in the</li> </ol>

			<p>Act, Chapter VI of the Rules and this Request for Proposal.</p> <p>vii. Notice of reasonable time will be given in case of forfeiture of Performance Security. The decision of the Procuring Entity in this regard shall be final.</p>
<b>7. Redressal of Grievances during Procurement Process (Appeals)</b>			
7	Grievance handling procedure during procurement process	7.1	Any grievance of a Bidder pertaining to the procurement process shall be by way of filing an appeal to the First or Second Appellate Authority, as the case may be, as specified in the BDS, in accordance with the provisions of chapter III of the Act and chapter VII of the Rules and as given in Appendix A to these ITB.

## **Appendix A: Grievance Handling Procedure during Procurement Process (Appeals)**

### **(1) Filing an appeal**

If any Bidder or prospective Bidder is aggrieved that any decision, action or omission of the Procuring Entity is in contravention to the provisions of the Act or the Rules or the Guidelines issued there under, he may file an appeal to First or Second Appellate Authority, as the case may be, as may be designated for the purpose, within a period of ten days from the date of such decision, action, or omission, as the case may be, clearly giving the specific ground or grounds on which he feels aggrieved:

Provided that after the declaration of a Bidder as successful in terms of section 27 of the Act, the appeal may be filed only by a Bidder who has participated in procurement proceedings:

Provided further that in case a Procuring Entity evaluates the technical Bid before the opening of the financial Bid, an appeal related to the matter of financial Bid may be filed only by a Bidder whose technical Bid is found to be acceptable.

### **(2) Appeal not to lie in certain cases**

No appeal shall lie against any decision of the Procuring Entity relating to the following matters, namely:-

- (a) determination of need of procurement;
- (b) provisions limiting participation of Bidders in the Bid process;
- (c) the decision of whether or not to enter into negotiations;
- (d) cancellation of a procurement process;
- (e) applicability of the provisions of confidentiality.

### **(3) Form of Appeal**

- (a) An appeal shall be in the annexed Form along with as many copies as there are respondents in the appeal.
- (b) Every appeal shall be accompanied by an order appealed against, if any, affidavit verifying the facts stated in the appeal and proof of payment of fee.
- (c) Every appeal may be presented to First Appellate Authority or Second Appellate Authority, as the case may be, in person or through registered post or authorised representative.

### **(4) Fee for filing appeal**

- (a) Fee for first appeal shall be rupees two thousand five hundred and for second appeal shall be rupees ten thousand, which shall be non-refundable.

- (b) The fee shall be paid in the form of bank demand draft or banker's Cheque of a Scheduled Bank payable in the name of Appellate Authority concerned.

### **(5) Procedure for disposal of appeals**

- (a) The First Appellate Authority or Second Appellate Authority, as the case may be, upon filing of appeal, shall issue notice accompanied by copy of appeal, affidavit and documents, if any, to the respondents and fix date of hearing.
- (b) On the date fixed for hearing, the First Appellate Authority or Second Appellate Authority, as the case may be, shall,-
  - (i) hear all the parties to appeal present before him; and
  - (ii) peruse or inspect documents, relevant records or copies thereof relating to the matter.
- (c) After hearing the parties, perusal or inspection of documents and relevant records or copies thereof relating to the matter, the Appellate Authority concerned shall pass an order in writing and provide the copy of order to the parties to appeal free of cost.
- (d) The order passed under sub-clause (c) above shall be placed on the State Public Procurement Portal.



**Annexure**

**FORM No. 1**

**[See rule 83]**

**Memorandum of Appeal under the Rajasthan Transparency in Public Procurement Act, 2012**

Appeal No .....of .....

Before the ..... (First / Second Appellate Authority)

1. Particulars of appellant:

- (i) Name of the appellant:
- (ii) Official address, if any:
- (iii) Residential address:

2. Name and address of the respondent(s):

- 1.
- 2.
- 3.

3. Number and date of the order appealed against and name and designation of the officer / authority who passed the order (enclose copy), or a statement of a decision, action or omission of the Procuring Entity in contravention to the provisions of the Act by which the appellant is aggrieved:

4. If the Appellant proposes to be represented by a representative, the name and postal address of the representative:

5. Number of affidavits and documents enclosed with the appeal:

6. Grounds of appeal:

.....  
.....  
.....(Supported by an affidavit)

7. Prayer:

.....  
.....

Place .....

Date .....

Appellant's Signature

**Section II: Bid Data Sheet**

This section consists of provisions that are specific to each procurement and supplement the information or requirements included in Section I: Instructions to Bidders.

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## Instructions to Bidders Clause Reference

### Introduction

ITB. 1.1.1	<p>The Number of the Invitation for Bids (NIT) is : <b>20 / 2015-16</b></p> <p>The Procuring Entity is : Chief Executive Officer, Nagar Nigam, Jaipur</p> <p>Representative of the Procuring Entity: ULBs</p> <p><b>Name of Cluster: 65 Package No. 1 – Mansarovar Zone, Nagar Nigam, Jaipur</b></p> <p>Name of the works : Door to door collection of segregated or un- segregated municipal solid waste from all households, Shops and establishments in package area on a daily basis using covered motorized light commercial vehicle and direct transportation of waste so collected to respective MSW processing facility / land fill site as may be directed by the authority from time to time MSW collected from door to door and markets during the Concession Period. The facility shall be further scalable over the period of the concession.</p> <p>(Detailed Scope of work has been defined in Section 5.)</p>
	<p><b>Period of Completion:</b></p> <p>Development entire project as per requirement in accordance to the provisions of the MSW Rules 2000, Guidelines of CPHEEO manual, and Guidelines of the Swachh Bharat Mission of from the Start Date, which shall be the date of issue of the Work Order or such other Start Date as may be specified in the Work Order. After development of the project in all respect execution period operation and Maintenance is for 5 years which can be further extendable by mutually agreed by parties.</p>
	<p><b>Estimated Cost of work is as under:</b></p> <p>Total Basic Cost of Works: <b>Rs. 501.10 Lacs</b> per/year.</p> <p>Cost recovery through collection of user charges from households/ commercial/hotels/restaurant etc and Grant @20% from GoI under Swachh Bharat Mission (SBM), If Viability Gap Funding (VGF) bids are invited on basis of minimum % of VGF which shall be paid to contractor by concerned from their own resources/Grant /TFC/SFC/Urban Cess etc.</p>
	<p><b>Government of Rajasthan and Nagar Nigam, Jaipur are keen to improve Solid Waste Management (SWM) in the city in terms of Municipal Solid Waste (Management &amp; Handling) Rules-2000, and Swachh Bharat Mission (SBM) involving private sector to provide SWM services using his own money, tools, manpower, vehicles &amp; equipment through 5 years contracts in package area on VGF basis.</b></p> <p><b>The type of Contract is percentage Viability Gap Funding (VGF) rates to be quoted in financial bid in percentage of VGF after considering all the expenses for development of project along with 5 years O&amp;M</b></p>

ITB 1.4.1	<p><b>Joint Ventures/ Consortiums is permitted.</b></p> <ol style="list-style-type: none"> <li>Looking at the variety of activities involved in the Project design and execution requiring expertise and experience in different subjects, a Joint venture/Consortium of maximum 3 members is allowed. All partners shall be jointly and severally liable and their roles and responsibilities shall be clearly spelt out in the document.</li> <li>For the purpose of evaluation of Technical Bid, experience and financial standing of members having committed minimum 20% stake in the Consortium shall only be considered. The Lead Member of the Consortium shall have minimum 51% stake in the Consortium.</li> <li>Only lead bidder, in case of consortium, shall purchase the RFP document in his own name. The submission of a bid/RFP document by a Firm / Company other than the sole bidder/lead bidder shall not be considered.</li> <li>The Bidder, who shall be the Lead Member of the Consortium shall hold not less than 51% of the total paid up equity share capital of the Concessionaire and each of the remaining entities comprising the Consortium shall hold not less than 20% of the issued and paid up equity share capital of the Concessionaire throughout the entire Concession Period as per the terms of this RFP and the Concession Agreement. The Bidder further acknowledges and agrees that the aforesaid obligation shall be the minimum, and shall be in addition to such other obligations as may be contained in the Concession Agreement, and a breach hereof shall, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach of the Concession Agreement and dealt with as such there under.</li> </ol> <p>As regard formation of consortium the bidders are required to adhere to the conditions mentioned in the RFP document</p>
ITB 1.4.2	The invitation to Bid is open for national bidders and who pursue the business of similar nature of works contracts in the State of India.
ITB 1.4.8	The bidding process is open to bidders who fulfil the prescribed eligibility criteria.
ITB 1.4.9	Each bidder shall upload on-line / submit only one bid for each package.

### **Bidding Documents**

ITB 2.1.3	This is an “on-line tender”. Therefore, tender documents in physical form shall not be available for sale but can be downloaded from the website and pay its price (Rs 5000/-) while submitting the filled-up Bidding document to the Procuring Entity along with the processing fee of Rs 1000/- separately in favour of MD, RISL, Jaipur
ITB 2.2.1	For Clarification purposes only, the Procuring Entity’s address is : <b>Director cum Joint Secretary Directorate of Local Bodies- Rajasthan, G-03, Rajmahal Residency, Near Civil Lines-Railway Crossing, Jaipur-  Phone:- +91 141 2222469, Fax : +91 141 2222403, Email:</b>

	<b><u>dlbrajasthan@gmail.com</u></b>
ITB 2.2.2	<p>A Pre-Bid conference will take place at the office of the <b>Director cum Joint Secretary Local Bodies- Rajasthan, G-03, Rajmahal Residency, Near Civil Lines-Railway Crossing, Jaipur-</b> <b>on (Date) 19.02.2015 at (Time) 11:00 Hrs.</b></p> <p>No Site visit shall be organised by the procuring entity, however, bidder is advised to visit the site at his own expenses and if any support is required, shall be provided by the EO/EE of the ULB concerned</p>
ITB 2.2.3	The Bidder is requested, to submit questions in writing, to reach the Procuring Entity preferably not later than one week before the Pre- Bid Conference. However, Department may also consider questions / queries, raised in writing, during the pre-bid conference.

### Preparation of Bids

ITB 3.2.1	The language of the bid shall be: <b>English</b>
ITB 3.3.1	The on-line Bid shall comprise of two parts submitted simultaneously, one containing the Technical Bid/ Proposal and the other the Financial or Price Bid/ Proposal.
ITB 3.3.2	The Bidder shall submit the forms, declarations and documents, as specified in section IV of ITB, with the Technical Bid:
ITB 3.3.3	<p>The Bidder shall upload the following documents with its Financial Bid:</p> <p>a) Financial Proposal Submission Sheet Preamble to BoQ</p>
ITB 3.5.1	<p><b>Nagar Nigam, Jaipur is keen to improve Solid Waste Management (SWM) in the city in terms of Municipal Solid Waste (Management &amp; Handling) Rules-2000, and Swachh Bharat Mission (SBM) involving private sector to provide SWM services using his own money, tools, manpower, vehicles &amp; equipment through 5 years contracts in cluster/city on VGF basis.</b></p> <p><b>The type of Contract is percentage Viability Gap Funding (VGF) rates to be quoted in financial bid in percentage of VGF after considering all the expenses for development of project along with 5 years O&amp;M</b></p>
ITB 3.5.2	The Prices quoted by the Bidder shall be fixed. Provision of Price escalation shall be as per Conditions of Contract.
ITB 3.5.3	All variations in taxes and duties shall be borne by the contractor.
ITB 3.9.1	The Bid validity period shall be <b>90 (Ninety days)</b> days from deadline for submission of bids.
ITB 3.10.3	<p>A Bid Security of <b>Rs. 50.11 Lacs (Rupees Fifty lac Eleven thousand only)</b> (2% of the value of the works indicated in the NIB) shall be provided as a part of the bid in the form of a banker's Cheque or demand draft or bank guarantee of a Scheduled Bank in India, in specified format which shall remain valid for a period of 30 (thirty) days beyond the validity of the bid.</p> <p>For bidders registered with the Procuring Entity.</p>
ITB 3.11.1	Only Digital signed copy of RFP shall be submitted through e-procurement

	website.
ITB 3.11.2	The written confirmation of authorization to sign on behalf of the Bidder shall consist of: Power of Attorney

### Submission and Opening of Bids

ITB 4.1.1	<p>For bid submission purposes only, the Procuring Entity's address is : Nagar Nigam, Jaipur Pandit Deendayal Upphadaya Bawan, Lal Kothi, Tonk Road, Jaipur-302015 Raj.</p> <p><b>Bidders shall submit their Bids electronically only.</b></p> <p>The Bidders shall submit the Bid online with all pages numbered serially and by giving an index of submissions. Each page of the submission shall be initialled by the Authorised Representative of the Bidder as per the terms of the RFP. The Bidder shall be responsible for documents accuracy and correctness as per the version uploaded by the Employer and shall ensure that there are no changes caused in the content of the downloaded document. The bidder shall follow the following instructions for online submission:</p> <ul style="list-style-type: none"> <li>• Bidder who wants to participate in bidding will have to procure digital certificate as per IT Act 2000 to sign their electronic bids. Offers which are not digitally signed will not be accepted. Bidder shall submit their offer in electronic format on above mentioned website after digitally signing the same.</li> <li>• Cost of bid document is <b>Rs.5000/-</b> per tender should be deposited by Non Refundable Demand Draft drawn in favor of Chief Executive Officer, Nagar Nigam, Jaipur, payable at Jaipur, whereas the Processing <b>fee Rs. 1000/-</b> should be deposited by Non Refundable Demand Draft drawn in favour of MD, RISL, Jaipur payable at Jaipur. Original documents along with above mentioned fees and other documents as per RFP conditions, has to be deposited up to <b>14.00 hrs on 16.03.2015</b> before opening of technical bid.</li> <li>• The Employer will not be responsible for any mistake occurred at the time of uploading of bid or thereafter.</li> <li>• If holiday is declared on submission &amp; opening date of tender the scheduled activity will take place on next working day.</li> </ul>
ITB 4.1.2, 4.1.3, 4.1.4	Bids are required to be submitted in Electronic Format, it shall be submitted on the e-procurement portal : <a href="http://eproc.rajathan.gov.in">http://eproc.rajathan.gov.in</a>
ITB 4.2.1	<p>The Deadline for electronic Bid submission is</p> <p><b>Date: 13.03.2015</b></p> <p><b>Time: 15:00 Hrs.</b></p>
ITB 4.5.1	<p>The on-line Bid opening shall take place at: Nagar Nigam, Jaipur Pandit Deendayal Upphadaya Bawan, Lal Kothi, Tonk Road, Jaipur-302015 Raj.</p> <p><b>Date: 16.03.2015</b></p> <p><b>Time: 15:00 Hrs.</b></p> <p>The tendering process shall be conducted on-line. No envelopes are required to be submitted physically except tendering fees original.</p>
ITB 4.5.14, 4.5.15	The Employer will open the Financial proposal as per e-tendering procedure.

**Award of Contract**

ITB 6.3.1	<p>The period within which the Performance Security is to be submitted by the successful Bidder and the Contract Agreement is to be signed by him from the date of issue of Letter of Acceptance is 30 Days.</p> <p>The Selected Bidder/Consortium may form an appropriate Special Purpose Vehicle, incorporated under the Indian Companies Act, 1956 (the “SPV”), with the sole purpose to execute the Project in terms of the Concession Agreement within a period of 30 days from the date of issue of LoA. Concession Agreement shall be signed within 30 days from the date of formation of SPV between the Authority and the SPV incorporated by the Successful Bidder/Consortium. The Concession Agreement shall contain the detailed terms and conditions of the RFP. In case where the Selected Bidder/Consortium, as the case may be, require additional time for signing of the Concession Agreement, such request should be conveyed to the Authority in writing with reasons for such request for extension of time.</p> <p>The Authority shall grant extension of time for signing of the Concession Agreement if the Authority considers the request made by the Selected Bidder/Consortium reasonable. In case the Selected Bidder/Consortium fails to perform its obligation with respect to signing of the Concession Agreement with the Authority within the time specified or any extension granted herein after the issuance of LOA, the LOA shall be cancelled, Bid Security/Performance Security, as the case may be, shall be forfeited and blacklisting proceedings shall be started against such Selected Bidder/ Consortium.</p>
ITB 6.3.3	<p>The procuring entity shall promptly return the bid security after the earliest of the following events, namely:</p> <ol style="list-style-type: none"> <li>1. The expiry of validity of bid security</li> <li>2. The execution of agreement for procurement and performance security is furnished by the successful bidder;</li> <li>3. The cancellation of the procurement process; or</li> <li>4. The withdrawal of bid prior to the deadline for presenting bids, unless the bidding documents stipulate that no such withdrawal is permitted.</li> </ol>
ITB 6.4.2, 6.4.3, 6.4.4	<p>Performance Security amounting to total 10% of contract value shall be submitted / deducted as follows:</p> <p>(i) Contractor shall submit Performance Security @ 10% in advance at the time of signing of agreement in form of BG as per latest rules under RTPP act. The successful bidder at the time of signing of the contract agreement may submit option for deduction of Performance Security from each running bill and final bill @ 10% of the amount of bill. The BG should be issued by any nationalized / schedule bank and shall remain valid up to 60 days beyond defect liability period/contract period. Bank Guarantee submitted against the performance guarantee, shall be encashable/invokable at Town for which tenders are invited or at least at the concerned distt. head quarter when presented in specified Branch Office. If the successful bidder opts for getting the bid security deducted from his RA bills, then, at the time of signing of the agreement, he shall extend the validity of his bid security by one year. Bid security would be refunded after the deduction against performance security equals the bid security.</p>
7.1	<p>First Appellate Authority shall be: <b>Director cum Joint Secretary LSG</b> Second Appellate Authority shall be: <b>Principal Secretary LSG</b></p>

**Section III : Evaluation and Qualification Criteria**

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## Evaluation and Qualification Criteria

### A. Evaluation Criteria

**1.1** The successful Bid will be the lowest evaluated responsive Bid which qualifies technical evaluation.

### B. Qualification Criteria

#### 1. Eligibility:

	Criteria	Compliance Requirements				Documents
		Single Entity	Joint Venture			Submission Requirements
	Requirement		All Partners Combined	Each Partner	One partner	
<b>i) Nationality</b>	Nationality in accordance with ITB sub Clause 1.4.2	Must meet requirement	Existing or intended JV must meet requirement	Must meet requirement	Not applicable	As per forms ELI 1, ELI 2 with attachments
<b>ii) Conflict of Interest</b>	No conflicts of interest in accordance with ITB Sub-clause 1.4.3	Must meet requirement	Existing or intended JV must meet requirement	Must meet requirement	Not applicable	Letter of Bid
<b>iii) Debarment/ Transgression by any Procuring Entity.</b>	Must declare	Must declare	Must declare	Must declare	Must declare	Declaration form given in the Bidding Document

#### 2. Pending Litigation:

<b>Pending Litigation</b>	All pending litigation shall be treated as resolved against the Bidder and so shall in total not represent more than 50 percent of the Bidder's net worth.	Must meet requirement by itself or as partner to past or existing JV	Not applicable	Must meet requirement by itself or as partner to past or existing JV	Not applicable	Form LIT - 1
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#### 3. Financial Situation:

<b>i) Historical Financial Performance</b>	Submission of audited balance sheets for the last 3 years to demonstrate the current soundness of the Bidders financial position and its prospective long-term profitability. As a	Must meet requirement	Not applicable	Must meet the requirement	Not applicable	Form FIN-1 with attachments
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	<b>minimum, a Bidder's net worth calculated as the difference between total assets and total liabilities must be positive.</b>					
<b>ii) Average Annual Turn over</b>	Minimum average annual Turnover of Rs. <b>20 crore</b> calculated as total certified payments received for Contracts completed or in progress with in the last 03 years.(Year 2011-12, 2012-13, 2013-14)	Must meet requirement	Must meet requirement	Must meet....of the requirement	Must meet requirement	Form FIN-2
<i>The calculation sheet for annual average turnover shall be certified by a Chartered Accountant (CA)</i>						

**4. Experience:**

- Must have been registered and doing business in Solid Waste management/hazardous waste management and their treatment since at least the last 3 years (28 days prior to the Bid submission deadline).
- The bidder should have experience of the following in last five financial years (2010-2011 to 2014-2015; experience in current year shall also be counted up to 28 days prior to the deadline for submission of bid:

The bidder should have completed one single similar work (which includes door to door collection of municipal solid waste or transportation of municipal solid waste) costing not less than the amount equal to 25% of the estimated cost of the respective cluster town (s).

OR

The bidder should have completed two similar works(which includes door to door collection of municipal solid waste or transportation of municipal solid waste) costing not less than the amount equal to 15% of the estimated cost of the respective cluster town (s).

OR

The bidder should have completed three similar works (which includes door to door collection of municipal solid waste or transportation of municipal solid waste) costing not less than the amount equal to 10% of the estimated cost of the respective cluster town (s).

**Note:-**

- i) The Bidder shall submit copy (S) of registration certificate
- ii) For experience propose each bidder or member of Consortium/JV/SPV must fill the Form Exp-1, Form Exp-1(a) and Form Exp-1(b)
- iii) The Bidder shall submit copies of Work Orders, Completion and satisfactory performance Certificates in support of their experience claims.
- iv) The works which have been completed and during the period mentioned above, though may have commenced earlier, shall be considered for experience purposes.
- v) For considering experience of the bidder, out of its experience as JV/Consortium/SPV, its own works in the JV/Consortium/SPV shall be considered with relevant evidence/certificates.
- vi) A maximum of 2 members in a Consortium is allowed. For the purpose of evaluation of Technical Bid experience and financial standing of members having committed minimum 26% stake in the Consortium shall only be considered. The Bidder having 51% stake in the Consortium shall be the Lead Member of the Consortium.
- vii) At the time of evaluation the Bids the experience of a foreign parent company for the work done outside India shall be excluded and shall not be taken into consideration.
- viii) International experience of the Bidder or any Consortium Member in the matter of door to door collection, secondary storage and transportation of waste shall count only if the company registered in India has rendered services abroad for the purpose of evaluation of Bids.
- ix) The Annual turnover and Net worth of only those companies who are bidding and their JV partner/Consortium/ SPV Member shall be considered for determining the financial capability of the Bidder.
- x) The financial turnover or net worth of the parent company or other company which is not a Consortium/SPV Member or a JV partner shall not be considered.

**5. Personnel:****List of personnel minimum required:**

**Team composition for Municipal Corporation Package No. 1 – Mansarovar  
Zone, Nagar Nigam, Jaipur**

S. No	Position required	Educational Qualifications	Experience on similar work years / Nos.	Mandated by the Single bidder	Mandated by bidders in JV			Total Personnel by JV partners-	Total personnel's for Municipal Corporation cluster
1.	Team Leader	Graduate in Environmental /Civil /mechanical / Public Health Engineering	5 years on various SWM Projects.		Lead partner	Partner I	Partner II		1
2.	Deputy Team Leader	Diploma in Environm	5 years on various SWM						2

		ental /Civil /mechanic al / Public Health Engineerin g	Projects.						
3.	Expert in door to door collection &Transportation	Experien ce in Relevant Field	3 years on various SWM Projects.						<b>5</b>
4.	Sanitary Inspector	Diploma in Sanitation course.	3 years on various SWM Projects.						<b>I for each ward</b>
5.	Expert in Design/c onstructi on of MSW/H azardous waste processi ng facility	Graduate in Environm ental /Civil /mechanic al / Public Health Engineerin g/ Agricultur e	5 years on various Projects.						<b>N.A.</b>
6.	Expert in O&M for Processi ng facility	Graduate in Environm ental /Civil /mechanic al / Public Health Engineerin g/ Agricultur e	2years on various Projects.						<b>N.A.</b>

**7. Machinery & Equipment:**

**Suggestive list of vehicles and equipment required for door to door collection and transportation of waste as per adequacy and suitability for complete the task in all respect.**

Equipment/ vehicle	Municipal Board	Municipal Council	Municipal Corporation
Door to Door collection	Light Commercial vehicle (LCV) having 500-1000 kg capacity one vehicle per 1000 to 1500 households along with 1 driver and two helpers	Light Commercial vehicle (LCV) having 500-1000 kg capacity one vehicle per 1000-1500 households along with 1 driver and two helpers	Light Commercial vehicle (LCV) having 500-1500 kg capacity one vehicle per 1000 to 2000 households along with 1 driver and two helpers
Secondary Storage and transportati on of street sweepings	3.00 m3 containers with tractors having container lifting devise.	1.1 m3 containers or 3 to 4.5 cu m containers for secondary storage of waste and refuse collectors to clear 1.1m3 bins or dumper placers to lift large containers.	1.1 m3 containers or 3 to 4.5 cu m containers for secondary storage of waste and refuse collectors to clear 1.1m3 bins or dumper placers to lift large containers.
		7.00 cum capacity Compactor for lifting 1.1 cum container	7.00 cum/14.00 cum capacity Compactor for lifting 1.1 cum container

## **Section IV: Bidding Forms**

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#### **4.1 Technical Bid [With reference to Section III] Check List**

The Technical Proposal must necessarily contain filled up forms or scanned copies, as the case may be, of the following:

1. Letter of Technical Bid.
2. Bid Security/ Bid Securing Declaration instrument.
3. Receipt of cost of Request for Proposal.
4. Receipt of bid processing fee.
5. Net Worth statement.
6. Any modifications, substitutions, or withdrawal in the Bid.
7. Financial details (except the Financial Bid) of the Bidder, as requested.
8. List of key personnel with recent signed CVs (along with recent coloured photograph).
9. List of Vehicles and other equipments (owned or leased), as required, with proof of ownership or confirmed lease.
10. List of laboratory equipment and personnel.
11. Quality Assurance plan including ISO inspections.
12. Mobilization Schedule.
13. Construction Schedule (on MS Project or other similar software).
14. Qualifying works experience.
15. Construction safety plan (subject to safety audit) .
16. Method Statement.
17. All Technical Bidding forms duly completed and digitally signed.
18. Others considered necessary to strengthen the bid.

**4.2 Letter of Technical Bid****Technical Bid Submission Sheet**

Date: \_\_\_\_\_

NIB No.: \_\_\_\_\_

Alternative No., if permitted: \_\_\_\_\_

To: \_\_\_\_\_

We, the undersigned, declare that:

(a) We have examined and have no reservations to the Request for Proposal, including Addenda No. \_\_\_\_\_

(b) We offer to execute in conformity with the Request for Proposal the following Works:

(c) Our Bid shall be valid for a period of \_\_\_\_\_ days from the date fixed for the bid submission deadline in accordance with the Request for Proposal, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;

(d) If our Bid is accepted, we commit to obtain a Performance Security in the amount of \_\_\_\_\_ percent of the Contract Price or Performance Security Declaration, as the case may be, for the due performance of the Contract;

(e) Our firm, including any subcontractors or suppliers for any part of the Contract, have nationalities from the eligible countries;

(f) We are not participating, as Bidder, in more than one Bid in this bidding process, other than alternative offers, if permitted, in the Request for Proposal;

(g) Our firm, its affiliates or subsidiaries, including any subcontractors or suppliers has not been debarred by the State Government or the Procuring Entity;

(h) We understand that this Bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal Contract is prepared and executed;

(i) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive;

(j) We agree to permit Government of Rajasthan or the Procuring Entity or their representatives to inspect our accounts and records and other documents relating to the bid submission and to have them audited by auditors appointed by the Procuring Entity;

(k) We have paid, or will pay the following commissions, gratuities, or fees, if any, with respect to the bidding process for execution of the Contract:

Name of Recipient	Address	Reason	Amount

(l) We declare that we have complied with and shall continue to comply with the provisions of the Code of Integrity including Conflict of Interest as specified for Bidders in the Rajasthan Transparency in Public Procurement Act, 2012, the Rajasthan Transparency in Public Procurement Rules, 2013 and this Request for Proposal during this procurement process and execution of the Works as per the Contract;

(m) Other comments, if any:

Name/ address: \_\_\_\_\_

In the capacity of: \_\_\_\_\_

Signed: \_\_\_\_\_

Duly authorised to sign the Bid for and on behalf of: \_\_\_\_\_

Date: \_\_\_\_\_

Tel: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_



**4.3.1 Bid Security (Bank Guarantee Unconditional)****Form of Bid Security**

*[insert Bank's Name, and Address of Issuing Branch or Office]*

**Beneficiary:** *[insert Name and Address of Procuring Entity]*

**Date:** *[insert date]*

**BID GUARANTEE No.:** *[insert number]*

We have been informed that *[insert name of the Bidder]* (hereinafter called "the Bidder") has submitted to you its bid dated *[insert date]* (hereinafter called "the Bid") for the execution of *[insert name of contract]* under Notice Inviting Bids No. *[insert NIB number]* ("the NIB").

Furthermore, we understand that, according to your conditions, bids must be supported by a bid guarantee.

At the request of the Bidder, we *[insert name of Bank]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of ----- *[insert amount in figures][insert amount in words]* upon receipt by us of your first demand in writing accompanied by a written statement stating that the Bidder is in breach of its obligation(s) under the bid conditions, because the Bidder:

- (a) has withdrawn its Bid during the period of bid validity specified by the Bidder in the Letter of Technical Bid; or
- (b) having been notified of the acceptance of its Bid by the *Procuring Entity* during the period of bid validity,
  - (i) fails or refuses to execute the Contract Agreement,
  - (ii) fails or refuses to furnish the performance security, in accordance with the Instructions to Bidders (hereinafter "the ITB"),
- (c) has not accepted the correction of mathematical errors in accordance with the ITB, or
- (d) has breached a provision of the Code of Integrity specified in the TB;

This guarantee will expire: (a) if the Bidder is the successful Bidder, upon our receipt of copies of the contract signed by the Bidder and the performance security issued to you upon the instruction of the Bidder; and (b) if the Bidder is not the successful Bidder, upon the earlier of (i) our receipt of a copy of your notification to the Bidder of the name of the successful Bidder; or (ii) thirty days after the expiration of the validity of the Bidder's bid.

Consequently, any demand for payment under this guarantee must be received by us at the office on or before that date.

Signed: \_\_\_\_\_

*[insert signature of person whose name and capacity are shown]*

Name: \_\_\_\_\_

*[insert complete name of person signing the Bid Security]*

In the capacity of: \_\_\_\_\_

*[insert legal capacity of person signing the Bid Security]*

Duly authorized to sign the Bid Security for and on behalf of \_\_\_\_\_

*[insert name of the Bank]*

Dated on \_\_\_\_\_ day of \_\_\_\_\_,

*[insert date of signing]*

Bank's Seal \_\_\_\_\_

*[affix seal of the Bank]*

**[Note: In case of a Joint Venture, the Bid-Security must be in the name of all partners to the Joint Venture that submits the bid.]**

### 4.3.2 Bid Securing Declaration

#### Form of Bid Securing Declaration

Date: *[insert date (as day, month and year)]*

Bid No.: *[insert number of bidding process]*

Alternative No, if permitted.: *[insert identification No if this is a Bid for an alternative]*

To: *[insert complete name of Procuring Entity]*

We, the undersigned, declare that:

We understand that, according to your conditions, bids must be supported by a Bid-Securing Declaration.

We accept that we will automatically be suspended from being eligible for bidding in any contract with you, the Procuring Entity for the period of time of *[insert number of months or years, as required by the Procuring Entity]* starting on *[insert date]*, if we are in breach of our obligation(s) under the bid conditions, because we:

- (a) withdraw our Bid during the period of bid validity specified in the Letter of Bid; or
- (b) do not accept the correction of errors in accordance with the Instructions to Bidders (hereinafter "the ITB"); or
- (c) having been notified of the acceptance of our Bid by you, the Procuring Entity, during the period of bid validity, (i) fail or refuse to sign the Contract, if required, or (ii) fail or refuse to furnish the Performance Security Declaration, in accordance with the ITB; or
- (d) breach any provisions of the Code of Integrity as specified in the ITB;

We understand this Bid-Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of (i) our receipt of your notification to us of the name of the successful Bidder; or (ii) thirty days after the expiration of our Bid.

Signed: \_\_\_\_\_

*[insert signature of person whose name and capacity are shown]*

Name: \_\_\_\_\_

*[insert complete name of person signing the Bid-Securing Declaration]*

In the capacity of: \_\_\_\_\_

*[insert legal capacity of person signing the Bid-Securing Declaration]*

Duly authorized to sign the bid for and on behalf of: \_\_\_\_\_

*[insert complete name of Bidder]*

Dated on \_\_\_\_\_ day of \_\_\_\_\_,

*[insert date of signing]*

Corporate Seal \_\_\_\_\_

*[affix corporate seal of the bidder]*

**[Note: In case of a Joint Venture, the Bid-Securing Declaration must be in the name of all partners to the Joint Venture that submits the bid.]**

#### 4.4.1 Personnel

Bidders should provide the names of suitably qualified personnel to meet the requirements specified in Section III (Evaluation and Qualification Criteria). The data on their experience should be supplied using the Form below for each candidate.

##### (a) Form PER – 1: Proposed Personnel

[As listed in Section III: Evaluation and Qualification Criteria]

S.No.	Title and Name
1.	Title of position*
	Name
2.	Title of position*
	Name
3.	Title of position*
	Name
4.	Title of position*
	Name

##### (b) Form PER – 2: Resume of Proposed Personnel (attach a recent passport size coloured photo)

Summarize professional experience in reverse chronological order. Indicate particular technical

Position		
Personnel information	Name	Date of birth
	Professional qualifications ( <i>attach a copy of Degree/Diploma</i> )	
Present employment	Name of Procuring Entity	
	Address of Procuring Entity	
	Telephone	Contact (Manager / Personnel officer)
	Fax	E-mail
	Job title	Years with present Procuring Entity

##### and managerial experience relevant to the project:-

From	To	Company / Project / Position / Relevant technical and management experience

Signature of the person .....

Countersigned by the Bidder .....

#### 4.4.2 Equipment

The Bidder shall provide adequate information to demonstrate clearly that it has the capability to meet the requirements for the key equipment listed in **Section III** (Evaluation and Qualification Criteria). A separate Form shall be prepared for each item of equipment listed, or for alternative equipment proposed by the Bidder.

Item of Vehicle/Equipment		
Equipment Information	Name of manufacturer	Model and power rating
	Capacity	Year of manufacture
Current Status	Current location	
	Details of current commitments	
Source	Indicate source of the equipment (Owned or Leased) Owned                  Rented                  Leased                  Specially manufactured	

Add the following information for equipment to be taken on confirmed lease by the Bidder.

Owner	Name of owner	
	Address of owner	
	Telephone	Contact name and title
	Fax	Telex /e-mail id
Agreements	Details of rental / lease / manufacture agreements specific to the project	

#### 4.4.3 Site Organization:

*[Comment on site office work shop for vehicle and equipment, Quality Control Laboratory, labour camps, safety plan, Security, enabling services etc.]*

#### 4.4.4 Method Statement

*[State the methodological process to execute the key items of works]*

#### 4.4.5 Mobilization Schedule

*[Preferably in the form of a bar chart]*

#### 4.4.6 Construction Schedule

*[On MS Project or other similar software indicating the critical path]*

#### 4.5 Bidder's Qualification

To establish its qualifications to perform the contract in accordance with Section III (Evaluation and Qualification Criteria) the Bidder shall provide the information requested in the corresponding Information Sheets included hereunder.

##### 4.5.1 Form ELI - 1: Bidder's Information Sheet

BIDDER'S INFORMATION	
Bidder's legal name	
In case of JV, legal name of each partner	
Bidder's country of constitution.	
Bidder's year of constitution	
Bidder's legal address in country of constitution	
Bidder's authorized representative (name, address, telephone numbers, fax numbers, e-mail address)	
Attached are attested copies of the following original documents: <ol style="list-style-type: none"> <li>1. In case of single entity, certificate of registration/ incorporation and memorandum of association or constitution of the legal entity named above.</li> <li>2. Authorization to represent the firm or JV named in above.</li> <li>3. In case of JV, letter of intent to form JV or JV agreement.</li> </ol>	

##### 4.5.2 Form ELI – 2 : JV Information Sheet

Attach the Letter of Intent to form JV or certificate of registration/ incorporation and memorandum of association or constitution of the legal entity, if JV is already in existence.

**Each member of a JV must fill in this form**

JV / SPECIALIST CONTRACTOR'S INFORMATION	
Bidder's legal name	
JV Partner's or Subcontractor's legal name	
JV Partner's financial share in the JV	
JV Partner's or Subcontractor's country of constitution	
JV Partner's or Subcontractor's year of constitution	

JV Partner's or Subcontractor's legal address in country of constitution	
JV Partner's or Subcontractor's authorized representative information(name, address, telephone numbers, fax numbers, e-mail address)	
<p>Attached are attested copies of the following original documents:</p> <ol style="list-style-type: none"> <li>1. Certificate of registration/ incorporation and memorandum of association or constitution of the legal entity named above.</li> <li>2. Authorization to represent the firm named above.</li> </ol>	

#### 4.5.3 **Form LIT 1- Pending Litigation**

**Each Bidder or member of a JV must fill in this form**

Pending Litigation			
<ul style="list-style-type: none"> <li>○ No pending litigation in accordance with <b>Section III</b> (Evaluation and Qualification Criteria).</li> <li>○ Pending litigation in accordance with Section III (Evaluation and Qualification Criteria)</li> </ul>			
Year	Matter in Dispute	Value of Pending Claim in INR	Value of Pending Claim as a Percentage of Net Worth

#### 4.5.4 **Form FIN - 1: Financial Situation**

**Each Bidder or member of a JV must fill in this form**

Years / Items	Year 1:	Year 2 :	Year 3:
---------------	---------	----------	---------

#### **Information from Balance Sheet in Rupees**

(in case of bidders and JV partners from outside India, data to be converted at the exchange rate prevailing 28 days prior to the deadline of submission of the bids)

Total Assets				
Total Liabilities				
Net Worth				
Current Assets				
Current Liabilities				
Others as required				

**Information from Profit & Loss Account/ Income & Expenditure Statement**

Total Operating Revenues/ Income				
Profit/ Excess of Income over Expenditure before Taxes				
Profits After Taxes				
Profit/ Excess of Income over Expenditure after Taxes				
Others as required				

Attached are attested copies of financial statements (balance sheets including all related notes, and Profit & Loss Account/ Income & Expenditure Statement) for the last 3 years, as indicated above, complying with the following conditions:

- All such documents reflect the financial situation of the Bidder or partner to a JV, and not sister or parent companies.
- Historic financial statements must be audited by a chartered accountant.
- Historic financial statements must be complete, including all notes to the financial statements.
- Historic financial statements must correspond to accounting periods already completed and audited. (No statements for partial periods shall be requested or accepted).

**4.5.5 Form FIN – 2 : Average Annual Turnover in Rupees****Each Bidder or member of a JV must fill in this form**

Annual Turnover Data for the last 3 years	
Year	Amount-Rupees
Average Annual Construction Turnover	

The information supplied should be the Annual Turnover of the Bidder or each member of a JV in terms of the amounts billed to clients for each year for work in progress or completed, at the end of the period reported. For JV partners from other countries, the conversion to Rupees shall be at the rates prevailing on the 31st. March of that year.

**4.5.6 Form FIN – 3 : Financial Resources - Rupees**

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject contract as indicated in Section III (Evaluation and Qualification Criteria).

FINANCIAL RESOURCES		
S.No	Source of Financing	Amount in Rupees

#### 4.5.7 Form FIN- 4: Current Contract Commitments / Works in Progress

Bidders and each partner to a JV should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

CURRENT CONTRACT COMMITMENTS					
S.No.	Name of Contract	Procuring Entity's Contact Address, Tel., Mobile, Fax, e-mail id	Value of Outstanding work in Rupees	Estimated Completion Date	Average Monthly Invoicing during Last 6 months (Rupees per month)

#### 4.5.8 Calculation of Net Worth

Deleted

#### 4.5.9 Form EXP – 1: General Experience

Each Bidder or member of a JV must fill in this form

GENERAL EXPERIENCE				
Starting Month Year	Ending Month Year	Years	Contract Identification and Name Name and Address of Procuring Entity Brief Description of the Works Executed by the Bidder	Role of Bidder



**4.5.10 Form EXP – 2(a): Specific Experience****Note:** Please fill up one sheet per contract**4.5.11 EXP - 2(b) : Specific Experience in Key activities**

CONTRACT OF SIMILAR SIZE AND NATURE		
Contract No. . . . . of. . . . . .	Contract Identification	
Award Date		Completion Date
Role in Contract	Contractor / Management Contractor / Subcontractor	
Total Contract Amount	INR	
If partner in a JV or subcontractor, specify participation of total contract amount	Percent of Total	Amount
Procuring Entity's Name, Address, Telephone Number, Fax Number, E-mail address		
Description of Similarity in accordance with criteria 4(ii) (a), Section III		
Similarity, size, nature complexity etc.		

<b>CONTRACT WITH SIMILAR KEY ACTIVITIES</b>		
Contract No. . . . . of. . . . . .	Contract Identification	
Award Date		Completion Date
Role in Contract	Contractor / Management Contractor / Subcontractor	
Total Contract Amount	INR	
If partner in a JV or subcontractor, specify participation of total contract amount	Percent of Total	Amount
Procuring Entity's Name, Address, Telephone Number, Fax Number, E-mail address		
Description of the Key-activities in accordance with Criteria 4(ii) (b) of Section III		

#### **4.6 Sample format for evidence of access to or availability of credit facilities**

SAMPLE FORMAT FOR EVIDENCE OF ACCESS TO OR AVAILABILITY OF CREDIT FACILITIES (to individual firms or each partner of a JV by his bank)

##### **BANK CERTIFICATE**

**Name of the Bank with Branch address .....**

Date

This is to certify that M/s .....is a reputed firm/ company with a good financial standing.

If the contract for the work, namely ..... is awarded to the above firm, we shall be able to provide overdraft/ credit facilities to the extent of Rupees ..... to meet their working capital requirements for executing the above contract during the contract period.

Signature \_\_\_\_\_

Name \_\_\_\_\_

In the capacity of \_\_\_\_\_

Telephone No. \_\_\_\_\_ Fax No. \_\_\_\_\_ E-mail \_\_\_\_\_

Seal of the Bank \_\_\_\_\_

#### 4.7 Declaration by the Bidder in compliance of Section 7 & 11 of the Act

##### Declaration by the Bidder

In relation to our Bid submitted to ..... *[enter designation and address of the procuring entity]* for procurement of ..... *[insert name of the Works]* in response to their Notice Inviting Bids No..... Dated ..... we hereby declare under Section 7 and 11 of the Rajasthan Transparency in Public Procurement Act, 2012, that;

1. We possess the necessary professional, technical, financial and managerial resources and competence required by the Request for Proposal issued by the Procuring Entity;
2. We have fulfilled our obligation to pay such of the taxes payable to the Central Government or the State Government or any local authority, as specified in the Request for Proposal;
3. We are not insolvent, in receivership, bankrupt or being wound up, not have my/our affairs administered by a court or a judicial officer, not have my/our business activities suspended and are not the subject of legal proceedings for any of the foregoing reasons;
4. We do not have, and our directors and officers not have, been convicted of any criminal offence related to our professional conduct or the making of false statements or misrepresentations as to our qualifications to enter into a procurement contract within a period of three years preceding the commencement of this procurement process, or not have been otherwise disqualified pursuant to debarment proceedings;
5. We do not have a conflict of interest as specified in the Rajasthan Transparency in Public Procurement Act, the Rajasthan Transparency in Public Procurement Rules and this Request for Proposal, which materially affects fair competition;
6. We have complied and shall continue to comply with the Code of Integrity as specified in the Rajasthan Transparency in Public Procurement Act, the Rajasthan Transparency in Public Procurement Rules and this Request for Proposal, till completion of all our obligations under the Contract.

Date:

Signature of Bidder

Place:

Name :

Designation:

Address:

**4.8 Power of Attorney for signing of Bid**

Know all men by these presents, We, \_\_\_\_\_ (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorize Mr./ Ms (Name), son/daughter/wife of ..... and presently residing at ....., who is presently employed with us/ the Lead Member of our Consortium and holding the position of ....., as our true and lawful attorney (hereinafter referred to as the “Attorney”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our bid for the \*\*\*\*\* Project in responsible response to the RFP issued by Directorate of Local Bodies (DLB), Government of Rajasthan the\*\*\*\*\* (the “Authority”) including but not limited to signing and submission of all applications, bids and other documents and writings, participate in bidders’ and other conferences and providing information / responses to the DLB, representing us in all matters before the DLB, signing and execution of all contracts including the Concession Agreement and undertakings consequent to acceptance of our bid, and generally dealing with the DLB in all matters in connection with or relating to or arising out of our bid for the said Project and/or upon award thereof to us and/or till the entering into of the Concession Agreement with the Authority.

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

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

For.....

(Signature, name, designation and address of person authorized by Board Resolution (in case of Firm/Company)/ Partner in case of Partnership Firm. Person identified by me/personally appeared before me/Signed before me/ Attested/ Authenticated \*

(\*Notary to specify as applicable)

(Signature, Name and Address of the Notary)  
Seal of the Notary

Registration Number of the Notary  
Date :

#### **4.9 Power of Attorney for Lead Member of Consortium**

Whereas the \*\*\*\*\* (the “Authority”) has invited bids from pre-qualified and short-listed parties for the \*\*\*\*\* Project (the “Project”).

Whereas, .....and.....(collectively the “Consortium”) being Members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Proposal and other connected documents in respect of the Project, and Whereas, it is necessary for the Members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium’s bid for the Project and its execution.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS

We, ..... having our registered office at ....., M/s. ...., having our registered office at ....., and M/s. ...., having our registered office at ....., (hereinafter collectively referred to as the “Principals”) do hereby irrevocably designate, nominate, constitute, appoint and authorize M/s. ...., having its registered office at ....., being one of the Members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the “Attorney”) and hereby irrevocably authorize the Attorney (with power to sub delegate) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and, in the event the Consortium is awarded the Concession/ Contract, during the execution of the Project, and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the submission of its bid for the Project, including but not limited to signing and submission of all applications, bids and other documents and writings, accept the Letter of Award, participate in bidders’ and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the bid of the Consortium and generally to represent the Consortium in all its dealings with the Authority, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the

Consortium's bid for the Project and/ or upon award thereof till the Concession Agreement is entered into with the Authority.

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

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

.....  
(Signature, Name & Title)

For .....  
(Signature, Name & Title)

For .....  
(Signature, Name & Title)

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

Witnesses:

1.

2.

*Notes:*

*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 executants(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*

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

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

#### **4.10 Memorandum of Understanding (MoU)**

(On Non – judicial stamp paper of Rs 100/- or such appropriate document duly attested by notary public)

**This Memorandum of Understanding (MOU)** entered into this [•] day of [•] 20\_\_\_\_ at [•]Between [•] (hereinafter referred as "[•]") and having office at [•], India Party of the First Part

And

[•] (hereinafter referred as "[•]") and having office at [•], India **Party of the Second Part**

The parties are individually referred to as **Party** and collectively as **Parties**.

**WHEREAS** Director of Local Bodies, Government of Rajasthan has invited Request for Proposal (RFP) from entities interested in Integrated Solid Waste Management Project in the state of Rajasthan ("**Project**").

**AND WHEREAS** the Parties have had discussions for formation of a Consortium for bidding for the said Project and have reached an understanding on the following points with respect to the Parties' rights and obligations towards each other and their working relationship.

**IT IS HEREBY AS MUTUAL UNDERSTANDING OF THE PARTIES AGREED AND DECLARED AS FOLLOWS:**

- a. That the Parties will form a Special Purpose Vehicle (SPV) with the shareholding commitments expressly stated. The said SPV shall not undertake any other business during the Concession Period, to domicile the Project prior to the start of implementation of the Project.
- b. That the equity share holding of the Parties in the issued and paid up capital of the SPV shall not be less than as Specified under Evaluation Criteria Mentioned in RFP Document during the Concession Period.
- c. That M/s\_\_\_\_\_, and M/s\_\_\_\_\_, who are Members of the Consortium commit to hold the following equity stake in the SPV which are in line with the requirements of Clause 3 of Evaluation criteria of the RFP Document at all times during the Lease Period

Name of Member	Type of Member	% of shareholding
M/s.		
M/s.		

- d. That any dilution in the equity holding by the Parties in the SPV shall be as per the provisions of the Concession Agreement that will be executed on award of the Project to us.
- e. However the Parties undertake that there shall be no changes in respect of the Lead Member in case of a Consortium till the execution of the Concession Agreement.
- f. That the Parties shall carry out all responsibilities as Concessionaire in terms of the Concession Agreement.
- g. That the roles and the responsibilities of each Party at each stage of the Bidding shall be as follows:



<b>Name of Member</b>	<b>Type of Member</b>	<b>Role &amp; Responsibility</b>
a. M/s.		
M/s.		

- h. That the Parties shall be jointly and severally liable for the execution of the Project in accordance with the terms of the Concession Agreement to be executed on award of the Project.
- i. That the Parties affirm that they shall implement the Project in good faith and shall take all necessary steps to see the Project through expeditiously. They shall not negotiate with any other party for this Project.
- j. That this MOU shall be governed in accordance with the laws of India and Courts in Jaipur city shall have exclusive jurisdiction to adjudicate disputes arising from the terms herein.

In witness whereof the Parties affirm that the information provided is accurate and true and have caused this MOU to be duly executed on the date and year above mentioned.

Witness:

1. First Party
2. Second Party

Company seal & stamp

**4.11 Affidavit****(To be executed on non judicial stamp paper of appropriate value)**

I, the undersigned, do hereby certify that all the statements made in the required attachments are correct.

The undersigned hereby certifies that neither our firm M/s \_\_\_\_\_ nor any of our Consortium Members have abandoned any work in India nor any contract awarded to us for SWM have been rescinded by any ULB in India during last five years prior to the date of application

The undersigned further certifies that incase any information in the Bid submitted by me is found to be false or untrue at the later stage, the Bid may be cancelled and the Bid Security forfeited.

Name of the firm:

Authorized signatory of the firm  
(With designation and title of the officer)

**4.12 Letter of Financial Bid****Financial Bid Submission Sheet**

Date: \_\_\_\_\_

NIB No.: \_\_\_\_\_

Alternative No., if permitted: \_\_\_\_\_

To: \_\_\_\_\_

We, the undersigned, declare that:

(a) We have examined and have no reservations to the Request for Proposal, including Addenda No.: \_\_\_\_\_

(b) We offer to execute in conformity with the Request for Proposal the following Works:

\_\_\_\_\_  
(c) The total Price for our Bid, excluding any discounts offered, if permitted, in item (d) below is:

\_\_\_\_\_  
(d) The discounts offered, if permitted, and the methodology for their application are:

\_\_\_\_\_  
(e) We understand that this Bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal Contract is prepared and executed.

(f) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.

(g) Other comments, if any:

Name/ address: \_\_\_\_\_

In the capacity of: \_\_\_\_\_

Signed: \_\_\_\_\_

Duly authorised to sign the Bid for and on behalf of: \_\_\_\_\_

Date: \_\_\_\_\_

Tel: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

### Explanation of the Financial Bid

**There will be no tipping fee paid. Financial bid will depend on least viability gap funding asked by the bidder as per Annexure 4-A subject however to bidder getting minimum qualifying marks and the assessment.**

**4.13 Bill of Quantities:** door to door collection of municipal Solid waste and its transportation up to processing/ Disposal facility as may be directed by the authority from time to time Providing containers at secondary waste storage depot, maintenance of secondary storage facility and transportation of waste from the depot to the waste processing or disposal facility at **Package No. 7 – Hawamahal (West) and Amber Zone, Nagar Nigam, Jaipur**

**(Name/location/cluster ULB) For Percentage VGF**

We quote (in figures and words) .....% VGF basis.

**Bidder's Signature with seal of the firm**

## Section V - Procuring Entity's Requirements

This Section contains the Specifications, the Drawings, and supplementary information that describe the Works to be procured and Quality Assurance Plan for the executed Works.

### Procuring Entity's General Requirements

The Procuring Entity requires that:

1. The Contractor shall critically examine, confirm all geo-tech investigations, levels, findings and evaluate the designs, drawings, details and BOQ/ Activity Schedule documents provided by the Procuring Entity and specifically point out modifications, if any, required to these documents. Such modifications should not dilute the specifications or durability of the structures.
2. Pretest and confirm /seek approval from the Procuring Entity of all input materials. Suggest any suitable local materials along with its test data for use in the works through value Engineering. Any non-conformance or failure of the works on account of use of such materials shall be the responsibility of the Contractor.
3. Ensure use of specified and approved materials, specified procedures, proper equipment and the specified output to ensure proper quality and durability of works.
4. Prepare a detailed quality assurance plan for execution on a three tier platform with the help of a field laboratory established at his cost. Keep all BIS, IRC and other required codes available in the field laboratory for use. This plan should be complied with in totality.
5. Pre-empt any possibility of force majeure conditions along with proper coordination with the Procuring Entity.
6. Minimise the variations and extensions in the time for completion.
7. Protect the Environment at the site.
8. Promote a congenial working atmosphere at the site.
9. Employ the team of Engineers as specified in the Contract, skilled and other labour in planned manner.
10. Comply to the instructions of the Engineer-in Charge and the Third Party Quality Inspection Agency, if any, with regard to quality and durability of works.
11. Serve faithfully the defect liability and the maintenance period, if any.
12. On completion of the Works prepare the as built drawings and designs for submission to Engineer-in-Charge.
13. Others, as required.

### Background of the Project

Cities in Rajasthan State with growing population, changing life styles, migration of people from rural areas to cities and rapid growth of tourism end up generating an enormous quantity of Municipal Solid Waste (MSW) every day. By and large, the Municipal Authorities in various cities, collect the MSW

from the streets, transport it to the dump yards in open trucks unscientifically and dispose it off in open dumping ground without any Processing. Besides this, the Waste is neither collected nor transported on day to day basis. This situation leads to problems of health and environmental degradation. Unscientific landfills cause land, air and water pollution due to leachate contaminating the ground water.

The State of Rajasthan has initiated series of measures to improve SWM services in the State to comply with MSW Rules on a VGF mode in 184 ULBs on cluster basis. ULB has planned for modernization of SWM Services in these cities through Integrated Solid Waste Management Service encompassing Door to Door Collection of Waste, doing away with open Waste storage depots along the roadside, arranging day to day Transportation of Waste in covered vehicles, and Processing of MSW. It is decided to provide this service through private sector participation on VGF basis.

**Major parts of the scope of work:**

1. **Door to Door Collection of Municipal Solid Waste (MSW)** from all residential and non residential premises situated in wards of the City and Transportation of MSW collected there from to the processing facility or disposal facility as may be directed by the authority till such time new processing facility is constructed and operationalized.
2. **Establishment of Secondary Waste Storage Depots** and placing of suitable covered bins in wards for Secondary Storage of street sweeping and silt removed from the surface drains by municipal sanitation workers, operation and maintenance of Secondary Waste Storage Depots in all Wards, Transportation of MSW from all the secondary waste storage depots to the SLF or to any site as may be directed by the authority till the time the SLF is constructed and operationalized.
3. **The Contractor shall provide necessary manpower, tools, equipment, and vehicles for the services on round the clock basis.** The Contractor shall be paid only for the waste he transports to the Treatment Facility or the Disposal Site as per the rates payable mentioned in the financial bid.
4. **Internal Performance Monitoring:** The Concessionaire shall setup Internal Performance Monitoring mechanism for effectiveness in project implementation covering all areas of service delivery including efficient redressal of complaints, and monitoring the performance of workforce etc.
5. **Minimum numbers of vehicles, equipment, manpower to be deployed etc.:** The bidder shall submit along with his bid (RFP) clear norms of deployment of vehicle, equipment, tools and manpower, not lower than the norms already mentioned in the RFP, for the discharge of the obligations mentioned in the RFP documents.
6. **Permits & Clearances:** Permits and clearance shall be obtained as per but not limited to MSW rules 2000, Plastic Waste (Management & Handling) Rules 2011, The Environment Protection Act 1986, The Air (Prevention and Control) Pollution 1981 and Water (Prevention and Control) Pollution 1974 as amended from time to time.

The projects relating to MSW require a number of clearances including but not limited to the following:

- Prior Environmental Clearance from environmental impact assessment authority/ state pollution control board.
- Authorization from State Pollution Control Board for the MSW Processing Facility and Landfill Facility.
- Clearance from Development Authority
- Traffic Police clearance for Vehicular movement in the city.

The SPV shall apply for various statutory and non-statutory clearances for the Project from all concerned authorities. It may be noted that the objective of formulation of SPV is to reduce the time gap between implementation of the Project and duration required for obtaining the Project related clearances. The SPV shall endeavour to obtain all the clearances required and the responsibility of obtaining the clearances will be solely on the SPV. Although the Authority shall reasonably assist the SPV in procuring the clearances required for the Project.

### **Time Frame for execution of work**

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

#### **Phase I – 1 Month**

1. Start project development planning, within 15 days from the date of issue of work order.

#### **Phase II – Three Months**

1. Start door to door collection in wards as may be indicated by the authority.
2. Commence secondary storage of waste in 30% of the areas allotted as per the priority indicated by the municipal authority.

#### **Phase III – 6 months**

1. Commence door to door collection in remaining wards of ULBs.
2. Commence secondary storage of waste in remaining 70% of the areas allotted as per the priority indicated by the municipal authority.

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

### **Program Schedule**

The bidder/consortium of bidders found most appropriate shall submit within 15 days from the date of communication of his selection to the Authority, the Preliminary Operational plan that will be rolled out by them for the implementation of the project together with the PERT chart and modify the same to the satisfaction of the Authority within the overall framework of the RFP document. After the issue of LOA and signing of concession agreement, the concessionaire shall submit a detailed development plan as per

concession agreement. The progress & planning of works shall be reviewed from time to time and authority may modify the same depending upon the exigencies of the work and stage of the works.

#### **Increase in the scope of work.**

Looking to the trend of increase in the urban population, the Contractor should plan to handle 5% additional Waste each year during the Contract Period and should scale up the plant capacity over the concession period.

#### **Preventing mixing of Bio-Medical Waste with Municipal Solid Waste**

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

#### **Use of Proven technology**

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

The Contractor shall have to observe all the directions contained in the MSW Rules 2000 as well as State Laws and Rules as amended from time to time. In the event of any major change in the legal frame work in the Country or the State, he shall, on being asked by the Authority, comply with the new laws and the Rules at his cost and may ask for reasonable compensation which shall be determined by a technical committee that may be appointed by Government/ Authority.

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

#### **Waste Calibration**

The Municipal Solid Waste has a normal density between 400 & 500 Kg/M<sup>3</sup> without compaction and higher density not exceeding 0.80 Kg/M<sup>3</sup> if good quality of compactor is used.

While considering the weight of Waste Transported by the Bidder for the purpose of making payment per tonne, the volume of the vehicle and density of Waste shall be taken into consideration to ensure that no malpractice takes place.

**The following method of calibration shall be adopted:**

All the vehicles shall be weighted at the weigh bridge designated by the authority from time to time. The volume of vehicles used shall be recorded in cubic meters. If the net weight of Waste comes out to be more than 500 Kg/M<sup>3</sup> in case of uncompacted Waste, the weight shall be reduced and brought down to the level of 500 Kg/M<sup>3</sup>. Similarly the Waste collected in large howling vehicles at the Transfer Station shall be calibrated and if the tonnage of Waste recorded is higher than the calibrated weight, the calibrated weight shall be taken into consideration for payment.

The reduction in weight shall be communicated to the Independent Engineer /officer in charge on a daily basis for reduction from the total Waste recorded at the final destination for payment to the Concessionaire.

**Recording the weight of the MSW transported to processing/disposal facility.**

The Contractor shall ensure weighment of all the waste transported in the presence of authorized representative of the authority and maintain record duly countersigned by the Authority's representative.

**Monitoring Mechanism by the Authority**

The Contractor shall co-operate in the monitoring mechanism adopted by the Authority. For ensuring fairness to both sides a monitoring mechanism is devised as under to keep a day to day record and ensure that Concessionaire is performing his duties as per the Concession Agreement.

The following Monitoring Mechanism shall therefore be adopted by the Authority besides the internal monitoring to be done by the Concessionaire, he shall extend full support to the authority in this regard.

**Monitoring by the CEO/EEen/MC/EO or his authorized representative**

The executive officer may himself or through his authorized representative inspect the processing facility any time to satisfy himself whether the work is being carried out as per MSW Rules 2000 & whether the work is carried out as per the terms of contract

**a. Recording of weight of Waste Transported:**

Municipal authority or CEO/MC/EO may designate one person on a monthly rotation basis to monitor and record the Transportation of Waste at the weigh bridge constructed by the Concessionaire or authorized Weigh Bridge on a day to day basis. The weigh bridge in-charge shall issue receipt in triplicate in the Performa designed by Authority. One copy shall be retained by weigh bridge in-charge, and other two copies shall be given to the driver of the vehicle with a direction to hand over one copy to



the person in charge of MSW Processing Facility and keep third copy duly signed by supervisor at MSW Processing Facility to the officer authorized by the executive officer.

Weighment figures will be compiled on a daily basis both by weigh bridge in-charge and person in-charge of MSW Processing Facility separately and reported to Officer in-charge as may be designated by the Authority on day to day basis in the prescribed Performa.

Similar record shall be maintained for the residual waste deposited at the disposal site by the concessionaire.

### **Weekly review Meetings**

Weekly review meeting will be conducted by the executive officer with the Concessionaire or his authorized representative and concerned sanitation officials. He will review the complaints received and their timely compliance by the concessionaire action taken on deficiencies noticed during field visits and give suitable directions for improving performance of the Concessionaire, if found deficient. Minutes of meeting shall be recorded and shared with the Concessionaire or his representative and his acknowledgement shall be obtained. Penalty due, if any, shall be communicated to the Concessionaire.

The Authority shall monitor the performance of the Concessionaire in terms of the Concession Agreement and ensure the proper records are maintained for the work done and being done on a day to day basis so that the Concessionaire's performance is objectively assessed for payment and penalties. This will be done to avoid undue harassment to the Concessionaire while making monthly payments or showing leniency in levy of penalty for performance.

**RAJASTHAN STATE SOLID WASTE MANAGEMENT POLICY GUIDELINES-2015 has been prepared based on MSW rules, CPHEEO manual, Guidelines of GoI/GoR and Swachh Bharat Mission based on these guidelines following action will be taken by Contactor for sooth O&M**

### **Directions contained in Municipal Solid Waste (Management & Handling) Rules 2000.**

Some provisions under MSW Rules:

- i. Organize house-to-house collection of municipal solid wastes through motorized small vehicle, collection on regular pre-informed timings and scheduling by using bell ringing of musical vehicles (without exceeding permissible noise levels).
- ii. Devising collection of waste from slums and squatter areas or locality including hotels, restaurants, office complexes and commercial areas.
- iii. Wastes from slaughter houses, meat and fish markets, fruit and vegetable markets, which are biodegradable in nature, shall be managed to make use of such waste.
- iv. Biomedical waste and industrial waste shall not be mixed with municipal solid waste and such wastes shall follow the rules separately specified for the purpose.
- v. Collected waste from residential and other areas shall be transferred to community bin by hand-driven containerized cart or other small vehicles.
- vi. Horticulture and construction or demolition waste or debris shall be separately collected and disposed of following proper norms.
- vii. Waste (garbage, dry leaves) shall not be burnt.

## Plan of Action

It is necessary to provide a daily service to all households, shops and establishments for the collection of organic/food bio-degradable waste from the doorstep looking at the hot climatic conditions in the state.

Implementation strategy

### Collection of recyclables:

The Municipal Authority may mobilize NGOs or co-operatives to take up the work of organizing street rag-pickers and convert them to door step "waste collectors" by motivating them to stop picking up soiled and contaminated solid waste from the streets, bins or disposal site and instead improve their lot by collecting recyclable clean material from the doorstep at regular intervals of time. This will divert huge waste coming into municipal system.

The Municipal Authority may advise the people to hand over segregated recyclable waste to a designated waste collector identified by the NGO. The upgraded rag pickers on becoming doorstep waste-collectors may be given an identity card by the NGOs organizing them so that they may have acceptability in society

Collection of Bio- degradable and other wastes:

- i. Domestic, trade and institutional food/biodegradable waste, should be collected from the doorstep or from the community bin on a daily basis by using motorized covered light commercial vehicle and taken to processing plant for bio -degradable waste .
- ii. Non-bio-degradable waste other than what is given away to rag pickers and toxic and hazardous waste should be collected from the source of waste generation separately and taken to processing facility for non Bio-degradable waste.
- iii. Domestic hazardous/ toxic waste material should be deposited by the waste producers in special bins for depositing such wastes as may be directed by municipal authority from time to time.
- iv. The municipal authority should notify the arrangement of primary collection it proposes to make and direct the citizens to cooperate in the primary collection of waste accordingly.

The following arrangements may be made by the Municipal Authority on all 365 days of the year:

- i. Doorstep collection of waste through motorized vehicles from the areas that are accessible to motorized vehicles and by containerized handcarts/tricycles from narrow lanes.
- ii. Collection through community bins from private societies multi-storied buildings, commercial complexes

### Norms for Door step collection through motorized vehicles or containerized handcarts / tricycles with a bell.

The Municipal Authority may, based on local conditions, fix the work norms as they deem appropriate. It is suggested that in the areas that are accessible to motorized vehicles, mall covered vehicles of 0.5 to 2.00 tonnes capacity may be deployed through private sector for door to door collection of waste. One tonne capacity vehicle would normally suffice for 1500 to 2000 households depending upon the distance to be covered and the economic status of the society served. In congested and thickly populated areas containerized tricycles/ containerized handcarts may be used per 200 households.

Each citizen should be repeatedly motivated to form a habit to store the daily-generated waste in his premises in two bins in a segregated form. They must be appraised about the Biodegradable and Recyclable waste categories as under:

- Biodegradable/ **Wet waste** : Food waste, Fruits and Vegetable waste, . these wastes should be stored in one bin preferably in a Green colour bin.
- Recyclable / **Dry waste** : Paper, Plastic, Polythene, Glass, Wood, Cloth, Rubber, Leather, Metal, Electrical items etc should be stored in another bin preferably in Blue colour bin.

## **Legal provisions for waste storage depots under the municipal solid waste (Management and Handling) 2000**

Municipal authorities shall establish and maintain storage facilities in such a manner, as they do not create unhygienic and in sanitary conditions around it. Following criteria shall be taken into account while establishing and maintaining storage facility, namely:

- i. Storage facilities shall be created and established by taking into account quantities of waste generation in a given area and the population densities. A storage facility shall be so placed that it is accessible to users.
- ii. Storage facilities to be set up by municipal authorities or any other agencies shall be so designed that wastes stored are not exposed to open atmosphere and shall be aesthetically acceptable and user-friendly.
- iii. Storage facilities or "bins" shall have "easy to operate" design for handling, transfer and transportation of waste. Bins for storage of biodegradable waste shall be painted green, those for storage of recyclable waste shall be painted black.
- iv. Manual handling of waste shall be prohibited. If unavoidable due to constraints, manual handling shall be carried out under proper precaution with due care for safety of workers.

Implementations strategy:

- i. Make the cities bin-less by removing all open waste storage depots, containers if they can afford and desire to have direct transportation of street waste into covered vehicles from the collection point.
- OR
- ii. Provide neat mobile closed containers at a distance not exceeding 500 meters each for secondary storage of street sweepings and silt removed from surface drains. Domestic and trade waste has to be taken to respective processing facility directly.

Norms to assess the requirement of waste storage depots

The storage facility has to be created in all the wards of the city. It is necessary to abolish the waste storage depots at short distances as soon as door-to-door collection system becomes operational and large containers are placed at a distance of 500 metres each. Ordinarily 4 to 5 bins are required per square Km. to ensure that no sweeper is required to walk with hand cart more than 250 meters. It must also be ensured that at least twice the storage space is created for the storage of waste in each city or one bin is made available per 5000 population so that waste does not overflow.

No domestic or trade waste should be allowed to be mixed in these bins meant for street waste.

**Type of Vehicles to be used**

Looking to the size of the cities/towns and their financial positions, it is desirable that cities use following type of vehicles to collect and transport waste .

Equipment/vehicle	Municipal Board	Municipal Council	Municipal Corporation
Door to Door collection	Light Commercial vehicle (LCV) having 500-1000 kg capacity one vehicle per 1000 to 1500 households along with 1 driver and two helpers	Light Commercial vehicle (LCV) having 500-1000 kg capacity one vehicle per 1000-1500 households along with 1 driver and two helpers	Light Commercial vehicle (LCV) having 500-1500 kg capacity one vehicle per 1000 to 2000 households along with 1 driver and two helpers
Secondary Storage and transportation of street sweepings	3.00 m3 containers with tractors having container lifting devise.	1.1 m3 containers or 3 to 4.5 cu m containers for secondary storage of waste and refuse collectors to clear 1.1m3 bins or dumper placers to lift large containers.	1.1 m3 containers or 3 to 4.5 cu m containers for secondary storage of waste and refuse collectors to clear 1.1m3 bins or dumper placers to lift large containers.
		7.00 cum capacity Compactor for lifting 1.1 cum container	7.00 cum/14.00 cum capacity Compactor for lifting 1.1 cum container
C&D waste	tractor trailer with manual labour	a set of two/three Covered tipper truck and front end loader	a set of three Covered tipper truck and front end loader or skips containers for storage at and skip lifters machines

The vehicle tracking system should be used to monitor the proper and optimum use of the vehicles and to avoid any misuse or underutilization of vehicles.

## User Charges:

**Following minimum rates of user fees are advised.** ULB may levy higher rates if deemed expedient.

individual households	Rs. 30 to 50 per month
Individual commercial establishments, offices, institutional premises smaller than 500 sq. meters constructed area and other than hotels and restaurants	Rs. 60 to 100 per month
Individual commercial establishments, offices, institutional premises larger than 500 sq. meters constructed area ( other than hotels and restaurants)	Rs. 100 per month per every 500 sq. Meter constructed area or part thereof.
un starred Hotels and restaurants	Rs 300 per month per every 1000 sq. Meter constructed area or part thereof.
Starred Hotels upto 3 stars	Rs 500 per month per every 1000 sq meter constructed area
Hotels above 3 stars,	Rs 750 per month per every 1000 sq meter constructed area or Rs 1000/- per every tonne of waste delivered for disposal whichever is more.

*Above monthly charges may be levied through private contractors who are given contracts or concessions for waste collection to minimize the burden of collection on the municipality. Enforcement support mechanism may be created by the municipal authority to ensure full recovery of user fees.*

### Other financial measures

- i. Viability Gap Funding (VGF) may be considered for processing facilities by ULBs as per government of India, Ministry of Urban Development (MoUD) under Swachh Bharat Mission 2014, guidelines for smooth functioning.
- ii. Proper accounting system should be ensured by ULBs and funds shall be utilized as budgeted in the annual account. Composting/vermi Composting and other refuse derived component can be consider for batter viability.

### Legal Aspects

**Following provisions have been made in the Rajasthan Municipalities Act, 2009 to ensure implementation of Municipal Solid Waste Rules as follows:**

**Article 104: Municipality has power to be levy user charges for solid waste management**

**Article 226: Duty of Municipality in respect of Solid Waste Management and Handling**

**Article 227: Entrustment of Management and handling of solid wastes and billing and collection of charge**

**Article 228: Solid wastes to be property of municipality**

**Article 229: Appointment of places for disposal and final disposal of solid wastes**

**Article 230: Duty of owners and occupiers of premises to store solid wastes at source of generation**

**Article 231: Duty of Co-operative housing society, apartment owners Association etc.**

**Article 232: Prohibitions of littering****Article 233: Punishment for littering on streets and depositing or throwing any solid waste****Article 234: Implementation of Provision of Bio Medical Waste Rules related to Municipality****Article 235: Implementation of Provision of Hazards Waste Rules related to Municipality**

**These provisions of laws and Rules should be strictly adhered to by the municipal authorities.**

**Service Delivery Benchmarking**

The Ministry of Urban Development has prescribed National service level Benchmarks in Solid Waste Management. Urban local bodies are to make sincere effort to meet these benchmarks and generate and submit performance reports periodically. The following SLBs have been chosen for solid waste management so as to reflect the multiple facets of service delivery performance.

<b>S.No</b>	<b>Indicator</b>	<b>Unit</b>	<b>Value</b>
<b>1.</b>	Household level coverage of SWM services	As % of households and establishments that are covered by daily door-step collection system.	<b>100%</b>
<b>2.</b>	Efficiency of Collection of Municipal solid waste	As % of total waste collected by ULB and authorized service providers against waste generated within the project area (excluding the waste recycled through rag pickers)	<b>100%</b>
<b>3.</b>	Extent of Segregation of municipal solid waste	As % of households and establishments that segregate their waste	<b>100%</b>
<b>4.</b>	Extent of municipal solid waste recovered	Quantum of waste collected, which is either recycled or Processed, expressed as %.	<b>80%</b>
<b>5.</b>	Extent of scientific disposal of solid waste	As % of waste disposed in a sanitary landfill site against total quantum of waste disposed in landfills and dump sites	<b>100%</b>
<b>6.</b>	Cost Recovery in SWM services	Expressed as % recovery of all operating expenses related to SWM Services that the ULB is able to meet from the operating revenues of sources related exclusively to SWM	<b>100%</b>
<b>7.</b>	Efficiency in Redressed of customer complaints	As a % of total number of SWM related complaints resolved against total number of SWM complaints received within 24 hrs time period	<b>80%</b>
<b>8.</b>	Efficiency in collection of charges	Efficiency in collection is defined as - Current year revenues collected, expressed as a % of the Total operating revenues, for the corresponding time period	<b>90%</b>

**Note: Contractor shall made serious efforts for achieving Service Level Bench Mark (SLB) as prescribed above.**

## **Section VI A: General Conditions of Contract (GCC)**

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## 1. General Provisions

Sub-Title	Sub-Clause	Provision
<b>Definitions</b>	<b>1.1</b>	In the Conditions of Contract (these General Conditions) which include Special Conditions, the following works and expressions shall have the meaning stated as under. Words indicating persons or parties include firms, companies, and other legal entities except where context requires otherwise.
<b>The Contract</b>	<b>1.1.1</b>	
	<b>1.1.1.1</b>	<b>Bill of Quantities (BOQ)</b> means the priced and completed Bill of Quantities forming part of the Bid. <b>Activity Schedule</b> means the various stages of execution of the Works in case of Lump Sum Contract which are linked to payment Schedule.
	<b>1.1.1.2</b>	<b>Contract</b> means the document forming the Bid and acceptance thereof and the formal agreement executed between the competent authority on behalf of the Governor of Rajasthan and the Contractor, together with the documents referred to therein including these conditions, the Specifications, designs, Drawings and instructions issued from time to time on Contract and shall be complementary to one another.
	<b>1.1.1.3</b>	<b>Contract Agreement</b> means the Contract Agreement referred to in Sub-Clause 1.81 [ Signing of the Contract].
	<b>1.1.1.4</b>	<b>Contract Data</b> means the pages completed by the Procuring Entity entitled Contract Data which constitute the Special Conditions of the Contract.
	<b>1.1.1.5</b>	<b>Drawings</b> means the Drawings of the Works, as included in the Contract and any additional and modified drawings issued by (or on behalf of) the Procuring Entity in accordance with the Contract.
	<b>1.1.1.6</b>	<b>Letter of Acceptance</b> means the letter of formal acceptance, signed by the Procuring Entity, including any annexed memoranda comprising agreements between and signed by both Parties. If there is no such Letter of Acceptance, the expression “Letter of Acceptance” means the Contract Agreement and the date of issuing the Letter of Acceptance means the date of signing the Contract Agreement.
	<b>1.1.1.7</b>	<b>Letter of Technical/ Financial Bid</b> means the document entitled Letter Technical or Letter of Financial bid, which was completed by the Bidder and includes the signed offer to the Procuring Entity for the Works.
	<b>1.1.1.8</b>	<b>Risk and Cost means</b> when the Contractor fails to complete the Contract despite due notices, the procuring entity may terminate the Contract with full 10% compensation and/ or measure the acceptable work done and get the balance work of the BOQ/ Activity Schedule carried out at the risk and cost of the Contractor and the difference of cost at which the balance work is carried out through the Department/ Organisation or another agency is debited to the Contractor.



	<b>1.1.1.9</b>	<b>Schedules</b> means the document(s) entitled Schedules, completed by the Contractor and submitted with the letter of Bid, as included in the Contract. Such documents may include the Bill of Quantities, data, lists and Schedules of rates and /or prices.
	<b>1.1.1.10</b>	<b>Specifications</b> means the BIS, other Code Specification of the Works followed by relevant Department of the Government of India/ State Government and /or included in the Contract and any modification. Provisions of the MSW Rules, CPHEE manual, SBM guidelines and other guidelines issued by GoI for implementation of the MSW and amended time to time.
	<b>1.1.1.11</b>	<b>Technical/ Financial Bid</b> means the Letter of Technical or Financial Bid and all other documents which the Bidder submitted with the Letter of Technical or Financial Bid, as included in the Contract.
<b>Parties and Persons</b>	<b>1.1.2</b>	
	<b>1.1.2.1</b>	<b>Party:</b> means the Procuring Entity or the Contractor, or both as the context requires.
	<b>1.1.2.2</b>	<b>Contractor</b> shall mean the individual, firm or company, whether incorporate or not undertaking the Works and shall include the legal or authorised representative of such individual or the persons composing such firm or company or the successors of such firm or company and the permitted assignees of such individual, firm or company.
	<b>1.1.2.3</b>	<b>Contractor's Personnel</b> means the Contractor and Contractor's Representative and all personnel whom the Contractor utilizes on Site, who may include the staff, labour and other employees of the Contractor and of each Subcontractor; and any other personnel assisting the Contractor in the execution of the Works. All communications addressed to the Contractor can be handed over at site to the Contractor's personnel.
	<b>1.1.2.4</b>	<b>Contractor's Representative</b> means the person named by the Contractor in the Contract or appointed from time to time by the Contractor under <b>Sub-Clause 4.5</b> [Contractor's Representative], who acts on behalf of the Contractor.
	<b>1.1.2.5</b>	<b>Engineer-in-Charge or Engineer</b> means the Divisional officer / Executive Engineer who shall be in-charge of the Works and who shall sign the Contract on behalf of the Governor of Rajasthan and who shall be responsible for supervising the Contract, administering the Contract, certifying payments due to the Contractor, issuing and valuing Variations to the Contract, awarding extension of time, valuing the Compensation events, etc.
	<b>1.1.2.6</b>	The <b>Procuring Entity or PE</b> means the Party who employs the Contractor to carry out the Works.
	<b>1.1.2.7</b>	<b>Procuring Entity's Personnel</b> means the Engineer-in-Charge, the assistants referred to in Sub-Clause 3.2 [Delegation by the Engineer-in-Charge] and all other staff, labour and other employees of the Engineer-in-

		Charge and of the Procuring Entity; and any other personnel notified to the Contractor, by the Procuring Entity or the Engineer-in-Charge, as Procuring Entity's Personnel.
<b>Dates, tests and periods of completion</b>	<b>1.1.3</b>	
	<b>1.1.3.1</b>	<b>Base Date</b> means the date 28 Days prior to the last date specified for submission of the Bid.
	<b>1.1.3.2</b>	<b>Commencement/start Date</b> means the date specified under Sub-Clause 8.3.1 [Commencement of Works].
	<b>1.1.3.3</b>	A <b>Defect</b> is any part of the Works not completed in accordance with the approved specifications, designs and/ or drawings of the Contract.
	<b>1.1.3.4</b>	The <b>Defect Liability Certificate</b> is the certificate issued by Engineer-in-Charge after Defect Liability Period has ended and upon correction of Defects pointed out by the Engineer-in-Charge.
	<b>1.1.3.5</b>	The <b>Defect Liability Period</b> will be decided by the Department/ Organisation depending on nature of the Works, from the date of completion of the Works and shall be mentioned in the Contract Data.
	<b>1.1.3.6</b>	<b>Defects Notification Period</b> means the period for notifying Defects in the Works or a Section (as the case may be) under Sub-Clause 13.2 [Completion of Outstanding Work and Remedying Defects], which extends over twelve Months except if otherwise stated in the Contract Data (with any extension under Sub-Clause 13.4 [Extension of Defects Notification Period], calculated from the date on which the Works or Section is completed as certified under Sub-Clause 12.1 [Taking Over of the Works and Sections].
	<b>1.1.3.7</b>	<b>Performance Certificate</b> means a certificate issued under Sub-Clause 13.10 [Performance Certificate].
	<b>1.1.3.8</b>	<b>Taking-Over Certificate</b> means a certificate issued under Sub-Clause 12.1 [Taking Over of the Works and Sections].
	<b>1.1.3.11</b>	The <b>Intended Completion Date</b> is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is specified in the Contract Data. The Intended Completion Date may be revised only by the Engineer-in Charge by issuing an extension of time.
	<b>1.1.3.12</b>	<b>Time for Completion</b> means the time for completing the Works or a section (as the case may be) under Sub-Clause 8.4 [Time for Completion], as stated in the Contract Data (with any extension under Sub-Clause 8.6 [Extension of Time for Completion], calculated from Commencement Date.
	<b>1.1.3.13</b>	<b>Day</b> means calendar Day; <b>Year</b> means a period of 365 Days.

<b>Money and Payments</b>	<b>1.1.4</b>	
	<b>1.1.4.1</b>	<b>Accepted Contract Amount</b> means the amount accepted in the Letter of Acceptance for execution and completion of the Works and remedying of any defects and maintaining the Works, if stated in the Contract
	<b>1.1.4.2</b>	<b>Cost</b> means all expenditure reasonably incurred (or to be incurred) by the Contractor, whether on or off the Site, including overhead and similar charges, but does not include profit.
	<b>1.1.4.3</b>	<b>Final Payment Certificate</b> means the Payment Certificate issued under Sub-Clause 15.9 [Issue of Final Completion Certificate].
	<b>1.1.4.4</b>	<b>Final Statement</b> means the statement defined in Sub-Clause 15.10 [Final Statement of Payments].
	<b>1.1.4.5</b>	<b>Interim Payment Certificate</b> means a Payment Certificate issued under Sub-Clause 15.5 [Issue of Interim Payment Certificate], other than the Final Payment Certificate.
	<b>1.1.4.9</b>	<b>Performance Security</b> means an amount as percentage of the Accepted Contract Price deposited in the form of Bank Guaranteed or any other prescribed form deposited by the Contractor as a security for due performance of the Contract.
<b>Works and Materials</b>	<b>1.1.5</b>	
	<b>1.1.5.1</b>	<b>Processing Plant</b> means the apparatus, machinery and other equipment intended to form or forming part of the Permanent Works for processing of the waste,
	<b>1.1.5.2</b>	<b>Scope of work</b> shall cover execution of all aspects of the Works as per the Contract.
	<b>1.1.5.3</b>	<b>Section</b> means a part of the Works specified in the Contract Data as a Section (if any).
	<b>1.1.5.4</b>	<b>Specifications</b> means the Specification (BIS, IRC etc. or specifications approved by the department or others) of the Works included in the Contract and any modification or addition made or approved by the Engineer-in Charge.
	<b>1.1.5.8</b>	<b>Work or Works</b> shall, unless there is something either in the subject or context repugnant to such door to door collection of waste, transportation of waste and processing of waste by construction of a processing facility/plant.
<b>Others</b>	<b>1.1.6</b>	
	<b>1.1.6.1</b>	<b>Act</b> means the Rajasthan Transparency in Public Procurement Act, 2012.
	<b>1.1.6.2</b>	<b>Contractor's documents</b> are the bids (technical and financial) submitted, softwares, bills, reports, drawings, designs, letters/ communications, test results, etc., submitted by the Contractor to the Procurement Entity in connection with the Contract.

	<b>1.1.6.3</b>	<b>Department</b> means any Department of Government of Rajasthan which invite Bids on behalf of Governor of Rajasthan as specified in Contract Data.
	<b>1.1.6.4</b>	<b>Field laboratory</b> means the Contractor's equipped laboratory provided with equipments, experienced personnel, consumables, books of specifications and codes for use on quality testing of compost.
	<b>1.1.6.5</b>	<b>Force Majeure</b> is defined in Sub-Clause 19.1 [Definition of Force Majeure].
	<b>1.1.6.6</b>	<b>Government/ Governor of Rajasthan</b> means the State Government of Rajasthan/ Governor of Rajasthan
	<b>1.1.6.7</b>	<b>Laws</b> means all the national or the state legislations, statutes, ordinances and other laws, and regulations and by-laws of India and Rajasthan and any legally constituted public authority.
	<b>1.1.6.8</b>	<b>Procuring Entity's Equipments</b> means the apparatus, machinery and vehicles (if any) made available by the Procuring Entity on hire for the use of the Contractor in the execution of the Works, as stated in the Specifications; but does not include Plant which has not been taken over by the Procuring Entity.
	<b>1.1.6.9</b>	<b>Rules</b> means the Rajasthan Transparency in Public Procurement Rules, 2013
	<b>1.1.6.10</b>	<b>Site</b> shall mean land and/or other places on, into or through which work is to be executed under the Contract or any adjacent land, path or street through which work is to be executed under the Contract or any adjacent land, path or street which may be allotted or used for the purpose of carrying out the Contract.
	<b>1.1.6.11</b>	<b>Site office</b> means a suitable covered all weather usable space built by the Contractor at Site of Works at his cost for use by him and the Procuring Entity.
	<b>1.1.6.12</b>	<b>Unforeseeable</b> means not reasonably foreseeable by an experienced Contractor by the Base Date.
<b>Interpretation</b>	<b>1.2</b>	<p>In the Contract, except where the context requires otherwise</p> <ol style="list-style-type: none"> <li>words indicating one gender include all genders;</li> <li>words indicating the singular also include the plural and words indicating the plural also include the singular;</li> <li>provisions including the word "agree", "agreed" or "agreement" require the agreement to be recorded in writing;</li> <li>"written" or "in writing" means hand-written, type-written, printed or electronically made, and resulting in a permanent record;</li> <li>the word "tender" is synonymous with "bid" and "tenderer" with "bidder" and the words "tender document" with "bidding document".</li> </ol> <p>The marginal words and other headings shall not be taken into consideration in the interpretation of these Conditions.</p>

<b>Communications</b>	<b>1.3</b>	<p>Wherever these Conditions provide for the giving or issuing of approvals, certificates, consents, determinations, notices, requests and discharges, by one party to the other, these communications shall be:</p> <ul style="list-style-type: none"> <li>i. in writing and delivered by hand against receipt, sent by mail or courier, or transmitted using any of the agreed systems of electronic transmission as stated in the Contract Data; and</li> <li>ii. delivered, sent or transmitted to the address for the recipient's Communications as stated in the Contract Data. However: <ul style="list-style-type: none"> <li>a) if the recipient gives notice of another address, communications shall thereafter be delivered accordingly; and</li> <li>b) if the recipient has not stated otherwise when requesting an approval or consent, it may be sent to the address from which the request was issued.</li> </ul> </li> </ul> <p>Approvals, certificates, consents and determinations shall not be unreasonably withheld or delayed. When a certificate is issued to a Party, the certifier shall send a copy to the other Party. When a notice is issued to a Party, by the other Party or the Engineer-in-Charge, a copy shall be sent to the Engineer-in-Charge or the other Party, as the case may be.</p>
<b>Law and language</b>	<b>1.4</b>	<p>The Contract shall be governed by the laws of India and the State of Rajasthan.</p> <p>The ruling language of the Contract shall be English or that stated in the Special Conditions of Contract.</p>
<b>Works to be carried out</b>	<b>1.5</b>	<p>The Works to be carried out under the Contract shall, except as otherwise provided in these conditions, include all labour, materials, equipment, tools, plants, testing and quality assurance, and transport which may be required in preparation of and doing in the full and entire execution and completion of the Works. The descriptions given in the Schedule of Quantities (Activity Schedule in case of Lump Sum Contract) shall unless otherwise stated, be held to include wastage on Materials, carriage and cartage, carrying and return of empties, hoisting, setting, fitting and fixing in position and all other Labour necessary in and for the full and entire execution and completion of the Works as aforesaid in accordance with good practice and recognized principles to deliver a work of specified quality and durability conforming to designs, drawings etc.</p>
<b>Sufficiency of Tender/ Bid</b>	<b>1.6</b>	<p>The Contractor shall be deemed to have satisfied himself before bidding as to the correctness and sufficiency of his Bid for the Works and of the rates and prices quoted in the Schedule of Quantities, which rates and prices shall, except as otherwise provided, cover all his obligations under the Contract and all matters and things necessary for the proper completion and maintenance of the Works. He shall also be responsible for satisfying himself on the completeness of the documents /data provided by the Procuring Entity. He shall not raise any objections or deficiencies or inaccuracies in such documents.</p>
<b>Discrepancies and adjustment of errors</b>	<b>1.7.1</b>	Deleted
	<b>1.7.2</b>	<b>Deleted</b>
	<b>1.7.3</b>	Deleted

<b>Signing of the Contract</b>	<b>1.8.1</b>	<p>The successful Bidder/SPV if any after submitting the performance guarantee i.e. within 30 Days of receipt of Notification of Award or as specified in the Contract Data, shall attend the office of the Procurement Entity / Engineer- in-charge for authentication, signing and completion of the Contract document and execute the agreement consisting of: The notice inviting Bid, all the documents including Drawings, if any, forming the Bidding Document as issued at the time of invitation of bids and acceptance thereof together with any correspondence leading thereto, Standard Forms consisting of various standard Sub-Clauses with corrections up to the date stipulated in Contract Data along with annexure thereto and drawings etc.</p> <p>The Costs of stamp duties and similar charges (if any) imposed by Law in connection with entry into the Contract Agreement shall be borne by the Contractor.</p>
<b>Signed copy of Contract Document to be given to Contractor</b>	<b>1.8.2</b>	The Contractor shall be furnished, free of Cost one signed copy of the Contract Documents together with all documents, which shall be procured by the Contractor at his cost. These documents shall be deemed to be part of the Contract. These shall be kept in the Site office. None of these documents shall be used for any purpose other than that of this Contract.
<b>Conditions of the Contract</b>	<b>1.8.3</b>	The Contract shall be governed by the General Conditions of Contract (GCC). The Special Conditions of Contract (SCC)/ Contract Data, wherever applicable, shall supersede/ clarify the GCC to the extent specified.
<b>Priority of Documents</b>	<b>1.8.4</b>	<p>The documents forming the Contract are to be taken as mutually explanatory of one another. For the purposes of interpretation, the priority of the documents shall be in accordance with the following sequence:</p> <ul style="list-style-type: none"> <li>(a) the Contract Agreement,</li> <li>(b) the Letter of Acceptance,</li> <li>(c) the Technical Bid and Financial Bid along with the letters of the Technical Bid and Financial Bid</li> <li>(d) the Contract Data/ Special Conditions of Contract,</li> <li>(e) the General Conditions of Contract,</li> <li>(f) the Specifications,</li> <li>(g) the Drawings,</li> <li>(h) the Instructions to Bidders,</li> <li>(i) the Notice Inviting Bids, and</li> <li>(j) the Schedules and any other documents forming part of the Contract.</li> </ul> <p>If an ambiguity or discrepancy is found in the documents, the Engineer-in-Charge shall issue any necessary clarification or instruction.</p>
<b>Personnel</b>	<b>1.9.1</b>	The Contractor shall employ the key personnel named in the Schedule of Key Personnel as referred to in the qualification criteria to carry out the functions stated in the Schedule or other personnel approved by the Engineer-in-Charge. The Engineer-in-Charge will approve any proposed replacement of key personnel only if their qualifications, abilities, and relevant experiences are substantially equal to or better than those of the personnel listed in the Schedule.

	<b>1.9.2</b>	If the Engineer-in-Charge asks the Contractor to remove a person who is a member of the Contractor's staff or his work force stating reasons, the Contractor shall ensure that the person leaves the Site within seven Days and has no further connection with the work in the Contract.
<b>Procuring Entity's</b>	<b>1.10</b>	The Procuring Entity is responsible for the excepted risks which are : (a) in so far as they directly affect the execution of the Works in India, the risks of war, hostilities, invasion, act of foreign enemies, rebellion, revolution, insurrection or military or usurped power, civil war, riot commotion or disorder (unless restricted to the Contractor's employees), and contamination from any nuclear fuel or nuclear waste or radioactive toxic explosive, or (b) a cause due solely to the design of the Works, other than the Contractor's design.
<b>Contractor's Risks</b>	<b>1.11</b>	All risks of loss of or damage to physical property and of personal injury and death which arise during and in consequence of the performance of the Contract other than the Procuring Entity's risks are the responsibility of the Contractor.
<b>Delays in issuing drawings or instructions.</b>	<b>1.15</b>	Deleted
<b>Confidential Details</b>	<b>1.16</b>	The Contractor's and the Procuring Entity's Personnel shall not disclose all such confidential and other information as may be reasonably required in order to verify compliance with the Contract and allow its proper implementation. Each of them shall treat the details of the Contract as private and confidential, except to the extent necessary to carry out their respective obligations under the Contract or to comply with applicable Laws. Each of them shall not publish or disclose any particulars of the Works prepared by the other Party without the previous agreement of the other Party. However, the Contractor shall be permitted to disclose any publicly available information, or information otherwise required to establish his qualifications to compete for other projects.
<b>2. The Procuring Entity</b>		
<b>Right of Access to the Site</b>	<b>2.1</b>	The Procuring Entity shall give the Contractor right of access to, and possession of <b>at least 80% of the Site within 30 days of signing of the Contract</b> or within the time specified in the Special Conditions of Contract (SCC). If under the Contract the Procuring Entity is required to give to the Contractor possession of any foundation, structure, plant or means of access, the Procuring Entity shall do so in the time and manner stated in the Specification. However, the Procuring Entity may withhold any such right or possession until the Performance Security has been received.  If the Contractor suffers delay as a result of a failure by the Procuring Entity

		<p>to give any such right or possession within such time, the Contractor shall give notice to the Engineer-in-charge and shall be entitled subject to Sub-Clause 21.2 [Contractor's Claims] to an extension of time for any such delay, if completion is or will be delayed,</p> <p>After receiving this notice, the Engineer-in-charge shall proceed to agree or determine these matters</p> <p>However, if and to the extent that the Procuring Entity's failure was caused by any error or delay by the Contractor, including an error in, or delay in the submission of, any of the Contractor's Documents, the Contractor shall not be entitled to such extension of time.</p>
	<b>2.2</b>	The right and possession may not be exclusive to the Contractor.
<b>Assistance by Procuring Entity</b>	<b>2.3</b>	The Procuring Entity shall provide, at the request of the Contractor, such reasonable assistance as to allow the Contractor to obtain expeditiously any permits, licenses or approvals which the Contractor is required to obtain :
<b>Procuring Entity's Personnel</b>	<b>2.4</b>	The Procuring Entity shall be responsible for ensuring that the Procuring Entity's Personnel and the Procuring Entity's other Contractors on the Site, co-operate with the Contractor's efforts under Sub-Clause 4.7 [Co-operation], and take actions similar to those which the Contractor is required to take under Sub-Clause 4.8 [Safety Procedures] and under Sub-Clause 4.17 [Protection of the Environment]
<b>3. Engineer-in-Charge</b>		
<b>Duties and Responsibilities</b>	<b>3.1.1</b>	<p>The Executive Engineer of the concerned Division will function as the Engineer-in-Charge for the purpose of the Contract or the Procuring Entity shall appoint another engineer as the Engineer-in-charge, as specified in the Contract Data, who shall carry out the duties assigned to him in the Contract and ensure execution of works as per approved drawings, designs, specifications etc.. The Engineer-in-charge's staff shall include suitably qualified Engineers and other professionals who are competent to carry out these duties.</p> <p>The Engineer-in-charge shall have no authority to amend the Contract. The Engineer-in-charge may exercise the authority attributable to the Engineer-in-charge as specified in or necessarily to be implied from the Contract. If the Engineer-in-charge is required to obtain the approval of the Procuring Entity before exercising a specified authority, he shall have to obtain that approval.</p>
	<b>3.1.2</b>	<p>The Procuring Entity shall promptly inform the Contractor of any change to the authority attributed to the Engineer-in-charge.</p> <p>However, whenever the Engineer-in-charge exercises a specified authority for which the Procuring Entity's approval is required, then (for the purposes of the Contract) the Procuring Entity shall be deemed to have given approval.</p> <p>Except as otherwise stated in these Conditions:</p> <ol style="list-style-type: none"> <li>whenever carrying out duties or exercising authority, specified in or implied by the Contract, the Engineer-in-charge shall be deemed to act for the Procuring Entity;</li> </ol>



		<p>ii. the Engineer-in-charge has no authority to relieve either Party of any duties, obligations or responsibilities under the Contract; and</p> <p>iii. any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by the Engineer-in-charge (including absence of disapproval) shall not relieve the Contractor from any responsibility he has under the Contract, including responsibility for errors, omissions, discrepancies, quality of works and non-compliances to specifications/ instructions of the Engineer-in-charge /Procuring Entity.</p> <p>iv. Any act by the Engineer-in-charge in response to a Contractor's request except otherwise expressly specified shall be notified in writing to the Contractor within 28 Days of receipt.</p> <p>The Engineer-in-charge shall obtain the specific approval of the competent authority before taking action under the following Sub-Clauses of these Conditions and other Sub-Clauses, if specified in the Contract Data:</p> <ol style="list-style-type: none"> <li><b>Sub-Clause 4.12</b> [Unforeseeable Physical Conditions] agreeing or determining an extension of time and/or additional Cost.</li> <li>Sub-Clause 9.1 [Right to Vary]: Instructing a Variation, except; <ol style="list-style-type: none"> <li>in an emergency situation as determined by the Engineer-in-charge, or</li> <li>if such a Variation would increase the Accepted Contract Amount by less than the percentage specified in the Contract Data.</li> </ol> </li> <li>Approving a proposal for Variation submitted by the Contractor in accordance with Sub-Clause 9.1 [Right to Vary] or Sub-Clause 9.3 [Value Engineering].</li> </ol> <p>Notwithstanding the obligation, as set out above, to obtain approval, if, in the opinion of the Engineer-in-charge, an emergency occurs affecting the safety of life or of the Works / workmen or of adjoining property, he may, without relieving the Contractor of any of his duties and responsibility under the Contract, instruct the Contractor to execute all such work or to do all such things as may, in the opinion of the Engineer-in-charge, be necessary to abate or reduce the risk. The Contractor shall forthwith comply, despite the absence of approval of the competent authority, with any such instruction of the Engineer-in-charge. The Engineer-in-charge shall determine (after due approval from the competent authority) an addition to the Contract Price, in respect of such instruction, in accordance with Clause 9 [Deviations, Variations and Adjustments] and shall notify the Contractor accordingly, with a copy to the Procuring Entity.</p>
<b>Delegation by Engineer-in- Charge</b>	<b>3.2</b>	<p>The Engineer-in-charge may from time to time assign duties and delegate authority to assistants and may also revoke such assignment or delegation. These assistants may include a resident Engineer, and/or independent inspectors appointed to inspect and/or test items of works and/or Materials. The assignment, delegation or revocation shall be in writing and shall not take effect until copies have been received by both Parties.</p> <p>However, unless otherwise agreed by both Parties, the Engineer- in-charge shall not delegate the authority to determine any matter in accordance with Sub-Clause 3.5 [Determinations]</p> <p>Each assistant, to whom duties have been assigned or authority has been delegated, shall only be authorized to issue instructions to the Contractor to the extent defined by the delegation. Any approval, check, certificate, consent,</p>

		<p>examination, inspection, instruction, notice, proposal, request, test, or similar act by an assistant, in accordance with the delegation, shall have the same effect as though the act had been an act of the Engineer-in-charge. However:</p> <ul style="list-style-type: none"> <li>i. any failure to disapprove any work, Plant or Materials shall not constitute approval, and shall therefore not prejudice the right of the Engineer-in-charge to reject the work, Plant or Materials;</li> <li>ii. if the Contractor questions any determination or instruction of an assistant, the Contractor may refer the matter to the Engineer-in-charge, who shall promptly confirm, reverse or vary the determination or instruction.</li> </ul>
<b>Instruction of the Engineer-in-Charge</b>	<b>3.3</b>	<p>The Engineer-in-charge may issue to the Contractor (at any time) instructions and additional or modified Drawings which may be necessary for the execution of the Works and the remedying of any Defects, all in accordance with the Contract. The Contractor shall only take instructions from the Engineer-in-charge, or from an assistant to whom the appropriate authority has been delegated under Sub-Clause 3.2. If an instruction constitutes a Variation, Clause 9 [Deviations, Variations and Adjustments] shall apply. The Contractor shall comply with the instructions given by the Engineer-in-charge or delegated assistant, on any matter related to the Contract. Whenever practicable, their instructions shall be given in writing. If the Engineer-in-charge or a delegated assistant:</p> <ul style="list-style-type: none"> <li>i. gives an oral instruction,</li> <li>ii. receives a written confirmation of the instruction, from (or on behalf of) the Contractor, within two working Days after giving the instruction, and</li> <li>iii. does not reply by issuing a written rejection and/or instruction within two working Days after receiving the confirmation, then the confirmation shall constitute the written instruction of the Engineer-in-charge or delegated assistant (as the case may be).</li> </ul>
<b>Replacement of Engineer-in-Charge</b>	<b>3.4</b>	Deleted
<b>Determinations</b>	<b>3.5</b>	<p>Whenever these Conditions provide that the Engineer-in-charge shall proceed in accordance with this Sub-Clause 3.5 to agree or determine any matter like variations, extensions of time, responsibilities / valuation for loss and or damage to works etc., the Engineer-in-charge shall peruse the Contract, Specifications, Codes and consult the Contractor in an endeavor to reach an agreement. If an agreement is not reached, the Engineer-in-charge shall make a fair determination in accordance with the Contract, taking due regard of all relevant circumstances.</p> <p>The Engineer-in-charge shall give notice to the Contractor of each agreement or determination, with supporting particulars, within 28 Days from the likely date of implementation of such agreement or determination and obtain receipt of the corresponding claim or request except when otherwise specified. The Contractor shall give effect to each determination unless and until revised under Clause 21 [Claims, Disputes and Arbitration].</p>
<b>Minutes of Meeting</b>	<b>3.6</b>	<p>The Engineer-in-charge may require the Contractor to attend a progress review / or quality assurance/ design review meeting during execution of the Works. The Engineer-in-charge shall record the minutes of the meeting and provide a copy within 7 days to the Contractor for compliance. These minutes will be a part of evidence in case of request for extension of time or variation</p>

		<p>or punitive action against the Contractor as per terms of the Contract.</p> <p>In case the issue of minutes is delayed, the Contractor may issue the record note of discussions and decisions taken in the meeting for record and confirmation by the Engineer-in Charge. These shall be treated as confirmed if not denied within 15 days by the Engineer-in-Charge.</p>
<b>4. The Contractor</b>		
<b>General Obligations and Contractor's personnel.</b>	<b>4.1.1</b>	<p>The Contractor shall design, prepare drawings (to the extent specified in the Contract), execute as per specifications and complete the Works in accordance with the Contract and with the Engineer-in-Charge's instructions, and shall remedy any Defects in the Works.</p> <p>The Contractor shall provide the Plant and Contractor's Documents specified in the Contract, and all Contractor's Personnel, Goods, consumables and other things and services, whether of a temporary or permanent nature, required in and for this design, execution, completion and remedying of Defects.</p>
	<b>4.1.2</b>	The Contractor shall be responsible for the adequacy, stability and safety of all Site operations and of all methods of construction. Except to the extent specified in the Contract, the Contractor shall be responsible for all Contractor's Documents, Temporary Works, and such design of each item of works, Plant and Materials as is required for the item to be in accordance with the specifications for items of Contract, and shall not otherwise be responsible for the design or Specification of the Permanent Works.
	<b>4.1.3</b>	The Contractor shall deploy experienced and competent personnel to execute the works. The quality of workmanship has to be as specified. Personnel not found capable of good workmanship shall be removed and replaced with better workman.
	<b>4.1.4</b>	The Contractor shall, whenever required by the Engineer-in-charge, submit details of the arrangements and methods which the Contractor proposes to adopt for the execution of the Works. He shall also be responsible for the safety of works and personnel at the site and shall submit a safety execution plan (as per relevant code for safety at construction site) for the approval by the Engineer-in-charge. No significant alteration to these arrangements and methods shall be made without this having previously been approved by the Engineer-in-charge. He shall also comply to the requirements of the mitigations of the Environmental impacts of the execution of works.
	<b>4.1.5</b>	<p>If the Contract specifies that the Contractor shall design any part of the Permanent Works, then unless otherwise stated in the Special Conditions of Contract:</p> <p>i. the Contractor shall submit to the Engineer-in-charge the Contractor's Documents for this part in accordance with the procedures specified in the Contract.</p> <p>ii. these Contractor's Documents shall be in accordance with the Specification and Drawings, shall be written in the language for communications defined in the Sub-Clause 1.4 [Law and Language] and shall include additional information required by the Engineer-in-charge to add to the Drawings for co-ordination of each Party's designs;</p>

		<p>iii. the Contractor shall be responsible for this part and it shall, when the Works are completed, be fit for such purposes for which the part is intended as are specified in the Contract; and</p> <p>iv. prior to the commencement of the Tests on Completion, the Contractor shall submit to the Engineer-in-charge the “as-built” drawings, designs and documents and, if applicable, operation and maintenance manuals in accordance with the Specification and in sufficient detail for the Procuring Entity to operate, maintain, dismantle, reassemble, adjust and repair all parts of the Works. Such part shall not be considered to be completed for the purposes of taking-over under Clause 12 [Taking Over of the Works and Sections] until these documents and manuals have been submitted to the Engineer-in-charge.</p>
	<b>4.1.6</b>	The Contractor shall allow the Engineer-in-charge and any person authorized by the Engineer-in-charge access to the Site, to any place where work in connection with the Contract is being carried out or is intended to be carried out and to any place where Materials or plant are being installed / assembled for the Works. The contractor may satisfy himself regarding site, acquisition of land, approach roads etc.
	<b>4.1.7</b>	The liability, if any, on account of quarry fees, royalties, octroi, service tax, and any other taxes and duties in respect of materials actually consumed on public work shall be borne by the Contractor.
	<b>4.1.8</b>	The cost of all water / power connections necessary for the execution of the Works and the cost of water consumed and hire charges of meters and the cost of electricity consumed in connection with the execution of the Works shall be paid by the Contractor except where otherwise specifically indicated. He shall also be responsible for environment mitigated disposal of waste water released during execution.
<b>Compliance with the Code of Integrity</b>	<b>4.2.1</b>	<p>The Contractor is bound by the provisions of the Code of Integrity stipulated in the Act , the Rules and specified in ITB Sub-Clause 1.3 [Code of Integrity] and refrain himself from corrupt, fraudulent, coercive and collusive practices which are defined as below:</p> <ul style="list-style-type: none"> <li>a) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;</li> <li>b) “fraudulent practice” means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;</li> <li>c) “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;</li> <li>d) “collusive practice” means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.</li> </ul>
	<b>4.2.2</b>	The Procuring Entity shall take legal action against the Contractor, if it breaches any provisions of the Code of Integrity, under Section 11(3), 46 and chapter IV of the Act.

	<b>4.2.3</b>	The Contractor shall permit the Procuring Entity to inspect the Contractor's accounts and records relating to the performance of the Contract and to have them audited by auditors appointed by the Procuring Entity, if so required by the Procuring Entity.
<b>Performance Security</b>	<b>4.3.1</b>	<p>The Contractor shall have the option to furnish a Performance Security @ 10% of the Contract value, in Indian Rupees, in one of the following forms`</p> <ul style="list-style-type: none"> <li>i. Deposit through eGRAS; or</li> <li>ii. Bank Draft or Banker's Cheque of a Scheduled Bank in India; or</li> <li>iii. National Savings Certificates and any other script/ instrument under National Savings Schemes for promotion of small savings issued by a Post Office in Rajasthan, if the same can be pledged under the relevant rules. <del>They shall be accepted</del> at their surrender value at the time of Bid and formally transferred in the name of the Procuring Entity with the approval of Head Post Master; or</li> </ul> <p>IV. Bank guarantee. It shall be of a scheduled Bank in India in prescribed or other acceptable format or from other Issuer acceptable to the Procuring Entity. The bank guarantee shall be got verified from the issuing bank and confirmer, if any; or</p> <p>V. Fixed Deposit Receipt (FDR) of a Scheduled Bank in India. It shall be in the name of the Procuring Entity on account of Bidder and discharged by the Bidder in advance. The Procuring Entity shall ensure before accepting the Fixed Deposit Receipt that the Bidder furnishes an undertaking from the bank to make payment/ premature payment of the Fixed Deposit Receipt on demand to the Procuring Entity without requirement of consent of the Bidder concerned. In the event of forfeiture of the Performance Security, the Fixed Deposit shall be forfeited along with interest earned on such Fixed Deposit</p> <p>VI. The Contractor shall have option to get the Performance Security deposited by deduction from his each running and final bill (Payment Certificate) @ 10% of the amount of the bill.</p>
	<b>4.3.2</b>	<p>The proceeds of the Performance Security shall be forfeited and shall be payable as compensation to the Procuring Entity on happening of any of the events mentioned below:</p> <ul style="list-style-type: none"> <li>i. when the Contractor does not execute the agreement within the specified time; after issue of letter of acceptance/ placement of work order; or</li> <li>ii. when the Contractor fails to commence the work within the time specified; or</li> <li>iii. when the Contractor fails to complete the work satisfactorily within the time specified; or</li> <li>iv. when any terms and conditions of the contract is breached; or</li> <li>v. Failure by the Contractor to pay the Procuring Entity any amount due, either as agreed by the Contractor or determined under any of the Sub-Clauses of these Conditions or another agreement, within 30 Days of the service of notice to this effect by Engineer-in-Charge; or</li> <li>vi. if the Contractor breaches any provision of the Code of Integrity prescribed for Bidders specified in the Act, the Rules, ITB Sub-Clause 1.3 and Sub-Clause 4.2.1 of these conditions.</li> </ul> <p>Notice of reasonable time will be given in case of forfeiture of Performance Security. The decision of the Procuring Entity in this regard shall be final.</p>
	<b>4.3.3</b>	The Contractor shall ensure that the Performance Security remains valid upto a period 60 days beyond fulfillment of all the obligations of the Contractor under the Contract, including defect liability and maintenance, if any. If the terms of the Performance Security specify its expiry date, and the Contractor has not become entitled to receive the Performance Certificate by

		<p>the date 28 Days prior to the expiry date as provided in the Contract, the Contractor shall get extended the validity of the Performance Security.</p> <p>Failure by the Contractor to extend the validity of the Performance security as described herein above, in which event the Engineer-in-charge may claim the full amount of the performance security.</p>
	<b>4.3.4</b>	<p>The Procuring Entity shall return the Performance Security or release the Performance Security Declaration to the Contractor as below after completion of all obligations under the Contract, more specifically, after the expiry of the period as specified below:</p> <ul style="list-style-type: none"> <li>i. In case of contracts relating to hiring of trucks and other T&amp;P, transportation including loading, unloading of materials, the amount of Performance Security will be refundable along with the final bill.</li> <li>ii. Ordinary repairs: 3 months after the completion of the Works, provided the final bill has been paid.</li> <li>iii. Original Works / Special Repair Works: Performance Security will be refunded six months after completion, or after expiry of one full rainy season, or after expiry of defect liability period and maintenance period, if any specified in the Contract Data, whichever is later, provided the final bill has been paid.</li> <li>iv. In case of supply of materials: after 3 months of completion of supply, provided the final bill has been paid.</li> </ul>
	<b>4.3.6</b>	<p>In the event of the Contract being determined or rescinded under any of the provisions of Sub-Clause 16.1, the Performance Security shall stand forfeited in full and shall be absolutely at the disposal of the Procuring Entity.</p>
<b>Commence ment of Work at the earliest. Record the commence ment or start date.</b>	<b>4.4</b>	<p>The Contractor shall commence the Works after signing of the Contract within the period as specified in the Special Conditions of the Contract. In case the Contractor does not commence the works within the above period, the Engineer-in-charge shall issue a notice after the expiry of the said period. The actual date of commencement shall be duly recorded by the Engineer-in-Charge.</p>
<b>Contractor 's Represent ative</b>	<b>4.5</b>	<p>Contractor shall appoint the Contractor's Representative and shall give him all authority necessary to act on the Contractor's behalf under the Contract.</p> <p>Unless the Contractor's Representative is named in the Contract, the Contractor shall, prior to the Commencement Date, submit to the Engineer-in-charge for consent the name and particulars of the person the Contractor proposes to appoint as Contractor's Representative. If consent is withheld or subsequently revoked in terms of this Sub-Clause, or if the appointed person fails to act as Contractor's Representative, or conducts improperly at the Site, the Contractor shall submit the name and particulars of another suitable person for such appointment. The former representative shall be removed within 24 hours of such notice by the Engineer-in-charge.</p> <p>The Contractor shall not, except if the representative has lost the confidence of the Contractor or is not complying to the instructions of</p>

		<p>the Engineer-in-charge or his assistants, remove without the prior consent of the Engineer-in-charge, revoke the appointment of the Contractor's Representative or appoint a replacement.</p> <p>The whole time of the Contractor's Representative shall be given to directing the Contractor's performance of the Contract. If the Contractor's Representative is to be temporarily absent from the Site during the execution of the Works, a suitable replacement person shall be appointed, subject to the Engineer-in-charge's prior consent, and the Engineer-in-charge shall be notified accordingly. The Contractor's Representative shall, on behalf of the Contractor, receive instructions under Sub-Clause 3.3 [Instructions of the Engineer-in-charge] and comply to them.</p> <p>The Contractor's Representative may delegate any powers, functions and authority to any competent person and may at any time revoke the delegation. Any delegation or revocation shall not take effect until the Engineer-in-charge has received prior notice signed by the Contractor's Representative, naming the person and specifying the powers, functions and authority being delegated or revoked. The Contractor's Representative shall be fluent in the language for communications defined in Sub-Clause 1.4. If the Contractor's Representative's delegates are not fluent in the said language, the Contractor shall make competent interpreters available during all working hours in a number deemed sufficient by the Engineer-in-charge.</p>
<b>Sub-Contractor , nominated Sub-Contractor</b>	<b>4.6</b>	Deleted
<b>Co-Operation</b>	<b>4.7</b>	<p>The Contractor shall, as specified in the Contract or as instructed by the Engineer-in-charge, allow appropriate opportunities for carrying out work to:</p> <ul style="list-style-type: none"> <li>i) the Procuring Entity's Personnel,</li> <li>ii) any other Contractors employed by the Procuring Entity, and</li> <li>iii) the personnel of any legally constituted public authorities,</li> </ul> <p>who may be employed in the execution on or near the Site of any work not included in the Contract.</p> <p>Any such instruction shall constitute a Variation if and to the extent that it causes the Contractor to suffer delays and/or to incur Unforeseeable Cost. Services for these personnel and other Contractors may include the use of Contractor's Equipment, Temporary Works or access arrangements which are the responsibility of the Contractor.</p> <p>If, under the Contract, the Procuring Entity is required to give to the Contractor, possession of any foundation, structure, plant or means of access in accordance with Contractor's Documents, the Contractor shall submit such documents to the Engineer-in-charge in the time and manner stated in the Specifications.</p>

<b>Safety Procedures at the site of works</b>	<b>4.8.1</b>	<p>The Contractor shall:</p> <ol style="list-style-type: none"> <li>prepare and submit for approval by the Engineer-in-charge an auditable safety plan at Site in accordance with relevant Code. The Contractor shall comply with all applicable safety regulations;</li> <li>take care for the safety of all persons entitled to be on the Site;</li> <li>use reasonable efforts to keep the Site and Works clear of unnecessary obstruction so as to avoid danger to these persons;</li> <li>provide fencing, lighting, guarding and watching of the works until completion and taking over under Sub-Clause 12.1 [Taking over of Works]; and</li> <li>provide any Temporary Works (including roadways, footways, guards and fences) which may be necessary, because of the execution of the Works, for the use and protection of the public and of owners and occupiers of adjacent land.</li> </ol> <p>In addition to the provisions of this Contract, the Contractor shall follow the safety code of the Department.</p>
<b>Safety Provisions for labour</b>	<b>4.8.2</b>	<p>In respect of all labour directly or indirectly employed, non compliance in the work for the performance of the Contractor's part of this Contract, the Contractor shall at his own expense arrange for the safety provisions as per P.W.D. Safety Code framed from time to time and shall at his own expense provide for all facilities in connection therewith.</p>
<b>Quality Assurance</b>	<b>4.9.1</b>	<p>The Procuring Entity shall have the right to exercise proper Quality Control measures to ensure that the works have been executed as per specifications and have the designed durability. It will be in three tiers:</p> <ol style="list-style-type: none"> <li>The first tier being the Contractor's engineers ensuring full compliance to specifications and conforming the same through testing (as per frequencies specified in the BIS, IRC or other relevant codes) on input materials, processes and the output in the field laboratory established by the Contractor at his cost .</li> <li>The second tier shall be the Engineer-in-charge's team conducting such tests to the extent of the specified code frequency at the Contractor's field laboratory or Department/ Organisation's laboratory and comparing the results with those carried out by the Contractor's Engineers; and</li> <li>The third tier shall be the 'Third Party Quality Inspections' by the QCI approved / accredited Inspection Bodies as per ISO 17020, or by the Technical Examiner of the Department/ Organisation, where exists. The QCI approved / accredited Inspection Body may be selected through competitive bidding. The third tier shall conduct such tests to the extent of 10% of the specified frequencies duly witnessed by the Contractor's &amp; Procuring Entity's Engineers and providing a final acceptability on the Works costing above Rs 10 crores for buildings and structures and Rs.20 crores for roads, bridges/ flyovers, canals, dams, etc. as specified in the SCC.</li> </ol> <p>The Contractor shall provide all assistance to conduct such tests.</p>
	<b>4.9.2</b>	<p>The Contractor shall institute a approved quality assurance plan stating the methodology / responsibility for sampling, testing/ confirmatory testing, testing frequencies, statistical quality controls, observation / report formats, acceptance criteria, issue and resolution of Non Conformance Reports etc. to demonstrate compliance with the requirements of the specifications. The system shall be in accordance with the details stated in the Contract. The Engineer-in-charge shall be entitled to audit any aspect of the system. Details of all procedures and compliance documents shall be submitted to the Engineer-in-charge for information before each design and execution stage is</p>



		<p>commenced. When any document of a technical nature is issued to the Engineer-in-charge, evidence of the prior acceptance by the Contractor himself shall be apparent on the document itself.</p> <p>Compliance with the quality assurance system shall not relieve the Contractor of any of his duties, obligations or responsibilities under the Contract.</p>
<b>Site Data</b>	<b>4.10.1</b>	Deleted
	<b>4.10.2</b>	Deleted
<b>Sufficiency of the Contracted Amount</b>	<b>4.11</b>	<p>The Contractor shall be deemed to:</p> <ol style="list-style-type: none"> <li>have satisfied himself as to the correctness and sufficiency of the Accepted Contract Amount, and</li> <li>have based the Accepted Contract Amount on the data, interpretations, necessary information, inspections, examinations and satisfaction as to all relevant matters referred to in Sub-Clause 4.10 [Site Data ].</li> </ol> <p>Unless otherwise stated in the Contract, the Accepted Contract Amount covers all the Contractor's obligations under the Contract (including those under Provisional Sums, if any) and all things necessary for the proper execution and completion of the Works and the remedying of any Defects.</p>
<b>Unforeseeable Physical Conditions</b>	<b>4.12</b>	<p>In this Sub-Clause, "physical conditions" means natural physical conditions and man-made and other physical obstructions and pollutants, which the Contractor encounters at the Site when executing the Works, including sub-surface and hydrological conditions but excluding climatic conditions.</p> <p>If the Contractor encounters adverse physical conditions which the Procuring Entity considers to have been Unforeseeable, the Contractor shall give notice to the Engineer-in-charge as soon as practicable.</p> <p>This notice shall describe the physical conditions, so that they can be inspected by the Engineer-in-charge, and shall set out the reasons why the Contractor considers them to be Unforeseeable. The Contractor shall continue executing the Works, using such proper and reasonable measures as are appropriate for the physical conditions, and shall comply with any instructions which the Engineer-in-charge may give. If an instruction constitutes a Variation, Clause 9 [Deviations, Variations and Adjustments] shall apply.</p> <p>If and to the extent that the Contractor encounters physical conditions which are Unforeseeable, gives such a notice, and suffers delay and/ or incurs Cost due to these conditions, the Contractor shall be entitled subject to notice under Sub-Clause 21.2 [Contractor's Claims] to:</p> <ol style="list-style-type: none"> <li>an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.6 [Extension of Time for Completion], and</li> <li>payment of any such Cost, directed to be incurred by the Contractor as approved extra item which shall be included in the Contract Price.</li> </ol> <p>Upon receiving such notice and inspecting and/or investigating these physical conditions, the Engineer-in-charge shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine whether and (if so) to what extent these physical conditions were Unforeseeable, and the matters described in sub-paragraphs (i) and (ii) above related to this extent by the Contractor, but the Engineer-in-charge shall not be bound by the Contractor's interpretation of any such evidence.</p> <p>However, before additional Cost is finally agreed or determined under sub-paragraph (ii), the Engineer-in-charge may also review whether other physical conditions in similar parts of the Works (if any) were more favorable than could reasonably have been foreseen when the Contractor submitted the</p>

		Bid. If and to the extent that these more favorable conditions were encountered, the Engineer-in-charge may proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine the reductions in Cost which were due to these conditions, which may be included (as deductions) in the Contract Price and Payment Certificates. However, the net effect of all adjustments under sub-paragraph (ii) and all these reductions, for all the physical conditions encountered in similar parts of the Works, shall not result in a net reduction in the Contract Price.
<b>Right of Way and Facilities</b>	<b>4.13.1</b>	Unless otherwise specified in the Contract the Procuring Entity shall provide access to and possession of the Site including special and/or temporary rights-of-way which are necessary for the Works. The Contractor shall obtain, at his risk and Cost, any additional rights of way or facilities outside the Site which he may require for the purposes of the Works.
	<b>4.13.2</b>	The Contractor shall allow the Engineer-in-charge and any person authorized by the Engineer-in-charge access to the Site, to any place where work in connection with the Contract is being carried out or is intended to be carried out and to any place where materials are being collected or stored or plant are being installed/ assembled for the Works. The contractor may satisfy himself regarding site, acquisition of land, approach roads etc.
<b>Avoidance of Interference with public conveniences</b>	<b>4.14</b>	<p>The Contractor shall not interfere unnecessarily or improperly with:</p> <ul style="list-style-type: none"> <li>i. the convenience of the public, or</li> <li>ii. the access to and use and occupation of all roads and footpaths, irrespective of whether they are public or in the possession of the Procuring Entity or of others</li> </ul> <p>The Contractor shall indemnify and hold the Procuring Entity harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from any such unnecessary or improper interference.</p>
<b>Access Routes to Site</b>	<b>4.15</b>	<p>The Contractor shall be deemed to have been satisfied as to the suitability and availability of access routes to the Site at Base Date. The Contractor shall use reasonable efforts to prevent any road or bridge from being damaged by the Contractor's traffic or by the Contractor's Personnel. These efforts shall include the proper use of appropriate vehicles and routes.</p> <p>Except as otherwise stated in these Conditions:</p> <ul style="list-style-type: none"> <li>i. the Contractor shall (as between the Parties) be responsible for any maintenance which may be required for his use of access routes;</li> <li>ii. the Contractor shall provide all necessary signs or directions along access routes, and shall obtain any permission which may be required from the relevant authorities for his use of routes, signs and directions;</li> <li>iii. the Procuring Entity shall not be responsible for any claims which may arise from the use or otherwise of any access route;</li> <li>iv. the Procuring Entity does not guarantee the suitability or availability of particular access routes; and</li> <li>iv. Costs due to non-suitability or non-availability, for the use required by the Contractor, of access routes shall be borne by the Contractor.</li> </ul>

<b>Contractor's Equipment</b>	<b>4.16</b>	The Contractor shall be responsible for all Contractor's Equipment. When brought on to the Site, Contractor's Equipment shall be deemed to be exclusively intended for the execution of the Works. The Contractor shall not remove from the Site any major items of Contractor's Equipment without the consent of the Engineer-in-Charge. However, consent shall not be required for vehicles transporting Goods or Contractor's Personnel off Site.
<b>Protection of the Environment</b>	<b>4.17</b>	<p>The Contractor shall take all reasonable steps to protect the environment (both on and off the Site) and to limit damage and nuisance to people and property resulting from pollution, noise and other results of his operations.</p> <p>The Contractor shall ensure that emissions, surface discharges and effluent from the Contractor's activities shall not exceed the values stated in the Specifications or prescribed by applicable Laws.</p> <p>The Contractor shall, throughout the execution and completion of the Works and the remedying of any Defects therein:</p> <ul style="list-style-type: none"> <li>i. have full regard for the safety of all persons entitled to be upon the Site and keep the Site (so far as the same is under his control) and the Works (so far as the same are not completed or occupied by the Procuring Entity) in an orderly state appropriate to the avoidance of danger to such persons; and</li> <li>ii. provide and maintain at his own Cost all lights, guards, fencing, warning signs and watchmen and other things necessary or required by the Engineer-in-charge or by any duly constituted authority, for the protection of the Works or for the safety and convenience of the public or others.</li> </ul>
<b>Electricity, Water and Gas</b>	<b>4.18</b>	<p>The Contractor shall, except as stated below, be responsible for the provision of all power, water and other services he may require for his construction activities and to the extent defined in the Specifications, for the tests.</p> <p>The Contractor shall be entitled to use for the purposes of the Works such supplies of electricity, suitable water, gas and other services as may be available on the Site with due permission of the service provider, on payment of billing value. The Contractor shall, at his risk and cost, provide any apparatus necessary for his use of these services and for measuring / paying for the quantities consumed.</p> <p>The quantities consumed and the amounts due for such services shall be agreed or determined by the Engineer- in- Charge in accordance with Sub-Clause 2.5 [Procuring Entity's Claims] and Sub-Clause 3.5 [Determinations]. The Contractor shall pay these amounts to the Procuring Entity /service provider.</p>
<b>Progress Reports</b>	<b>4.20</b>	Unless otherwise stated in the Conditions, monthly progress reports shall be prepared by the Contractor and submitted to the Engineer-in-charge in specified number of copies along with the interim payment certificates, and the updated construction programme on MS Project or similar software for the next month. The first report shall cover the period up to the end of the first calendar month following the Commencement Date. Reports shall be submitted monthly thereafter, each within 7 Days after the last day of the month to which it relates. Reporting shall continue until the Contractor has completed all works which is known to be outstanding at the completion date

		<p>stated in the Taking-Over Certificate for the Works.</p> <p>Each report shall include:</p> <ul style="list-style-type: none"> <li>i. charts, drawings, outputs and detailed descriptions of progress, including each stage of design (if any) on MS project or similar software, Contractor's Documents, procurement, manufacture, delivery to Site, construction, erection and testing; and including these stages for work by each nominated Subcontractor (as defined in Sub-Clause 5.2 [Nomination of Sub-Contractors]);</li> <li>ii. photographs (in adequate numbers) showing the status of progress of works on the Site;</li> <li>iii the details described in Sub-Clause 6.12 [Records of Contractor's Personnel &amp; Equipment];</li> <li>iv. copies of quality assurance documents, test results, test certificates of manufactured Materials and action taken on Third Party Quality Inspections by the Contractor;</li> <li>v. list of notices given under Sub-Clause 2.5 [Procuring Entity's Claims] and notices given under Sub-Clause 21.2 [Contractor's Claims];</li> <li>vi. safety statistics, including details of any hazardous incidents and activities relating to environmental aspects and public relations; and</li> <li>vii. comparisons of actual and planned progress, hindrances, with details of any events or circumstances which may jeopardize the completion in accordance with the Contract, and the measures being (or to be) adopted to overcome delays.</li> </ul>
<b>Security of the Site and Works</b>	<b>4.21</b>	<p>Unless otherwise stated in the Conditions:</p> <ul style="list-style-type: none"> <li>i. the Contractor shall be responsible for keeping unauthorized persons off the Site,</li> <li>ii. authorized persons shall be limited to the Contractor's Personnel and the Procuring Entity's Personnel; and to any other personnel notified to the Contractor by the Procuring Entity or the Engineer-in-charge, as authorized personnel of the Procuring Entity's other Contractors on the Site.</li> <li>iii. The contractor shall arrange to protect, at his own cost, in an adequate manner, all cut stone work and other work, requiring protection and to maintain such protection as long as work is in progress. He shall remove and replace this protection, as required by the Engineer-in-charge, from time to time. Any damage to the work, so protected, no matter how it may be caused, shall be made good by the Contractor free of cost. All templates, forms. Moulds, centering, false works and models which in the opinion of the Engineer-in-charge are necessary for the proper and workman like execution of the work, shall be provided by the Contractor free of cost.</li> <li>iv. The Contractor shall arrange to keep the site and works secure from manmade disasters, explosions by design or by accident or both at his own cost.</li> </ul>
<b>Contractor's Operations on Site</b>	<b>4.22</b>	<p>The Contractor shall confine his operations to the Site, and to any additional areas which may be obtained by the Contractor and agreed to by the Engineer-in-charge as additional working areas. The Contractor shall take all necessary precautions to keep Contractor's Equipment and Contractor's Personnel within the Site and these additional areas, and to keep them off adjacent land. During the execution of the Works, the Contractor shall keep the Site free from</p>

		<p>all unnecessary obstruction, and shall store or dispose of any Contractor's Equipment or surplus Materials. The Contractor shall clear away and remove from the Site any wreckage, rubbish and Temporary Works which are no longer required.</p> <p>When the annual repairs and maintenance of Works are carried out, the splashes and droppings from white washing, color washing, painting etc. on walls, floor, windows etc. shall be removed and the surface cleaned simultaneously with the completion of these items of work in the individual rooms, quarters or premises etc. where the work is done without waiting for the actual completion of all the other items of work in the Contract. In case the Contractor fails to comply with the requirements of this Sub-Clause, the Engineer-in-Charge shall have the right to get this work done at the Cost of the Contractor either Departmentally or through any other agency. Before taking such action, the Engineer-in-Charge shall give ten Day's notice in writing to the Contractor.</p> <p>Upon the issue of a Taking-Over Certificate, the Contractor shall clear away and remove, from that part of the Site and Works to which the Taking-Over Certificate refers, all Contractor's Equipment, surplus material, wreckage, rubbish and Temporary Works. The Contractor shall leave that part of the Site and the Works in a clean and safe condition. However, the Contractor may retain on Site, during the Defects Notification Period, such goods, equipment as are required by the Contractor to fulfill obligations under the Contract.</p>
<b>Fossils/ antiques and articles of value</b>	<b>4.23</b>	Deleted
<b>Completion Plans to be Submitted by the Contractor</b>	<b>4.24</b>	The Contractor shall submit completion drawings, designs within thirty Days of the virtual completion of the Works.
<b>Contractor to Supply Tools &amp; Plants etc.</b>	<b>4.25</b>	The Contractor shall provide at his own Cost all materials plant, tools, appliances, implements, ladders, cordage, tackle, scaffolding and Temporary Works required for the proper execution of the Works, whether original, altered or substituted and whether included or not in the Specification or other documents forming part of the Contract referred to in these conditions, or which may be necessary for the purpose of satisfying or complying with the requirements of the Engineer-in-Charge as to any matter as to which under these conditions he is entitled to be satisfied, or which he is entitled to require together with carriage therefore to and from the Works.
<b>Changes in the firm's constitution to be intimated</b>	<b>4.26</b>	Where the Contractor is a partnership firm, the previous approval in writing of the Engineer-in-Charge shall be obtained before any change is made in the constitution of the firm. Where the Contractor is an individual or a Hindu undivided family business concern such approval as aforesaid shall likewise be obtained before the Contractor enters into any partnership agreement where under the partnership firm would have the right to carry out the Works hereby

		undertaken by the Contractor. If previous approval as aforesaid is not obtained, the Contract shall be deemed to have been subcontracted in contravention of Sub-Clause 4.6 [Sub-Contractor, nominated Sub-Contractor] and the same action may be taken and the same consequences shall ensue as provided in the Sub-Clause 16.1 [Termination by Procuring Entity]
<b>5. Sub-Contractor and Nomination of Sub-Contractor</b>		
<b>Sub Contractor</b>	<b>5.1</b>	Deleted
<b>Nomination of Sub-Contractor</b>	<b>5.2</b>	Deleted
<b>Objections to nominations</b>	<b>5.3</b>	Deleted
<b>Payment to Nominated Sub-Contractor</b>	<b>5.4</b>	deleted
<b>Evidence of payments</b>	<b>5.5</b>	Deleted
<b>6. Engagement of Staff and Labour by the Contractor</b>		
<b>Staff and Labour</b>	<b>6.1</b>	<p>i. Except as otherwise stated in the Specifications, the Contractor shall make arrangements for the engagement of all staff and labour, local or otherwise, and for their payment, water, power, healthcare backup, transport and, when appropriate, housing.</p> <p>ii. The Contractor is encouraged, to the extent practicable and reasonable, to employ staff and labour with appropriate qualifications and experience from sources within India.</p> <p>iii. No Engineer of gazetted rank or other gazetted officer employed in Engineering or administrative duties in an Engineering Department of the Government of Rajasthan shall work as a Contractor or employee of a Contractor for a period of two years after his retirement from Government service without the previous permission of State Government in writing. The Contract is liable to be cancelled if either the Contractor or any of his employees is found at any time to be such a person who had not obtained said permission prior to engagement in the Contractor's service, as the case may be.</p>

<b>Employment of Technical Staff and other Employees</b>	<b>6.3.1</b>	The Contractor shall Engage technical personnel as per list provided for in the Contract and provide all necessary superintendence during execution of the Works and as long thereafter as may be necessary for proper fulfilling of the obligations under the Contract. The project manager of the Contractor shall be his principal technical representative. Other personnel shall be engaged as specified in the qualification criteria.
	<b>6.3.2</b>	<p>The technical staff should always be available at site whenever required by Engineer- in- charge to take instructions.</p> <p>The Contractor shall comply with the provisions of the <b>Apprenticeship Act, 1961</b>, and the Rules and Orders issued, thereunder, from time to time. If he fails to do so, his failure will be a breach of Contract. The Contractor shall also be liable for any pecuniary liability arising on account of any violation by him of the provisions of the said Act.</p>
<b>Responsibility of the Technical Staff and employees</b>	<b>6.4</b>	Technical officers/ staff deployed by the Contractor at any construction Site will be responsible for proper quality of Works and physical targeted progress of the Works.
<b>Rate of Wages and Conditions of Labour</b>	<b>6.5</b>	<p>The Contractor shall not pay less than fair wages/ minimum wages to labourers engaged by him on the Works as revised from time to time by the State Government, but the Procuring Entity shall not be liable to pay anything extra for it except as stipulated in price escalation Sub-Clause of the agreement.</p> <p><b>Explanation:</b> “Fair Wage” means minimum wages for time or piece work, fixed or revised, by the State Government under the Minimum Wages Act, 1948.</p> <p>The Contractor shall, notwithstanding the provisions of any contract to the contrary, cause to be paid fair wages to labourers directly or indirectly engaged on the Works, including any labour engaged by his Sub-Contractors in connection with the said Works as if the labourers have been immediately or directly employed by him.</p> <p>In respect of all labourers, immediately or directly employed on the Works, for the purpose of Contractor’s part of this agreement, the Contractor shall comply with or cause to be complied with the Public Works Department Contractor’s Labour Regulations made, or that maybe made by the State Government from time to time in Regard to payment of wages, wage period, deductions from wages, recovery of wages not paid, and unauthorized deductions, maintenance of wages register, wage card, publication of scale of wages and other terms of employment, inspection and submission of periodical returns and other matters of a like nature.</p> <p>The Engineer-in-charge shall have the right to deduct from the money due to the Contractor any sum required or estimated to be required for making good the loss suffered by a worker or workers, by reasons of non-fulfillment of the conditions of the Contract, for the benefit of the worker or the workers, non-payment of wages or of deductions made therefrom, which are not justified by the terms of the Contract, or as a result of non-observance of the aforesaid regulations.</p> <p>Vis-à-vis the State Government of Rajasthan, the Contractor shall be primarily liable for all payments to be made and for the observance of the regulations</p>

		<p>aforesaid, without prejudice to his right to claim indemnity from his Sub-Contractors.</p> <p>The regulations, aforesaid, shall be deemed to be part of this Contract and any breach, thereof, shall be deemed to be breach of the Contract.</p>
<b>Contractor not to engage staff of Procuring Entity</b>	<b>6.6</b>	The Contractor shall not recruit, or attempt to recruit, full time (on leave) or part time the staff and labour from amongst the Procuring Entity's Personnel in any capacity.
<b>Working Hours</b>	<b>6.7</b>	<p>No work shall be carried out on the Site on locally recognized Days of rest, or outside the normal working hours stated in the Contract Data, unless:</p> <ul style="list-style-type: none"> <li>i otherwise stated in the Contract,</li> <li>ii. the Engineer-in-charge gives consent, or</li> <li>iii the work is unavoidable, or necessary for the protection of life or property or for the safety of the Works, in which case the Contractor shall immediately advise the Engineer-in-charge.</li> </ul>
<b>Facilities for Staff and Labour</b>	<b>6.8</b>	<p>Except as otherwise stated in the Specifications, the Contractor shall provide and maintain all necessary accommodation and welfare facilities for the Contractor's Personnel. The Contractor shall also provide work site facilities for the Procuring Entity's Personnel as stated in the Specifications.</p> <p>The Contractor shall not permit any of the Contractor's Personnel to maintain any temporary or permanent living quarters within the structures forming part of the Permanent Works.</p>
<b>Health &amp; Safety</b>	<b>6.9</b>	<p>The Contractor shall at all times take all reasonable precautions to maintain the health and safety of the Contractor's Personnel. In collaboration with local health authorities, the Contractor shall ensure that medical staff, first aid facilities, sick bay, doctor at call and ambulance service are available at all times at the Site and at any accommodation for Contractor's and Procuring Entity's Personnel, and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics.</p> <p>The Contractor shall appoint a safety officer at the Site, responsible for maintaining safety and protection against accidents. This person shall be qualified and trained for this responsibility, and shall have the authority to issue instructions and take protective measures to prevent accidents. Throughout the execution of the Works, the Contractor shall provide whatever is required by this person to exercise this responsibility and authority.</p> <p>The Contractor shall send, to the Engineer-in-charge, details of any accident occurred at the Site or to or due to the Works, as soon as practicable after its occurrence. The Contractor shall maintain records and make reports concerning health, safety and welfare of persons, and damage to property, as the Engineer-in-charge may reasonably require.</p>



<b>Contractor's Superintendence</b>	<b>6.10</b>	<p>Throughout the execution of the Works, and as long thereafter as is necessary to fulfil the Contractor's obligations, the Contractor shall provide all necessary superintendence to plan, arrange, direct, manage, inspect and test the Works.</p> <p>Superintendence shall be given by a sufficient number of persons having adequate knowledge of the language for communications (defined in Sub-Clause 1.4 [Law and Language] and of the operations to be carried out (including the methods and techniques required, the hazards likely to be encountered and methods of preventing accidents), for the satisfactory and safe execution of the Works.</p>
<b>Contractor's Personnel</b>	<b>6.11</b>	<p>Contractor's Personnel shall be appropriately qualified, skilled and experienced in respective trades or occupations. The Engineer- in-charge may require the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Contractor's Representative, if applicable, who:</p> <ul style="list-style-type: none"> <li>i. persists in any misconduct or lack of care,</li> <li>ii. carries out duties incompetently or negligently,</li> <li>iii. fails to conform with any provisions of the Contract, or</li> <li>iv. Persists in any conduct which is prejudicial to safety, health, or the protection of the environment.</li> </ul> <p>If appropriate, the Contractor shall then appoint (or cause to be appointed) a suitable replacement person.</p>
<b>Supply of Food Stuffs</b>	<b>6.15</b>	The Contractor shall arrange for the provision of a sufficient supply of suitable food stuff as may be stated in the Specification at reasonable prices for the Contractor's Personnel for the purposes of or in connection with the Contract.
<b>Supply of Water</b>	<b>6.16</b>	The Contractor shall, having regard to local conditions, provide at his cost on the Site an adequate supply of potable drinking and other water for use in construction and for use of the Contractor's Personnel.
<b>Measures against Insect and Pest Nuisance</b>	<b>6.17</b>	The Contractor shall at all times take the necessary precautions to protect the Contractor's Personnel employed on the Site from insect and pest nuisance, and to reduce their danger to health. The Contractor shall comply with all the regulations of the local health authorities, including use of appropriate insecticide.
<b>Alcoholic Liquor or Drugs</b>	<b>6.18</b>	The Contractor shall not, otherwise than in accordance with the Laws of the Country, import, sell, give, barter or otherwise dispose of any alcoholic liquor or drugs, or permit or allow importation, sale, gift, barter or disposal thereto by Contractor's Personnel. He shall also not allow the consumption of such Alcoholic Liquor/Drugs at Site during working hours.
<b>Arms and Ammunition</b>	<b>6.19</b>	The Contractor shall not give, barter, or otherwise dispose of, to any person, any arms or ammunition of any kind, or allow Contractor's Personnel to do so.
<b>No unlicensed storage of Explosives and POL</b>	<b>6.20</b>	The Contractor is not authorised to store explosives and POL or other inflammable materials without a valid license from the competent legal authority.

<b>Prohibition of Forced or Compulsory labour</b>	<b>6.21</b>	The Contractor shall not employ forced or compulsory labour, which consists of any work or service, not voluntarily performed, that is exacted from an individual under threat of force or penalty, and includes any kind of involuntary or compulsory labour, such as indentured labour, bonded labour or similar labour-contracting arrangements.
<b>Prohibition of Child Labour</b>	<b>6.22</b>	The Contractor shall comply with the provisions of Acts and rules pertaining to prohibition of employment of child labour including not employing any child to perform any work that is economically exploitative, or is likely to be hazardous to, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development.
<b>Festivals and Religious Customs</b>	<b>6.23</b>	The Contractor shall respect the Country's recognized festivals, days of rest and religious or other customs.
<b>Employment Records of Workers</b>	<b>6.24</b>	The Contractor shall keep complete and accurate records of the employment of labour at the Site. The records shall include the names, ages, genders, hours worked and wages paid to all workers. These records shall be summarized on a monthly basis and submitted to the Engineer-in-charge, and these records shall be available for inspection by Auditors / labour inspectors and others as per law during normal working hours. These records shall be included in the details to be submitted by the Contractor under Sub-Clause 6.12 [Records of Contractor's Personnel and Equipment].
<b>Compliance with Labour Laws</b>	<b>6.25</b>	<p>The Contractor shall comply with all the relevant labour Laws applicable to the Contractor's Personnel, including Laws relating to their employment, health, safety, welfare, immigration and emigration, and shall allow them all their legal rights. The Contractor shall require his employees to obey all applicable Laws, including those concerning safety at work.</p> <p>The Contractor shall also abide by the provisions of the Child Labour (Prohibition and Regulation) Act, 1986.</p>
<b>Payment of Wages</b>	<b>6.26</b>	<p>i. The Contractor shall pay to labour employed by him either directly or through Sub-Contractors, wages not less than minimum wages.</p> <p>ii. The Contractor shall, notwithstanding the provisions of any Contract to the contrary, cause to be paid for wages to labour indirectly engaged on the Works including any labour engaged by his sub-Contractors in connection with the said Works, as if the labour had been immediately employed by him.</p>

<b>Penalty for non-compliance with labour Laws</b>	<b>6.27</b>	<p>i. In respect of all labour directly or indirectly employed in the Works of performance of the Contractor's Part of this Contract, the contractor shall comply with or cause to be complied with the Public Works Department Contractor's Labour Regulations made by the Government from time to time in regard to payment of wages, wage period, deductions from wages, recovery of wages not paid and deductions unauthorisedly made, maintenance of wage books or wage slips, publication of scale of wages and other terms of employment, inspection and submission of periodical returns and all other matters of the like nature as per the Provisions of <b>Contract Labour (Regulation &amp; Abolition) Act, 1970, and the Contract Labour (Regulation &amp; Abolition) Central Rules, 1971</b>, wherever applicable.</p> <p>ii. The Engineer-in-Charge concerned shall have the right to deduct from the moneys due to the Contractor any sum required or estimated to be required for making good the loss suffered by a worker or workers by reason of non-fulfillment of the conditions of the Contract for the benefit of the workers, non-payment of wages or of deductions, made from his or their wages which are not justified by their terms of the Contract or non-observance of the Regulations.</p> <p>iii. Under the provision of <b>Minimum Wages (Central) Rules 1950</b>, the Contractor is bound to allow to the labour directly or indirectly employed in the Works one day rest for 6 Days continuous work and pay wages at same rate as for duty. In the event of default the Engineer-in-Charge shall have the right to deduct the sum or sums not paid on account of wages for weekly holidays to any labour and pay the same to the persons entitled thereto from any money due to the Contractor by the Engineer-in-Charge concerned.</p> <p>iv. The Contractor shall comply with the provisions of the <b>Payment of Wages Act, 1936, Minimum Wages Act, 1948, Employees Liability Act, 1938, Workmen's Compensation Act, 1923, industrial Disputes Act, 1947, Maternity Act, 1970</b>, or the modifications thereof or any other relevant Labour Laws and the rules made thereunder from time to time.</p> <p>v. The Contractor shall indemnify and keep indemnified the State Government/ Procuring Entity against payments to be made under and for the observance of the Laws aforesaid and the P.W.D. Contractor's Labour Regulations without prejudice to his right to claim indemnity from his Sub-Contractors.</p> <p>vi. The Laws aforesaid shall be deemed to be a part of this Contract and any breach thereof shall be deemed to be a breach of this Contract.</p> <p>vii. Whatever is the minimum wage for the time being, or if the wage payable higher than the minimum wage, such wage shall be paid by the Contractor to the workmen directly without the intervention of Jamadar and that Jamadar shall not be entitled to deduct or recover any amount from the minimum wage payable to the workmen as and by way of commission or otherwise. The Contractor shall ensure that no amount by way of commission or otherwise is deducted or recovered by the Jamadar from the wage of workmen.</p>
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**7. Execution of works and workmanship**

<b>Manner of Execution</b>	<b>7.1</b>	<p>The Contractor shall carry out works, the production of mixes, the procurement of input materials, and all other execution of the Works:</p> <ul style="list-style-type: none"> <li>i. in the manner (if any) specified in the Contract,</li> <li>ii. in a proper workman like and careful manner, in accordance with recognized good practices, and</li> <li>iii. with properly equipped facilities and non-hazardous materials, except as otherwise specified in the Contract.</li> </ul>
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**8. Commencement of Works**

<b>Commencement of Works</b>	<b>8.3.1</b>	<p>Except otherwise specified in the Contract Data/ Special Conditions of Contract, the Commencement Date shall be the date at which the following precedent conditions have all been fulfilled and the Engineer-in-charge's instruction recording the agreement of both Parties on such fulfillment and instructing to commence the Work is received by the Contractor:</p> <ul style="list-style-type: none"> <li>i. signature of the Contract Agreement (after submission of Performance security and Insurance by the Contractor) by both Parties, and if required, approval of the Contract by relevant authorities;</li> <li>ii. delivery to the Contractor of reasonable evidence of the Procuring Entity's Financial arrangements;</li> <li>iii. except if otherwise specified in the Contract Data, possession of the Site given to the Contractor together with such permission(s) under (a) of Clause 2.1 [Right of Access to the Site] as required for the commencement of the Works;</li> </ul> <p>The Contractor shall commence the execution of the Works as soon as is reasonably practicable after the Commencement Date, and shall then proceed with the Works with due expedition and without delay. The date of commencement and stipulated completion shall be entered in the Contract Agreement.</p>
	<b>8.3.2</b>	<p>In case, the work cannot be started within one-fourth time of the stipulated period of completion of the Works due to reasons not within the control of the Contractor as decided by the Procuring Entity, either Party may close the Contract. In such eventuality, the Performance Security of the Contractor shall be refunded, but no payment on account of interest, loss of profit or damages etc. shall be payable at all.</p>
<b>Time for Completion</b>	<b>8.4</b>	<p>The Contractor shall complete the whole of the Works, and each Section (if any), within the Time for Completion for the Works or Section (as the case may be), including:</p> <ul style="list-style-type: none"> <li>i. achieving the passing of the Tests on Completion, and</li> <li>ii. Completing all work which is stated in the Contract as being required for the Works or Section to be considered to be completed for the purposes of taking-over under Clause 12 [Taking Over of the Works and Sections].</li> <li>iii. Completion of as built drawings and a manual for maintenance and operations, if required.</li> <li>iv. Completion of each mile stone as per the current (original updated every month) construction programme.</li> <li>v. Rectification and or reconstruction of all deficient items of work or works</li> </ul>

		<p>/items of works for which 'Non Conformance Reports' were issued.</p> <p>vi. Restoration of the approach roads, fencing and appurtenant works damaged during execution of the Contracted project and clearance of Site.</p>
<b>Extension of Time for Completion</b>	<b>8.6</b>	<p>The Contractor shall be entitled subject to Sub-Clause 21.2 [Contractor's Claims] to an extension of the Time for Completion if and to the extent that completion for the purposes of Clause 12 [Taking Over of the Works and Sections] is or will be delayed by any of the following causes:</p> <ul style="list-style-type: none"> <li>i. a Variation (unless an adjustment to the Time for Completion has been agreed under Clause 9 [Deviations, Variations and Adjustments] or other substantial change in the quantity/design of an item of work included in the Contract,</li> <li>ii. a cause of delay giving an entitlement to extension of time under a Sub-Clause of these Conditions,</li> <li>iii. exceptionally adverse climatic conditions, excluding the rains, high or low variations in temperatures,</li> <li>iv. Unforeseeable shortages in the availability of personnel or Goods caused by epidemic or Governmental actions, or</li> <li>v. any delay, impediment or prevention caused by or attributable to the Procuring Entity, the Procuring Entity's Personnel, or the Procuring Entity's other Contractors</li> </ul> <p>If the Contractor considers himself to be entitled to an extension of the Time for Completion, the Contractor shall give notice to the Engineer-in-charge in accordance with Sub-Clause 21.2 [Contractor's Claims]. When determining each extension of time under Sub-Clause 3.5 [Determinations], the Engineer-in-charge shall review previous determinations and may increase, but shall not decrease, the total extension of time.</p>
<b>Delays Caused by Authorities</b>	<b>8.7</b>	<p>If the following conditions apply, namely:</p> <ul style="list-style-type: none"> <li>i. the Contractor has diligently followed the procedures laid down by the relevant legally constituted public authorities in the Country,</li> <li>ii. these authorities delay or disrupt the Contractor's work, and</li> <li>iii. the delay or disruption was Unforeseeable,</li> </ul> <p>Then this delay or disruption will be considered as a cause of delay under Sub-Clause 8.6 [Extension of Time for Completion].</p>
<b>Rate of progress of works.</b>	<b>8.8</b>	<p>As soon as possible after the Contract is concluded the Contractor shall submit a time and progress chart (preferably on MS Project or other similar software) for each milestone and get it approved by the Engineer-in-Charge. The chart shall be prepared in direct relation to the time stated in the Contract documents for completion of items of the work. It shall indicate the forecast of the dates of commencement and completion of various tasks or sections of the work and may be amended as necessary by agreement between the Engineer-in-Charge and Contractor within the limitations of time imposed in the Contract documents, and further to ensure good progress during the execution of the work, the Contractor shall in all cases in which the time allowed for any work, exceeds one month complete the work as per milestone.</p> <p>If, at any time:</p> <ul style="list-style-type: none"> <li>i. actual progress is too slow to complete within the Time for Completion, and/or progress has fallen (or will fall) behind the current programme</li> </ul>

		<p>under Sub-Clause 8.5 [Construction Programme], other than as a result of a cause listed in Sub-Clause 8.6 [Extension of Time for Completion], then the Engineer-in-charge may instruct the Contractor to submit, under Sub-Clause 8.5 [Construction Programme], a revised programme and supporting report describing the revised methods which the Contractor proposes to adopt in order to expedite progress and complete within the Time for Completion.</p> <p>ii Unless the Engineer-in-Charge notifies otherwise, the Contractor shall adopt these revised methods, which may require increases in the working hours and/or in the numbers of Contractor's Personnel and/or Goods, at the risk and Cost of the Contractor. If these revised methods cause the Procuring Entity to incur additional Costs, the Contractor shall subject to notice under Sub-Clause 2.5 [Procuring Entity's Claims] pay these Costs to the Procuring Entity, in addition to delay damages (if any) under Sub-Clause 8.9 below.</p> <p>iii. Additional Costs of revised methods including acceleration measures, instructed by the Engineer-in-charge to reduce delays resulting from causes listed under Sub-Clause 8.6 [ Extension of Time for Completion ] shall be paid by the Procuring Entity, without generating, however, any other additional payment benefit to the Contractor</p> <p>If the progress of the work has fallen so much in arrears as to prevent other contractors on the work from carrying out their part of the work within the stipulated time, he will be liable for the settlement of any claim put in by any of these contractors for the expenses of keeping their labor unemployed to the extent considered reasonable by the Engineer-in-charge.</p>
<p><b>Compensation/ Damages for Delay (Liquidated Damage)</b></p> <p><i>(In case of Lump Sum Contract, the liquidated damages shall be linked to Stage wise completion of Works as stated in Activity Schedule and specified in SCC)</i></p>	<b>8.9</b>	<p>a. If the Contractor fails to maintain the required progress in terms of Sub-Clause 8.4 [Extension of Time for Completion] or to complete the Works and clear the Site on or before the original or extended date of completion, he shall, without prejudice to any other right or remedy available under the Law to the Government/ procuring Entity on account of such breach, pay as agreed compensation the amount calculated at the rates stipulated below as the Engineer-in-charge (whose decision in writing shall be final and binding) may decide on the amount of contracted value of the Works for every time span that the progress remains below that specified in Sub-Clause 8.4 [Extension of Time for Completion] or that the Works remains incomplete. This will also apply to items or group of items for which a separate period of completion has been specified.</p> <p>b. To ensure good progress during the execution of Works, the Contractor shall be bound, in all cases in which the time allowed for any Works exceeds one month (save for special jobs or where time spans have been fixed in light of the specific construction programme), to complete 1/8th of the whole of the work before 1/4th of the whole time allowed under the contract has elapsed, 3/8th of the work before 1/2 of such time has elapsed and 3/4th of the work before 3/4 of such time has elapsed. If the Contractor fails to complete the work in accordance with this time schedule in terms of cost in money, and the delay of execution of Works is attributable to the Contractor, the Contractor shall be liable to pay compensation to the Government/ Procuring Entity at every time span as below:-</p>

		A	Time Span of full stipulated period	1/4 <sup>th</sup> (.Days)	1/2 <sup>th</sup> (.Days)	3/4 <sup>th</sup> (.Days)	Full (Days)
		B.	Work to be completed in terms of money	1/8 <sup>th</sup> (Rs)	3/8 <sup>th</sup> ( Rs)	3/4 <sup>th</sup> ( Rs)	Full (Rs)
		C	Compensation payable by the Contractor for delay attributable to Contractor at the stage of	Delay up to one fourth period of the prescribed time span – 2.5% of the work remained unexecuted.  Delay exceeding one fourth of the prescribed time span but not exceeding half of the prescribed time span - 5% of the work remained unexecuted.  Delay exceeding half of the prescribed time span but not exceeding three fourth of the prescribed time span - 7.5% of the work remain unexecuted.  Delay exceeding three fourth of the prescribed time span – 10% of the work unexecuted.			

**Note-1:** In case delayed period over a particular time span is split up and is jointly attributable to the Procuring Entity and the Contractor, the competent authority may reduce the compensation in proportion of delay attributable to the Procuring Entity over entire delayed period over that time span after clubbing up the split delays attributable to the Procuring Entity and this reduced compensation would be applicable over the entire delayed period without paying any escalation.

**Note-2:** The compensation, levied as above, shall be recoverable from the Payment Certificate payable after the concerned time span. The total compensation for delays shall, however, not exceed 10 percent of the total value of the Works.

c. The Contractor shall further be bound to carry out the work in accordance with the date and quantity entered in the progress statement attached to the Bid.

d. However, if a time schedule has been submitted by the Contractor before execution of the agreement, and it is entered in agreement as submitted or as modified by the Procuring Entity or the Engineer-in-Charge, the Contractor shall complete the Works within the said time schedule. In the event of the Contractor failing to comply with the time schedule, he shall be liable to pay compensation as prescribed in foregoing paragraph of this Sub-Clause. While granting extension in time attributable to the Procuring Entity, reasons shall be recorded for each delay.

e. The amount of compensation may be adjusted or set off against any sum payable to the Contractor under this or any Contract with the Procuring Entity. In case, the Contractor does not achieve a particular milestone mentioned in Contract Data or the rescheduled milestone(s), the amount shown against that milestone shall be withheld, to be adjusted

		<p>against the compensation levied at the final grant of extension of time.</p> <p>f. Withholding of this amount on failure to achieve a milestone shall be automatic without any notice to the Contractor. However, if the Contractor catches up with the progress of work on the subsequent milestone(s), the withheld amount shall be released. In case the Contractor fails to make up for the delay in subsequent milestone(s), amount mentioned against each milestone missed subsequent also shall be withheld. However, no interest, whatsoever, shall be payable on such withheld amount.</p> <p>g. If the Contract is completed in the original time period as agreed upon in the Contract, then the Liquidated Damages so imposed for delays of intermediate milestones will be adjusted/ paid. Also, price escalation shall not be applicable if Liquidated Damages have been imposed. However, if the Contractor finishes the work as per the original time period, he shall be eligible to receive the price escalation.</p>
<b>Suspension of Work</b>	<b>8.10.1</b>	Defined in SCC
	<b>8.10.2</b>	Defined in SCC
<b>Consequences of Suspension</b>	<b>8.11</b>	Defined in SCC
<b>Payment for Plant and Materials in Event of Suspension</b>	<b>8.12</b>	Defined in SCC
<b>Prolonged Suspension</b>	<b>8.13</b>	Defined in SCC
<b>Resumption of Work</b>	<b>8.14</b>	Defined in SCC
<b>9. Deviations, variations and adjustments</b>		
	<b>9.2.3</b>	The quantum of additional work for each item shall not exceed 50% of the original quantity of the item given in the Contract and the total value of additional, altered, and substituted items of work shall not exceed 50% of the Accepted Contract Price. <i>(This para is not applicable in case of Lump Sum Contract)</i>
	<b>9.2.4</b>	The time for completion of the Works shall in the event of any deviations resulting in additional Cost over the Contract Price being ordered be extended if requested by the Contractor in the proportion which the additional Cost of the altered, additional or substituted work, bears to the original Contract Price. Similarly, the proportionate time period for an item of work deleted shall be reduced from the total time period provided in the Contract.
<b>10. Price Variation Deleted</b>		



**11. Tests on completion Deleted****12. Taking over of the Works and Sections by Procuring Entity**

<b>Taking over of works.</b>	<b>12.1</b>	As defined in SCC
<b>Taking over of Parts of the Works</b>	<b>12.2</b>	Deleted

**13. Defect Liability**

<b>Performance Certificate</b>	<b>13.10</b>	<p>Performance of the Contractor's obligations shall not be considered to have been completed until the Engineer-in-charge has issued the Performance Certificate to the Contractor, stating the date on which the Contractor completed his obligations under the Contract.</p> <p>The Engineer-in-charge shall issue the Performance Certificate within 28 Days after the latest of the expiry dates of the Defects Liability Periods, or as soon thereafter as the Contractor has supplied all the Contractor's Documents and completed and tested all the Works, including remedying any Defects. A copy of the Performance Certificate shall be issued to the Procuring Entity.</p> <p>Only the Performance Certificate shall be deemed to constitute acceptance of the Works.</p>
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**15. Contract Price, Payment and Lien**

<b>Contract price</b>	<b>15.1</b>	<p>Unless otherwise stated in the Particular Conditions:</p> <ul style="list-style-type: none"> <li>i. the Contract Price shall be agreed or determined and be subject to adjustments in accordance with the Contract;</li> <li>ii. the Contractor shall pay all taxes, duties and fees required to be paid by him under the Contract, and the Contract Price shall not be adjusted for any of these Costs except as stated in <b>Sub-Clause 15.21 [Adjustments for Changes in Legislation]</b> or Price adjustment;</li> <li>iii. any quantities which may be set out in the Bill of Quantities or other Schedule are estimated quantities and are not to be taken as the actual and correct quantities: <ul style="list-style-type: none"> <li>(a) of the Works which the Contractor is required to execute, or</li> <li>(b) for the purposes of Sub-Clause 11 [Measurement and Evaluation]; and</li> </ul> </li> <li>iv. the Contractor shall submit to the Engineer-in-charge, within 28 Days after the Commencement Date, a proposed breakdown of each lump sum price in the Schedules. The Engineer-in-charge may take account of the breakdown when preparing Payment Certificates, but shall not be bound by it.</li> </ul>
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<b>Application for Interim Payment Certificates (Running Account Bills)</b>	<b>15.4</b>	The Contractor shall submit a Statement in required number of copies to the Engineer-in-Charge after the end of each month, in a form approved by the Engineer-in-Charge, showing in detail the amounts to which the Contractor considers himself to be entitled on the basis of measurement (or Activity Schedule in case of Lump sum Contract) and advance payment, secured advance, deductions, etc. as applicable, together with supporting documents which shall include the report on the progress during this month in accordance with Sub-Clause 4.20 [Progress Reports].
<b>Issue of Interim Payment Certificates</b>	<b>15.5</b>	<p>No amount will be certified or paid until the Procuring Entity has received and accepted the Performance Security. Thereafter, the Engineer-in-charge shall, within 28 Days after receiving a Statement and supporting documents, deliver to the Procuring Entity and to the Contractor an Interim Payment Certificate which shall state the amount which the Engineer-in-charge fairly determines to be due, with all supporting particulars for any reduction or withholding made by the Engineer-in-charge on the Statement, if any.</p> <p>However, prior to issuing the Taking Over Certificate for the Works, the Engineer-in-charge shall not be bound to issue an Interim Payment Certificate in an amount which would (after retention and other deductions) be less than the minimum amount of Interim Payment Certificate (if any) stated in the Contract Data. In this event, the Engineer-in-charge shall give notice to the Contractor accordingly.</p> <p>An Interim Payment Certificate shall not be withheld for any other reason, although:</p> <ul style="list-style-type: none"> <li>i. if anything supplied or work done by the Contractor is not in accordance with the Contract, the cost of rectification or replacement may be withheld until rectification or replacement has been completed; and/or</li> <li>ii. if the Contractor was or is failing to perform any work or obligation in accordance with the Contract, and had been so notified by the Engineer-in-charge, the value of this work or obligation may be withheld until the work or obligation has been performed.</li> </ul> <p>The Engineer-in-charge may in any Payment Certificate make any correction or modification that should properly be made to any previous Payment Certificate. A Payment Certificate shall not be deemed to indicate the Engineer-in-charge's acceptance, approval, consent or satisfaction.</p>
<b>Payment of an Interim Payment Certificate</b>	<b>15.6.1</b>	A bill shall be submitted by the Contractor each month on or before the date fixed by the Engineer-in-charge for all work executed in the previous month and the Engineer-in-charge shall take or cause to be taken or check the requisite measurement for the purpose of having the same verified and the claim, as far as admissible, authorized or paid, if possible, before the expiry of thirty days from the presentation for the bill. If the contractor does not submit the bill within the time fixed, as aforesaid, the Engineer-in-charge may depute a subordinate to measure up the said work in the presence of the Contractor, whose signature in the Measurement Book or sheet will be sufficient warrant and the

		Engineer-in-charge may prepare a bill from such Measurement Book, which shall be binding on the Contractor in all respects.
<b>Recovery of Cost of Water and Electricity consumed by the Contractor</b>	<b>15.6.3</b>	The cost of all water connections necessary for the execution of Works, and the cost of water consumed and hire charges of meters and the cost of electricity consumed in connection with the execution of the Works shall be paid by the Contractor except where otherwise specifically provided in the Contract Data.
<b>Application for issue of final completion certificate</b>	<b>15.8</b>	The Contractor shall apply to the Engineer-in-Charge for issue of the Final Completion Certificate at least 45 days in advance of the likely date of full/ satisfactory completion. The Engineer-in-Charge during this period shall review and finalise the requirements of work to qualify as final completion with respect to the third party quality inspection agency reports, if any. The Final completion certificate shall be issued within 30 days of its becoming due as per notice.
<b>issue of final completion certificate</b>	<b>15.9</b>	After the Contractor has rectified all deficiencies pointed out by the Engineer-in-Charge in the final payment documents, and complied to all observations of the Third Party Quality Inspection Agency and the Independent Engineer to the entire satisfaction of the Engineer-in-Charge, the Contractor shall apply to the Engineer-in-Charge releasing the final payment as per final statement and also issue a final payment certificate. The Engineer-in-Charge shall proceed to issue the final payment certificate after reviewing all tests on completion, determinations, as built design and drawings, and other compliances required under the Contract.
<b>Final Statement of payments</b>	<b>15.10</b>	<p>Within 28 Days after receiving the Taking Over Certificate for the Works, the Contractor shall submit to the Engineer-in-charge, six copies of a draft final statement with as built drawings (with two soft copies also) and all other supporting documents showing in detail in a form approved by the Engineer-in-charge the value of all work done in accordance with the Contract, and any further sums which the Contractor considers to be due to him under the Contract or otherwise.</p> <p>If the Engineer-in-charge disagrees with or cannot verify any part of the draft final statement, the Contractor shall submit such further information as the Engineer-in-charge may reasonably require within 28 Days from receipt of said draft and shall make such changes in the draft as may be agreed between them. The Contractor shall then prepare and submit to the Engineer-in- charge the final statement as agreed. This agreed statement is referred to in these Conditions as the “Final Statement”.</p> <p>However if, following discussions between the Engineer-in- charge and the Contractor and any changes to the draft final statement which are agreed, it becomes evident that a dispute exists, the Engineer-in-charge shall deliver to the Procuring Entity’s competent authority (with a copy to the Contractor) an Interim Payment Certificate for the agreed parts of the draft final statement.</p>

<b>Discharge</b>	<b>15.11</b>	When submitting the Final Statement, the Contractor shall submit a discharge which confirms that the total of the Final Statement represents full and final settlement of all moneys due to the Contractor under or in connection with the Contract. This discharge may state that it becomes effective when the Contractor has received the Performance Security and the outstanding balance of this total, in which event the discharge shall be effective on such date.
<b>Payment of Final Bill</b>	<b>15.12</b>	<p>The final value of the acceptable works done, less payments already received, value of claims raised and paid, value of claims not paid alongwith Interim Payment Certificates, final statement of price escalation due and paid, etc. shall be submitted by the Contractor along with the Final Bill. The final bill shall be submitted by the Contractor in the same manner as specified in interim bills within three Months of physical completion of the work or within one month of the date of the final certificate of completion issued by the Engineer-in-Charge whichever is earlier. No further claims shall be made by the Contractor after submission of the final bill and these shall be deemed to have been waived and extinguished.</p> <p>Payments of those items of the bill in respect of which there is no dispute and of items in dispute, for quantities and rates as approved by Engineer-in-Charge, will, as far as possible be made within a period of 90 days, the period being reckoned from the date of receipt of the bill by the Engineer-in-Charge complete with accounts of advances, Materials issued, Machinery &amp; Equipment lent on hire by the Procuring Entity, dismantled Materials, etc.</p>
<b>Payment of Contractor's Bills to Banks</b>	<b>15.14</b>	<p>Payments due to the Contractor may, if so desired by him, be made to his Bank instead of direct to him provided that the Contractor furnishes to the Engineer-in-Charge (i) the account number with name and address of branch of the Bank, (ii) an authorization in the form of a legally valid document such as a power of attorney conferring authority on the Bank to receive payments, and (iii) his own acceptance of the correctness of the amount made out as being due to him by Procuring Entity or his signature on the bill or other claim preferred against Procuring Entity before settlement by the Engineer-in-Charge of the account or claim by payment to the Bank. While the receipt given by such copy of Banks statement shall constitute a full and sufficient discharge for the payment, the Contractor shall also acknowledge with a receipt. Wherever possible the Contractor shall present his bills duly receipted and discharges through his Bankers.</p> <p>Nothing herein contained shall operate to create in favour of the Bank any rights or equities vis.-a-vis. the Procuring Entity/ Governor of Rajasthan.</p>
<b>Withholding and lien in respect of sums due from</b>	<b>15.18</b>	i. Whenever any claim or claims for payment of a sum of money arises out of or under the Contract or against the Contractor, the Engineer-in-Charge or the Government shall be entitled to withhold and also have a lien to retain such sum or sums in whole or in part from the Performance Security, if any, deposited by the Contractor and for the

<b>Contractor</b>		<p>purpose aforesaid, the Engineer-in-Charge or the Government shall be entitled to withhold the Performance Security furnished, if any and also have a lien over the same pending finalization or adjudication of any such claim. In the event of the security being insufficient to cover the claimed amount or amounts or if no security has been taken from the Contractor, the Engineer-in-Charge or the Government shall be entitled to withhold and have a lien to retain to the extent of payable or which may at any time thereafter become payable to the Contractor under the same Contract or any other Contract with the Engineer-in-Charge or the Government or any Contracting person through the Engineer-in-Charge pending finalization of adjudication of any such claim. It is an agreed term of the Contract that the sum of money or moneys so withheld or retained under the lien referred to above by the Engineer-in-Charge or Government will be kept withheld or retained as such by the Engineer-in-Charge or Government till the claim arising out of or under the Contract is determined by the arbitrator (if the Contract is governed by the arbitration Sub-Clause) or by the competent court, as the case may be and that the Contractor will have no claim for interest or damages whatsoever on any account in respect of such withholding or retention under the lien referred to above and duly notified as such to the Contractor. For the purpose of this Sub-Clause, where the Contractor is a partnership firm or a limited company, the Engineer-in-Charge or the Government shall be entitled to withhold and also have a lien to retain towards such claimed amount or amounts in whole or in part from any sum found payable to any partner/ limited company as the case may be, whether in his individual capacity or otherwise.</p> <p>ii. The Procuring Entity shall have the right to cause an audit and technical examination of the Works and the final bills of the Contractor including all supporting vouchers, abstract etc., to be made within two years after payment of the final bill and if as a result of such audit and technical examination any sum is found to have been overpaid in respect of any work done by the Contractor under the Contract or any work claimed to have been done by him under the Contract and found not to have been executed, the Contractor shall be liable to refund the amount of over-payment and it shall be lawful for the Procuring Entity to recover the same from him in the manner prescribed or in any other manner legally permissible; and if is found that the Contractor was paid less than what was due to him under the Contract in respect of any work executed by him under it, the amount of such under payment shall be duly paid by the Procuring Entity to the Contractor, without any interest thereon whatsoever.</p>
<b>Levy or Taxes payable by Contractor</b>	<b>15.20</b>	<p>i. VAT/ Sales Tax , service tax or any other taxes and duties on Materials, works or services in respect of this Contract shall be payable by the Contractor according to Law in effect.</p> <p>ii. The Contractor shall deposit royalty and obtain necessary permit for supply of the red earth, moorum, sand, chips, bajri, stone, kankar, etc. from local authorities. The liability, if any, on account of quarry fees, royalties, octroi and other taxes and duties in respect of materials</p>

		<p>actually consumed on the Works, shall be borne by the Contractor.</p> <p>iii. If pursuant to or under any Law, notification or order any royalty, cess or the hike becomes payable to the Government of India and does not at any time become payable by the Contractor to the State Government/ Local authorities in respect of any Material used by the Contractor in the Works then in such a case, it shall be Lawful to the Government of India and it will have the right and be entitled to recover the amount paid in the circumstances as aforesaid from the dues of the Contractor.</p> <p>iv. In respect of goods and Materials procured by the Contractor, for use in Works under the Contract, VAT will be paid by the Contractor himself but in respect of such goods manufactured and supplied by the Contractor and Works executed under the contract, the responsibility of payment of VAT shall be that of the Procuring Entity.</p>
<b>Adjustments for changes in Legislation</b>	<b>15.21</b>	<b>Shall be applicable if any change</b>
<b>16. Termination of Contract by Procuring Entity</b>		
<b>Termination by Procuring Entity</b>	<b>16.1</b>	As defined in SCC
<b>Contractor liable to pay compensation even if action not taken under Sub-Clause 16.1 above</b>	<b>16.2</b>	As defined in SCC
<b>Valuation at the date of termination:</b>	<b>16.3</b>	As defined in SCC
<b>Payment after Termination</b>	<b>16.4</b>	As defined in SCC
<b>Procuring Entity's Entitlement to Termination for Convenience</b>	<b>16.5</b>	As defined in SCC

<b>Corrupt, Fraudulent, Collusive or Coercive Practices</b>	<b>16.6</b>	<p>If the Procuring Entity determines that the Contractor, his Sub-Contractors or any of their personnel has breached the Code of Integrity prescribed in the Act, the Rules, or the Instructions to Bidders [Section I of the Bidding Document] or has engaged in corrupt, fraudulent, collusive or coercive practices, in competing for or in executing the Contract, then the Procuring Entity may, after giving 14 Days notice to the Contractor:</p> <ul style="list-style-type: none"> <li>i. terminate the Contract and expel him from the Site,</li> <li>ii. forfeit or encash performance security and any other security or bond relating to this Contract,</li> <li>iii. recover the payments made under the Contract alongwith interest thereon at bank rate,</li> <li>iv. recover compensation for loss incurred due to termination of the Contract including excess expenditure, if any incurred in getting the remaining work executed from other agency under Sub-Clause 16.1.</li> </ul> <p>For the purposes of this Sub-Clause:</p> <ul style="list-style-type: none"> <li>i. “corrupt practice” means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the procurement process or in the Contract execution;</li> <li>ii. “fraudulent practice” means a misrepresentation or omission of facts in order to influence a procurement process or the execution of the Contract;</li> <li>iii. “collusive practice” means a scheme of arrangement between two or more bidders, with or without the knowledge of the Procuring Entity, designed to establish bid prices at artificial, non-competitive levels;</li> <li>iv. “Coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the procurement process or affect the execution of a Contract.</li> </ul> <p>Should any employee of the Contractor be determined to have engaged in corrupt, fraudulent or coercive practice during the execution of the Works then that employee shall be removed in accordance with Sub-Clause 6.11 [Contractor’s Personnel].</p>
<b>Termination of Contract on death of Contractor</b>	<b>16.7</b>	Deleted
<b>17. Suspension of Works and Termination by the Contractor</b>		
<b>Payment on Termination</b>	<b>17.4</b>	After a notice of termination under Sub-Clause 17.2 [Termination by Contractor] has taken effect, the Procuring Entity shall promptly pay the Contractor in accordance with Sub-Clause 19.6. [Optional Termination, Payment and Release].

**18. Risk and responsibilities**

<b>Indemnities</b>	<b>18.1</b>	<p>The Contractor shall indemnify and hold harmless the Procuring Entity, the Procuring Entity's Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of:</p> <ul style="list-style-type: none"> <li>i. bodily injury, sickness, disease or death, of any person whatsoever arising out of or in the course of or by reason of the Contractor's design (if any), the execution and completion of the Works and the remedying of any Defects, unless attributable to any negligence, willful act or breach of the Contract by the Procuring Entity, the Procuring Entity's Personnel, or any of their respective agents, and</li> <li>ii. damage to or loss of any property, real or personal (other than the Works), to the extent that such damage or loss arises out of or in the course of or by reason of the Contractor's design (if any), the execution and completion of the Works and the remedying of any Defects, unless and to the extent that any such damage or loss is attributable to any negligence, willful act or breach of the Contract by the Procuring Entity, the Procuring Entity's Personnel, their respective agents, or anyone directly or indirectly employed by any of them.</li> </ul>
<b>Contractor's Care of the Works</b>	<b>18.2.1</b>	<p>The Contractor shall take full responsibility for the care of the Works and materials and Goods from the Commencement Date until the Taking-Over Certificate is issued (or is deemed to be issued under Clause 12 [Taking Over of the Works and Sections by Procuring Entity] for the Works, when responsibility for the care of the Works shall pass to the Procuring Entity. If a Taking-Over Certificate is issued (or is so deemed to be issued) for any Section or part of the Works, responsibility for the care of the Section or part shall then pass to the Procuring Entity.</p> <p>After responsibility has accordingly passed to the Procuring Entity, the Contractor shall take responsibility for the care of any work which is outstanding on the date stated in a Taking-Over Certificate, until this outstanding work has been completed.</p> <p>If any loss or damage happens to the Works, Materials or Goods or Contractor's Documents during the period when the Contractor is responsible for their care, from any cause not listed in Sub-Clause 18.3 [Procuring Entity's Risks], the Contractor shall rectify/ reimburse the loss or damage at the Contractor's risk and Cost, so that the Works, Materials or Goods or Contractor's Documents conform with the Contract.</p> <p>The Contractor shall be liable for any loss or damage caused by any actions performed by the Contractor after a Taking-Over Certificate has been issued. The Contractor shall also be liable for any loss or damage which occurs after a Taking Over Certificate has been issued and which arose from a previous event for which the Contractor was liable.</p>



	<b>18.2.2</b>	All risks of loss of or damage to physical property and of personal injury and death which arise during and in consequence of the performance of the Contract other than the excepted risks are the responsibility of the Contractor.
<b>Procuring Entity's Risks.</b>	<b>18.3</b>	<p>The risks referred to in Sub-Clause 18.4 [Consequences of Procuring Entity's Risks] below, insofar as they directly affect the execution of the Works, are:</p> <ul style="list-style-type: none"> <li>i. war, hostilities (whether war be declared or not), invasion, act of foreign enemies,</li> <li>ii. rebellion, terrorism, sabotage by persons other than the Contractor's Personnel, revolution, insurrection, military or usurped power, or civil war, within the Country,</li> <li>iii. riot, commotion or disorder within the Country by persons other than the Contractor's Personnel,</li> <li>iv. munitions of war, explosive Materials, ionizing radiation or contamination by radio-activity, within the Country, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity,</li> <li>v. pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds,</li> <li>vi. use or occupation by the Procuring Entity of any part of the Permanent Works, except as may be specified in the Contract,</li> <li>vii. design of any part of the Works by the Procuring Entity's Personnel or by others for whom the Procuring Entity is responsible, and</li> <li>viii. Any operation of the forces of nature which is Unforeseeable or against which an experienced Contractor could not reasonably have been expected to have taken adequate preventive precautions.</li> </ul>
<b>Consequences of Procuring Entity's Risks</b>	<b>18.4</b>	<p>If and to the extent that any of the risks listed in Sub-Clause 18.3 above results in loss or damage to the Works, materials or Goods or Contractor's Documents, the Contractor shall promptly give notice to the Engineer-in-charge and shall rectify this loss or damage to the extent required by the Engineer-in-charge.</p> <p>If the Contractor suffers delay and/ or incurs Cost from rectifying this loss or damage, the Contractor shall give a further notice to the Engineer-in-charge and shall be entitled subject to Clause 21.2 [Contractor's Claims ] to:</p> <ul style="list-style-type: none"> <li>i. An extension of time for any such delay, if completion is or will be delayed, under Clause 8.6 [Extension of Time for Completion], and</li> <li>ii. payment of any such Cost, which shall be included in the Contract Price.</li> </ul> <p>After receiving this further notice, the Engineer-in-charge shall proceed in accordance with Clause 3.5 [Determinations] to agree or determine these matters.</p>

<b>Intellectual and Industrial Property Rights</b>	<b>18.5</b>	<p>In this Sub-Clause, “infringement” means an infringement (or alleged infringement) of any patent, registered design, copyright, trade mark, trade name, trade secret or other intellectual or industrial property right relating to the Works; and “claim” means a claim (or proceedings pursuing a claim) alleging an infringement.</p> <p>Whenever a Party does not give notice to the other Party of any claim within 28 Days of receiving the claim, the first Party shall be deemed to have waived any right to indemnity under this Sub-Clause.</p> <p>The Contractor shall fully indemnify and keep indemnified the Procuring Entity and the State Government against any action, claim or proceeding relating to infringement or use of any patent or design or any alleged patent or design rights and shall pay any royalties which may be payable in respect of any article or part thereof included in the Contract. The Contractor shall indemnify and hold the Procuring Entity harmless against and from any other claim which arises out of or in relation to (i) the manufacture, use, sale or import of any Goods, or (ii) any design for which the Contractor is responsible.</p> <p>The Procuring Entity shall indemnify and hold the Contractor harmless against and from any claim alleging an infringement which is or was:</p> <ul style="list-style-type: none"> <li>i. an unavoidable result of the Contractor’s compliance with the Contract, or</li> <li>ii. a result of any Works being used by the Procuring Entity: <ul style="list-style-type: none"> <li>(a) for a purpose other than that indicated by, or reasonably to be inferred from, the Contract, or</li> <li>(b) in conjunction with anything not supplied by the Contractor, unless such use was disclosed to the Contractor prior to the Base Date or is stated in the Contract</li> </ul> </li> </ul> <p>If a Party is entitled to be indemnified under this Sub-Clause, the indemnifying Party may (at its Cost) conduct negotiations for the settlement of the claim, and any litigation or arbitration which may arise from it. The other Party shall, at the request and Cost of the indemnifying Party, assist in contesting the claim. This other Party (and its Personnel) shall not make any admission which might be prejudicial to the indemnifying Party, unless the indemnifying Party failed to take over the conduct of any negotiations, litigation or arbitration upon being requested to do so by such other Party.</p>
<b>Limitation of Liability</b>	<b>18.6</b>	<p>Neither Party shall be liable to the other Party for loss of use of any Works, loss of profit, loss of any Contract or for any indirect or consequential loss or damage which may be suffered by the other Party in connection with the Contract, other than as specifically provided in Sub-Clause 8.9 [Compensation/ Damages for Delay]; Sub-Clause 13.3 [Cost of Remedying Defects]; Sub-Clause 16.4 [Payment after Termination]; Sub-Clause 17.4 [Payment on Termination]; Sub-Clause 18.1 [Indemnities]; Sub-Clause 18.2 [Contractor’s Care of the Works], Sub-Clause 18.4 [Consequences of Procuring Entity’s Risks] and Sub-</p>

		<p>Clause 18.5. [Intellectual and Industrial Property Rights].</p> <p>The total liability of the Contractor to the Procuring Entity, under or in connection with the Contract shall not exceed twice the Accepted Contract Amount. This amount does not include charges, if any, for consumption of Electricity, Water and Gas provided by the Procuring Entity under Sub-Clause 4.18 [Electricity, Water and Gas], and use of Procuring Entity's Equipment and Materials under Sub-Clause 4.19 [Procuring Entity's Equipment and Issue of Materials].</p> <p>This Sub-Clause shall not limit liability of the Contractor in any case of fraud, deliberate default or reckless misconduct by the Contractor or Sub-Contractors or their personnel or offences under any other Law for the time being in force.</p>
<b>19. Force Majeure</b>		
<b>Definition of Force Majeure</b>	<b>19.1</b>	<p>In this Sub-Clause, "Force Majeure" means an exceptional event or circumstance:</p> <ul style="list-style-type: none"> <li>i. which is beyond a Party's control,</li> <li>ii. which such Party could not reasonably have provided against before entering into the Contract,</li> <li>iii. which, having arisen, such Party could not reasonably have avoided or overcome, and</li> <li>iv. which is not substantially attributable to the other Party.</li> </ul> <p>Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind listed below, so long as conditions (i) to (iv) above are satisfied:</p> <ul style="list-style-type: none"> <li>(a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,</li> <li>(b) rebellion, terrorism, sabotage by persons other than the Contractor's Personnel, revolution, insurrection, military or usurped power, or civil war,</li> <li>(c) riot, commotion, disorder, strike or lockout by persons other than the Contractor's Personnel,</li> <li>(d) munitions of war, explosive Materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity, and</li> <li>(e) natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity.</li> </ul>
<b>Notice of Force Majeure</b>	<b>19.2</b>	<p>If a Party is or will be prevented from performing its substantial obligations under the Contract by Force Majeure, then it shall give notice to the other Party of the event or circumstances constituting the Force Majeure and shall specify the obligations, the performance of which is or will be prevented. The notice shall be given within 14 Days after the Party became aware, or should have become aware, of the relevant event or circumstance constituting Force Majeure.</p> <p>The Party shall, having given notice, be excused performance of its</p>

		<p>obligations for so long as such Force Majeure prevents it from performing them.</p> <p>Notwithstanding any other provision of this Clause, Force Majeure shall not apply to obligations of either Party to make payments to the other Party under the Contract.</p>
<b>Duty to Minimize Delay</b>	<b>19.3</b>	<p>Each Party shall at all times use all reasonable endeavors to minimize any delay in the performance of the Contract as a result of Force Majeure.</p> <p>A Party shall give notice to the other Party when it ceases to be affected by the Force Majeure.</p>
<b>Consequences of Force Majeure</b>	<b>19.4</b>	<p>If the Contractor is prevented from performing its substantial obligations under the Contract by Force Majeure of which notice has been given under Sub-Clause 19.2 [Notice of Force Majeure], and suffers delay and/ or incurs Cost by reason of such Force Majeure, the Contractor shall be entitled subject to Sub-Clause 21.2 [Contractor's Claims ] to:</p> <ul style="list-style-type: none"> <li>i. an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.6 [Extension of Time for Completion], and</li> <li>ii. if the event or circumstance is of the kind described in Sub-Clause 19.1 [Definition of Force Majeure] and, in the case of sub-paragraphs (a) to (e), occurs in the Country, payment of any such Cost incurred rectifying or replacing the Works and/ or Goods damaged or destructed by Force Majeure, to the extent they are not indemnified through the insurance policy referred to in Sub-Clause 20.2 [Insurance for Works and Contractor's Equipment].</li> </ul> <p>After receiving this notice, the Engineer-in-charge shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.</p>
<b>Force Majeure Affecting Subcontractor</b>	<b>19.5</b>	Deleted
<b>Optional Termination, Payment and Release</b>	<b>19.6</b>	<p>If the execution of substantially all the Works in progress is prevented for a continuous period of 84 Days by reason of Force Majeure of which notice has been given under Sub-Clause 19.2 [Notice of Force Majeure], or for multiple periods which total more than 140 Days due to the same notified Force Majeure, then either Party may give to the other Party a notice of termination of the Contract. In this event, the termination shall take effect 7 Days after the notice is given, and the Contractor shall proceed in accordance with Sub-Clause 17.3 [Cessation of Works and Removal of Contractor's Equipment].</p> <p>Upon such termination, the Engineer-in-charge shall determine the value of the work done and issue a Payment Certificate which shall include:</p>

		<p>i. the amounts payable for any acceptable work carried out for which a price is stated in the Contract;</p> <p>ii. the Cost of Plant and Materials ordered for the Works which have been delivered to the Contractor, or of which the Contractor is liable to accept delivery: this Plant and Materials shall become the property of (and be at the risk of) the Procuring Entity when paid for by the Procuring Entity, and the Contractor shall place the same at the Procuring Entity's disposal;</p> <p>iii. other Costs or liabilities which in the circumstances were reasonably and necessarily incurred by the Contractor in the expectation of completing the Works;</p> <p>iv. the Cost of removal of Temporary Works and Contractor's Equipment from the Site.</p>
<b>Release from Performance</b>	<b>19.7</b>	<p>Notwithstanding any other provision of this Clause, if any event or circumstance outside the control of the Parties (including, but not limited to, Force Majeure) arises which makes it impossible or unlawful for either or both Parties to fulfill its or their Contractual obligations or which, under the Law governing the Contract, entitles the Parties to be released from further performance of the Contract, then upon notice by either Party to the other Party of such event or circumstance:</p> <p>i. The Parties shall be discharged from further performance, without prejudice to the rights of either Party in respect of any previous breach of the Contract, and</p> <p>ii. the sum payable by the Procuring Entity to the Contractor shall be the same as would have been payable under Sub-Clause 19.6 [Optional Termination, Payment and Release] if the Contract had been terminated under Sub-Clause 19.6.</p>
<b>20. Insurance</b>		
<b>General Requirements for Insurance</b>	<b>20.1</b>	<p>In this Sub-Clause, "insuring Party" means, for each type of insurance, the Party responsible for effecting and maintaining the insurance specified in the relevant Sub-Clause.</p> <p>Wherever the Contractor is the insuring Party, each insurance shall be effected with insurers and in terms approved by the Procuring Entity. These terms shall be consistent with any terms agreed by both Parties before the date of the Letter of Acceptance. This agreement of terms shall take precedence over the provisions of this Sub-Clause.</p> <p>Wherever the Procuring Entity is the insuring Party, each insurance shall be effected with insurers and in terms acceptable to the Contractor. These terms shall be consistent with any terms agreed by both Parties before the date of the Letter of Acceptance. This agreement of terms shall take precedence over the provisions of this Sub-Clause.</p>

	<p>If a policy is required to indemnify joint insured, the cover shall apply separately to each insured as though a separate policy had been issued for each of the joint insured. If a policy indemnifies additional joint insured, namely in addition to the insured specified in this Sub-Clause, (i) the Contractor shall act under the policy on behalf of these additional joint insured except that the Procuring Entity shall act for Procuring Entity's Personnel, (ii) additional joint insured shall not be entitled to receive payments directly from the insurer or to have any other direct dealings with the insurer, and (iii) the insuring Party shall require all additional joint insured to comply with the conditions stipulated in the policy.</p> <p>Each policy insuring against loss or damage shall provide for payments to be made in the currencies required to rectify the loss or damage. Payments received from insurers shall be used for the rectification of the loss or damage.</p> <p>The relevant insuring Party shall, within the respective periods stated in the Contract Data (calculated from the Commencement Date), submit to the other Party:</p> <ul style="list-style-type: none"> <li>i. evidence that the insurances described in this Sub-Clause have been effected, and</li> <li>ii. copies of the policies for the insurances described in Sub-Clause 20.2 [Insurance for Works and Contractor's Equipment] and Sub-Clause 20.3 [Insurance against Injury to Persons and Damage to Property].</li> </ul> <p>When each premium is paid, the insuring Party shall submit evidence of payment to the other Party. Whenever evidence or policies are submitted, the insuring Party shall also give notice to the Engineer-in-charge.</p> <p>Each Party shall comply with the conditions stipulated in each of the insurance policies. The insuring Party shall keep the insurers informed of any relevant changes to the execution of the Works and ensure that insurance is maintained in accordance with this Sub-Clause.</p> <p>Neither Party shall make any material alteration to the terms of any insurance without the prior approval of the other Party. If an insurer makes (or attempts to make) any alteration, the Party first notified by the insurer shall promptly give notice to the other Party.</p> <p>If the insuring Party fails to effect and keep in force any of the insurances it is required to effect and maintain under the Contract, or fails to provide satisfactory evidence and copies of policies in accordance with this Sub-Clause, the other Party may (at its option and without prejudice to any other right or remedy) effect insurance for the relevant coverage and pay the premiums due. The insuring Party shall pay the amount of these premiums to the other Party, and the Contract Price shall be adjusted accordingly.</p> <p>Nothing in this Sub-Clause limits the obligations, liabilities or responsibilities of the Contractor or the Procuring Entity, under the other</p>
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		<p>terms of the Contract or otherwise. Any amounts not insured or not recovered from the insurers shall be borne by the Contractor and/ or the Procuring Entity in accordance with these obligations, liabilities or responsibilities. However, if the insuring Party fails to effect and keep in force an insurance which is available and which it is required to effect and maintain under the Contract, and the other Party neither approves the omission nor effects insurance for the coverage relevant to this default, any moneys which should have been recoverable under this insurance shall be paid by the insuring Party.</p> <p>Payments by one Party to the other Party shall be subject to Sub-Clause 2.5 [Procuring Entity's Claims] or Sub-Clause 21.2 [Contractor's Claims], as applicable.</p>
<b>Insurance for Works and Contractor's Equipment</b>	<b>20.2</b>	<p>The insuring Party shall insure the Works, Plant, Materials and Contractor's Documents for not less than the full reinstatement Cost including the Costs of demolition, removal of debris and professional fees and profit. This insurance shall be effective from the date by which the evidence is to be submitted under Sub-Clause 20.1 [General Requirements for Insurances], until the date of issue of the Taking-Over Certificate for the Works.</p> <p>The insuring Party shall maintain this insurance to provide cover until the date of issue of the Performance Certificate, for loss or damage for which the Contractor is liable arising from a cause occurring prior to the issue of the Taking-Over Certificate, and for loss or damage caused by the Contractor in the course of any other operations including those under Clause 13 [Defect Liability].</p> <p>The insuring Party shall insure the Contractor's Equipment for not less than the full replacement value, including delivery to Site. For each item of Contractor's Equipment, the insurance shall be effective while it is being transported to the Site and until it is no longer required as Contractor's Equipment.</p> <p>Unless otherwise stated in the Special Conditions, insurances under this Sub-Clause:</p> <ul style="list-style-type: none"> <li>i. shall be effected and maintained by the Contractor as insuring Party,</li> <li>ii. shall be in the joint names of the Parties, who shall be jointly entitled to receive payments from the insurers, payments being held or allocated to the Party actually bearing the Costs of rectifying the loss or damage,</li> <li>iii. shall be extended to cover liability for all loss and damage from any cause not listed in Sub-Clause 18.3 [Procuring Entity's Risks],</li> <li>iv. shall also cover, to the extent specifically required in the Contract Data, loss or damage to a part of the Works which is attributable to the use or occupation by the Procuring Entity of another part of the Works, and loss or damage from the risks listed in Sub-Clause 18.3 [Procuring Entity's Risks], excluding (in each case) risks which are</li> </ul>

		<p>not insurable at commercially reasonable terms, and</p> <p>v. may however exclude loss of, damage to, and reinstatement of:</p> <ul style="list-style-type: none"> <li>(a) a part of the Works which is in a defective condition due to a defect in its design, materials or workmanship (but cover shall include any other parts which are lost or damaged as a direct result of this defective condition and not as described in sub- paragraph (b) below),</li> <li>(b) a part of the Works which is lost or damaged in order to reinstate any other part of the Works if this other part is in a defective condition due to a defect in its design, material or workmanship, and</li> <li>(c) A part of the Works which has been taken over by the Procuring Entity, except to the extent that the Contractor is liable for the loss or damage.</li> </ul>
<b>Insurance against Injury to Persons and Damage to Property</b>	<b>20.3</b>	<p>The insuring Party shall insure against each Party's liability for any loss, damage, death or bodily injury which may occur to any physical property (except things insured under Sub-Clause 20.2 [Insurance for Works and Contractor's Equipment]) or to any person (except persons insured under Sub-Clause 20.4 [Insurance for Contractor's Personnel]), which may arise out of the Contractor's performance of the Contract and occurring before the issue of the Performance Certificate.</p> <p>This insurance shall be for a limit per occurrence of not less than the amount stated in the Contract Data with no limit on the number of occurrences.</p> <p>Unless otherwise stated in the Special Conditions, the insurances specified in this Sub-Clause:</p> <ul style="list-style-type: none"> <li>i. shall be effected and maintained by the Contractor as insuring Party,</li> <li>ii. shall be in the joint names of the Parties,</li> <li>iii. shall be extended to cover liability for all loss and damage to the Procuring Entity's property (except things insured under Sub-Clause 20.2 [Insurance for Works and Contractor's Equipment] arising out of the Contractor's performance of the Contract, and</li> <li>iv. may however exclude liability to the extent that it arises from: <ul style="list-style-type: none"> <li>(a) the Procuring Entity's right to have the Permanent Works executed on, over, under, in or through any land, and to occupy this land for the Permanent Works,</li> <li>(b) damage which is an unavoidable result of the Contractor's obligations to execute the Works and remedy any Defects, and</li> <li>(c) a cause listed in Sub-Clause 18.3 [Procuring Entity's Risks], except to the extent that cover is available at commercially reasonable terms.</li> </ul> </li> </ul>
<b>Insurance for Contractor's Personnel</b>	<b>20.4</b>	<p>The Contractor shall effect and maintain insurance against liability for claims, damages, losses and expenses (including legal fees and expenses) arising from injury, sickness, disease or death of any person employed by the Contractor or any other of the Contractor's Personnel.</p>



		<p>The insurance shall cover the Procuring Entity and the Engineer-in-charge against liability for claims, damages, losses and expenses (including legal fees and expenses) arising from injury, sickness, disease or death of any person employed by the Contractor or any other of the Contractor's Personnel, except that this insurance may exclude losses and claims to the extent that they arise from any act or neglect of the Procuring Entity or of the Procuring Entity's Personnel.</p> <p>The insurance shall be maintained in full force and effect during the whole time that these personnel are assisting in the execution of the Works. For a Subcontractor's employees, the insurance may be effected by the Subcontractor, but the Contractor shall be responsible for compliance with this Sub-Clause.</p>
<b>21. Claims, disputes and Arbitration</b>		
<b>Recovery</b>	<b>21.1.1</b>	Any amount inadvertently paid as not due to the Contractor shall be treated as acknowledged recovery/ or debt due from the Contractor. The Contractor shall immediately inform the Engineer-in-charge about such amount and offer to reimburse immediately to the Engineer-in-charge.
	<b>21.1.2</b>	Whenever any claim against the Contractor for the payment of a sum of money arises out of or under the Contract, the Procuring Entity shall be entitled to recover such a sum by appropriating, in part or whole of the Performance Security, or enlistment deposit of the Contractor. In the event of the Performance Security and enlistment deposit being insufficient or if no Performance Security has been taken, then the balance or the total sum recoverable, as the case may be, shall be deducted from any sum, then due or which at any time, thereafter, may become due to the Contractor, under this Contract or other Contracts with the Procuring Entity. Should these sums not be sufficient to cover the full amount recoverable, the balance remaining due shall be recovered from the Contractor as arrears of land revenue under Section 53 of the Act.
<b>Contractor's Claims</b>	<b>21.2</b>	<p>If the Contractor considers himself to be entitled to any extension of the Time for Completion and/ or any additional payment, under any Sub-Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give notice to the Engineer-in-charge, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, but not later than 28 Days after the Contractor became aware, or should have become aware, of the event or circumstance.</p> <p>If the Contractor fails to give notice of a claim within such period of 28 Days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Procuring Entity shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub-Clause shall apply.</p> <p>The Contractor shall also submit any other notices which are required by</p>

	<p>the Contract, and supporting particulars for the claim, all as relevant to such event or circumstance.</p> <p>The Contractor shall keep such contemporary records as may be necessary to substantiate any claim included in the claim, either on the Site or at another location acceptable to the Engineer-in-charge. Without admitting the Procuring Entity's liability, the Engineer-in-charge may, after receiving any notice under this Sub-Clause, monitor the record-keeping and/ or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Engineer-in-charge to inspect all these records, and shall (if instructed) submit copies to the Engineer-in-charge.</p> <p>Within 42 Days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Engineer-in-charge, the Contractor shall send to the Engineer-in-charge a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed. If the event or circumstance giving rise to the claim has a continuing effect:</p> <ul style="list-style-type: none"> <li>i. this fully detailed claim shall be considered as interim;</li> <li>ii. the Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/ or amount claimed, and such further particulars as the Engineer-in-charge may reasonably require; and</li> <li>iii. the Contractor shall send a final claim within 28 Days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Engineer-in-charge.</li> </ul> <p>Within 42 Days after receiving a claim or any further particulars supporting a previous claim, or within such other period as may be proposed by the Engineer-in-charge and approved by the Contractor, the Engineer-in-charge shall respond with approval, or with disapproval and detailed comments. He may also request any necessary further particulars, but shall nevertheless give his response on the principles of the claim within the above defined time period.</p> <p>Within the above defined period of 42 Days, the Engineer-in- charge shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with Sub-Clause 8.6 [Extension of Time for Completion], and/ or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.</p> <p>Each Payment Certificate shall include such additional payment for any claim as have been reasonably substantiated as due under the relevant provision of the Contract. Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall</p>
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		<p>only be entitled to payment for such part of the claim as he has been able to substantiate.</p> <p>If the Engineer-in-charge does not respond within the timeframe defined in this Sub-Clause, the matter may be brought to the attention of the Procuring Entity by the Contractor within 15 days (beyond the initial period of 42 days) for timely intervention. If the Contractor is not satisfied with the decision of the Engineer-in-charge/ Procuring Entity, the Parties may refer the dispute to the Dispute Resolution Board in accordance with Sub-Clause 21.3 [Dispute Resolution].</p> <p>The requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. If the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/ or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Sub-Clause.</p>
<b>Dispute Resolution</b>	<b>21.3.1</b>	The procedure of reference of disputes to the Dispute Resolution Board and its functioning shall be as per Appendix B.
	<b>21.3.2</b>	The disputes which remain unresolved by the Dispute Resolution Board may be referred by either Party to Arbitration.

## Appendix B

### Dispute Resolution During Execution of the Contract

#### 1.0 Dispute

Disputes are germane to any contract. A 'dispute' implies an assertion of a right or a claim by one party and repudiation thereof by the other party, either expressed or implied, and may be by words or by conduct. A mere 'difference' is not necessarily a dispute; when the parties fail to resolve it, the difference culminates in dispute.

#### 1.1 Dispute Resolution in a Construction Contract

Since arbitrations are fairly time consuming, it is always advisable to sort out the disputes mutually through the mechanism of adjudication through Dispute Resolution Board (DRB), which is a sort of voluntary arbitration. Arbitration can be resorted to if the adjudication decision is not forthcoming or is not acceptable to any party. For dispute resolution following procedure will be followed:

#### 2.0 Dispute Resolution Board (DRB)

- (a) A formal Sub-Clause of obtaining dispute resolution through DRB will be inserted in the Conditions of the Contract. A separate Dispute Resolution Agreement will also be drawn up, detailing therein provisions like: Eligibility of Members, date of commencement, manner of entry on the reference by the Members and their resignation; obligation of the Members, the Procuring Entity and the Contractor; terms of payment (monthly retainerhip fee, daily fee for travel & site visits, out-of-pocket expenses); manner of sharing the fees and expenses and of making payments; arrangements of site visits and their frequency; conduct of hearings; termination/ phasing out the activities of DRB; default of the Member, and action to be taken in case of dispute in relation to DRB Agreement, etc.
- (b) DRB should be put in place within one month of Letter of Acceptance.
- (c) The **DRB for all projects costing more than Rs 10 crore** will comprise of three Members, one each to be appointed by the Procuring Entity and the Contractor and approved by the other. The third Member, who will also act as the presiding Member, will be selected by the first two Members and approved by the parties. If either of the first two Members is not so selected and approved, or the parties fail to reach an agreement on the third Member then on request of either or both parties, appointment will be made by concerned Administrative Department in case of Government Departments and Head of the Organisation (Chairman, etc.) concerned in other cases.
- (d) The Members to be appointed shall be out of a panel maintained by the Department/ Organisation concerned and should be experienced in the type of construction actually involved and/ or finance and accounts and/ or contractual documents. **They should be persons of repute and integrity.**
- (e) If any dispute that arises at any stage between the Procuring Entity and the Contractor in connection with, or arising out of the Contract or the execution of the Works, including any disagreement by either party with any action, inaction, opinion, instruction, determination, certificate or valuation of the Engineer, the matter in dispute shall, in the first place, should be tried to be settled amicably. If the dispute still remains unsettled, it shall be referred to the DRB.
- (f) Both parties shall promptly make available all information, access to the Site, and appropriate facilities, as the DRB may require for the purposes of making a recommendation on such dispute.
- (g) Within 56 days after receiving such reference, or within such other period as may be proposed by the DRB and approved by both parties, the DRB shall give its recommendation with reasons. The recommendation shall be binding on both parties, who shall promptly give effect to it unless and until it shall be revised in an amicable settlement or an arbitral award as described below. Unless the Contract has already been abandoned, repudiated or terminated, the Contractor shall continue to proceed with the Works in accordance with the Contract.
- (h) If either party is dissatisfied with the recommendation, then either party may, within 28 days after receiving the recommendation, or if the DRB fails to give its recommendation within 56 days (or as otherwise approved), within 28 days after the said period of 56 days has expired, give notice to the other party, with a copy to the Engineer-in-Charge, of its intention to commence arbitration proceedings.

- (i) If the DRB has given its decision within the stipulated period, and no notice of intention to commence arbitration as to such dispute has been given by either party within 28 days of the said decision, then the decision of DRB shall become final and binding.

### **3.0 Arbitration**

- (a) Any dispute in respect of which the recommendations (if any) of DRB has not become final and binding, shall be finally settled by arbitration in accordance with the Indian' Arbitration and Conciliation Act, 1996, or any statutory amendment thereof.
- (b) The Arbitral Tribunal will comprise three Members, one each to be appointed by the Procuring Entity and the Contractor. The third Member, who will also act as the presiding Member, will be appointed by mutual consent of the first two Members. If the parties fail to reach an agreement on the third Member then on request of either or both parties, appointment will be made by concerned Administrative Department in case of Government Departments and Head of the Organisation (Chairman, etc.) concerned in other cases.
- (c) The Tribunal shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of the Engineer-in-Charge, and any decision of the DRB, relevant to the dispute.
- (d) Neither party shall be limited in the proceedings before the Tribunal to the evidence or arguments previously put before the DRB to obtain its decision, or to the reasons for dissatisfaction given in its notice of dissatisfaction.
- (e) Arbitration may be commenced prior to or after completion of the Works. The obligations of the Parties, the Engineer-in-Charge and the DRB shall not be altered by reason of any arbitration being conducted during the progress of the Works.

### **4.0 Language**

All proceedings before DRB/ arbitral tribunal shall be in the Language of the Contract/ English.

### **5.0 Terms and conditions for engagement of DRB Member and Chairman**

The terms and conditions including the remuneration and other facilities to be given to the Members of DRB and Arbitrators in case of civil engineering construction contracts/ consultancies shall be as notified by the State Government from time to time. Each Party to the Contract (the Contractor/ Consultant) shall be responsible for paying one-half of the remuneration. Since the fee structure has to be agreed by both the parties i.e. Procuring Entity and Contractor/ Consultant, the fee structure may also be got accepted by the respective Contractor/ Consultants. In the contracts the fee structure may be included as part of the bidding documents/ contract documents and the acceptance of the fee structure by the Contractors/ Consultants may be kept as a pre-condition for signing the Contract.

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## Article 1 – Definitions and Interpretation

### 1.1 Definitions

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

**“Accounting Year”** means the financial year commencing from the first day of April of any calendar year and ending on the thirty-first day of March of the next calendar year;

**“Affected Party”** shall mean the Party claiming to be affected by a Force Majeure Event in accordance with Article 10.

**“Agreement” or “Contractor Agreement”** means this Agreement including its Recitals, Schedules hereto, as of the date hereof and includes any amendments hereto made in accordance with the provisions hereof.

**“Applicable Laws”** means all laws in force and effect as of the date hereof and which may be promulgated or brought into force and effect by GOI or the GoR 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 Contractor Agreement and applicable to the Project/Contractor.

**“Applicable Permits”** means all clearances, permits, authorizations, no objection certificates, consents, exemptions and approvals required to be obtained and maintained by the Contractor under Applicable Laws, in connection with the Project.

**“Appointed Date”** shall mean the date on which the Contractor Agreement is signed between the Parties;

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

**“Associate”** means, in relation to the Bidder / Consortium Member, a company who controls or is controlled by such Bidder/ Consortium Member (herein referred to as the “Associate”). As used in this definition, the expression “control” means, with respect to a company, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such company.

**“Authority”** shall mean Chief Executive Officer/Commissioner/Executive Officer in respect of cluster centre city.

**“Biodegradable Substance”** shall have the meaning as ascribed to it under the MSW Rules 2000.

**“Bio-Medical Waste”** shall have the meaning ascribed to it in the Bio-Medical Waste (Management and Handling) Rules, 1998.

**“Book Value”** shall mean the cost of the fixed assets incurred and financed by the Contractor for the Project, net of accumulated depreciation computed on written down value method in accordance with the rates specified in the Companies Act, 1956 and as determined by an independent firm of chartered accountants mutually agreed upon and appointed by the Parties. For avoidance of doubt, it is clarified that the Book Value shall not include cost of fixed assets funded by Capital Grant given by ULB and the Existing Assets.

**“Completion Certificate”** means the certificate issued by the Authority, for their respective scope, certifying, inter alia, that the Contractor has developed, constructed or provided all Project Facilities in accordance with this Contractor Agreement for implementing the Project.

**“Commercial Waste”** Commercial waste consists of Waste from premises used wholly or mainly for the purposes of a trade or business or for the purpose of sport, recreation, education or entertainment but not including household, agricultural or industrial waste.

**“Contractor”** shall mean the Company/Consortium/SPV which enters into this Contractor Agreement with the Authority pursuant to issuance of the Letter of Award;

**“Contractor Area”** shall mean the total area in which the Contractor is required to carry out the Scope of Work in accordance with the terms of this Contractor Agreement.

**“Contractor Period”** shall have the meaning ascribed to in [Article 2.3](#).

**“Construction Period”** means the period beginning from the Appointed Date and commencement.

**“Construction Requirements”** shall mean the requirements as to construction / renovation/ up-gradation of the Project Facilities.

**“Construction Works”** means all works and things necessary to complete the Project by the Contractor in accordance with this Contractor Agreement;

**“Liquidated Damages”** shall mean Damages payable by either Party to the other of them, as set forth in this Contractor Agreement, whether on per diem basis or otherwise, as 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.

**“Development Plan”** shall have the meaning ascribed to it in Article 6.4

**“Dispute”** shall have the meaning set forth in Article 13.

**“Dispute Resolution Procedure”** means the procedure for resolution of Disputes set forth in Article 13.

**“Door to Door Collection”** means the process of collection of MSW from the doorsteps of residential and non residential establishments of generators of MSW.

**“Drawings”** shall mean all of the drawings, detailed designs, calculations and documents pertaining to the Project in accordance with the Construction Requirements and O&M Requirements.

**“Emergency”** means a condition or situation or event that is likely to endanger the security of individuals on or about the Project Facilities or which poses an immediate threat of material damage to the Project Facilities or which poses a immediate threat to the health and safety of the residents within the Contractor Area or which require immediate attention or action by the Authority.

**“Escrow Account”** means an Account which the Authority shall open and maintain with a Bank in which all inflows and outflows of cash on account of capital and revenue receipts and expenditures shall be credited and debited, as the case may be, in accordance with the provisions of this Contractor Agreement, and includes the Sub-Accounts of such Escrow Account;

**“Event of Default”** shall have the meaning ascribed there to in Article 11.

**“Existing Assets”** shall mean collectively the assets of the Authority including the Project Site, movable assets (vehicles and equipments).

**“Financial Proposal”** shall mean the financial offer given by the Contractor in response to the RFP released for the Project.

**“Force Majeure”** or **“Force Majeure Event”** shall have the meaning ascribed thereto in Article 10.

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

**“GoI”** means the Government of India.

**“GoR”** means the Government of Rajasthan.

**“Government Agency”** means GoI, GoR, DLB, ULB or any state government or governmental department, commission, board, body, bureau, agency, Authority, instrumentality, administrative body, central, state, or local, having jurisdiction over the Contractor, Contractor Area, Project, or any part thereof, or the performance of all or any of the services or obligations of the Contractor under or pursuant to this Contractor Agreement.

**“Handback Requirements”** shall have the meaning ascribed thereto in Article 12.

**“Hazardous Wastes”** shall have the meaning ascribed to it in the Hazardous Wastes (Management and Handling) Rules, 1989;

**“Insurance Cover”** means the aggregate of the maximum sums insured under the insurances taken out by the Contractor pursuant to Article 6.14 and when used in the context of any act or event, it shall mean the aggregate of the maximum sums insured and payable in relation to such act or event;

**“Land filling”** shall mean Disposal of the Municipal Solid Waste in the SLF in accordance with the terms of this Contractor Agreement and MSW (Management and Handling) Rules, 2000.

**“Landfill Waste”** shall mean the Residual Inert Matter, duly certified as Fit for Land filling by the Engineer In Charge in accordance with the O&M Requirements.

**“Lease Deed”** means the deed entered between the Contractor and the Authority with respect to the MSW Processing Site.

**“Lenders”** means financial institutions, banks, funds and trustees for bond holders or debenture holders, who provide funds to the Contractor for financing the debt component of the cost of the Project.

**“MSW Processing Facility”** shall mean the facilities for processing Municipal Solid Waste designed, build and commissioned by the Contractor in accordance with the provisions of this Contractor Agreement.

**“MSW Processing Site”** means the area of land measuring [•] acres located at \_\_\_\_\_ (as described in Schedule IV) which will be handed over to the Contractor on the terms and conditions mentioned in the Lease Deed executed between the Parties, by the Authority for the purpose of implementation of the Project and where the MSW Processing Facility is to be located.

**“Management Control”** means the possession, directly or indirectly of the power to direct or cause the direction of the management and policies of the Contractor, whether through the ownership of voting securities, by contract or otherwise or the power to elect or appoint more than 50% (fifty percent) of the directors or other individuals exercising similar Authority with respect to the Contractor.

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

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

**“Municipal Act”** means the Rajasthan Municipalities Act 2009 as amended from time to time.

**“Municipal Solid Waste” or “MSW”** shall have the meaning ascribed thereto in the Municipal Solid Waste (Management and Handling) Rules, 2000 and shall include **“Garbage”**, **“Solid Waste”** and vice versa.

**“MSW Rules”** shall mean the Municipal Solid Wastes (Management and Handling) Rules, 2000 and includes any amendment thereto as in force.

**“New Assets”** shall mean collectively the assets as per Article 6.6, of this Contractor Agreement to be provided/ procured/ constructed by the Contractor for implementing the Project.

**“Non-Biodegradable Substance”** shall mean all substances including packaging material, metal, inert, plastic, drain silt, street sweeping waste, clothing, rubber and paper products excluding Bio-degradable Substance, construction debris, Hazardous Wastes and Biomedical Waste.

**“O&M Requirements”** means the requirements as to operation and maintenance of the Project set forth in Article 6.7 of this Contractor Agreement.

**“Person”** means (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.

**“Processing”** shall mean process by which MSW is transformed into new or recycled products including processes like composting, bio-mechanization, pelletization (RDF) or any other appropriate processes in accordance with relevant Applicable Laws.

**“Project”** shall mean the Door to Door Collection, Segregation, Secondary Storage, transfer, Transportation, delivery of MSW at MSW Processing Facility, Processing of MSW, Facility and design, financing, procurement, construction, operation, maintenance and management of the Project Facilities in accordance with the provisions of this Contractor Agreement.

**“Project Facilities”** shall mean the Processing Facilities or any land for all other related facilities located thereon, and any other offsite facilities created for the Project and include all assets of the Contractor for the purpose of undertaking the Project.

**“Project Site/”** collectively means the MSW Processing Sites, and any other land, if so provided by the Authority under the Lease Deed for exclusive purpose of undertaking the Project.

**“Regulator”** Shall mean a body appointed by the State Government through an appropriate statute to adjudicate the matters related to the Urban Development and projects related thereto;

**“Residual Inert Matter”** shall mean the material left as residue after Processing of Municipal Solid Waste and Segregation and removal of the organic matter, compost or organic manure there from, either wholly or in part, and includes pre-processing rejects.

**“Right of Way”** means the constructive possession of the Project Site, together with all way leaves, easements, unrestricted access and other rights of way, howsoever described, necessary for implementation of the Project in accordance with this Contractor Agreement;

**“Scheduled Completion Date”** means completion of construction of MSW Processing Facilities for treatment and of waste respectively within 12 (twelve) calendar months from the Appointed Date including any extension thereof provided by the Authority;

**“Secondary Waste Storage Depots”** and **“Secondary Storage”** shall have the meaning as identified place to secondary storage by Authority.

**“Statutory Auditors”** means a reputed firm of chartered accountants acting as the statutory auditors of the Contractor under the provisions of the Companies Act, 1956 including any statutory modification or re-enactment thereof, for the time being in force;

**“Taxes”** means any Indian taxes including excise duties, customs duties, value added tax, sales tax, service tax, local taxes, cess and any impost or surcharge of like nature (whether Central, State or local) on the goods, materials, equipment and services incorporated in and forming part of the Project charged, levied or imposed by any Government instrumentality, but excluding any interest, penalties and other sums in relation thereto imposed on any account whatsoever. For the avoidance of doubt, Taxes shall not include taxes on corporate income;

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

**“Termination Date”** means the date specified in the Termination Notice as the date on which Termination occurs.

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

**“Tests”** means the tests to be carried out in accordance with the Construction Requirements or O&M Requirements and “Testing” and “Tested” shall be construed accordingly.

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

**“Vehicle Tracking and Monitoring System”** shall mean the hardware and software of the equipment/ technology required to track the movement of vehicles carrying MSW.

**“Workshop Site”** shall mean the land developed and maintained by the Contractor for the purpose of parking, repairing and refuelling of vehicles used by the Contractor during the Operations Period.

## 1.2 Interpretation

In this Contractor 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 Laws 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 Contractor 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. the Schedules/Annexures to this Contractor Agreement form an integral part of this Contractor Agreement as though they were expressly set out in the body of this Contractor Agreement;
- h. 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;
- i. references to Recitals, Articles, Sub-articles, or Schedules/ Annexures in this Contractor Agreement shall, except where the context otherwise requires, be deemed to be references to Recitals, Articles, Sub-articles, and Schedules/ Annexures of or to this Contractor Agreement;
- j. any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Contractor Agreement from or by any Party shall be valid and effectual only if it is in writing under the hands of duly authorized representative of such Party in this behalf and not otherwise;
- k. 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;
- l. the Liquidated Damages payable by either Party to the other of them, as set forth in this Contractor Agreement, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty (the "**Liquidated Damages**").

### 1.3 Priority of agreements and errors/discrepancies

#### 1.3.1 Deleted

## Article 2 – Project

### 2.1 Brief Scope of Work for the Project

The Scope of the Project (the "**Scope of the Project**") shall mean and include, during the Contractor Period the Door to Door Collection of Municipal Solid Waste (MSW), Secondary Storage, Transportation (C & T) of Municipal Solid Waste as described in the Schedule I of this Contractor Agreement.

Brief scope of work in ULB is as follows:



1. Door to Door Collection of Municipal Solid Waste (MSW) from all residential and non residential premises situated in all wards of the City and Transportation of MSW collected there from to the processing facility or disposal facility as may be directed by the authority till such time new processing facility is constructed and operationalized.
2. Establishment of Secondary Waste Storage Depots and placing of suitable covered bins in wards for Secondary Storage of street sweeping and silt removed from the surface drains by municipal sanitation workers, operation and maintenance of Secondary Waste Storage Depots in all Wards, Transportation of MSW from all the secondary waste storage depots to the SLF or to any site as may be directed by the authority till the time the SLF is constructed and operationalized .
3. Providing round the clock SWM services during major festivals and Melas.

## 2.2 Grant of Contract

Subject to and in accordance with the terms, conditions and covenants set forth in this Contract Agreement the Applicable Laws and the Applicable Permits, the Authority hereby grants and authorizes the Contractor to carry out:

- a. Door to Door Collection, Secondary Storage, Transportation, Processing and Disposal of Municipal Solid Waste ("MSW") as briefly described in the Section 2.1 above.
- b. Initiate the process for availing the benefits of carbon credit under the Clean Development Mechanism (CDM);
- c. Design, engineer, procure, finance, modify, construct, operate, maintain and transfer the Project Facilities; and
- d. Exercise and/or enjoy the rights, powers, benefits, privileges, authorizations and entitlements as set forth in this Contractor Agreement (hereinafter collectively referred to as "**the Contractor**").
- e. Notwithstanding anything to the contrary stated in this Contractor Agreement the Contractor shall not sub-let/sub-contract any of the Contractor's obligations under this Contractor Agreement except with prior written consent of the CEO/MC/EO

## 2.3 Contractor Period

The Contractor hereby granted is for a period of 5 (Five) years from the ,Appointed Date with an option to further extend the Contractor Period by 5 (Five) years by mutual consent of the Parties of this Contract Agreement or until earlier Termination thereof in accordance with the terms of this Contract Agreement ("**Contractor Period**").

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

## 2.4 Contract Period

The Contract hereby granted is for a period of 5 (Five) years from the ,Appointed Date with an option to further extend the Contract Period by 5 (Five) years by mutual consent of the Parties of this Contract Agreement or until earlier Termination thereof in accordance with the terms of this Contract Agreement ("**Contract Period**").

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

## 2.5 Exclusivity of the Contract

The Contractor shall be the sole and exclusive person entitled to undertake the Project in the Contract Area and Authority agrees that no agreement or arrangement permitting the activities as per the Scope of

Work for the Project covered under this Contract Agreement by any other party shall be entered into by Authority during the Contract Period.

## **2.6 Acceptance of the Contract**

In consideration of the rights, privileges and benefits conferred upon the Contractor by Authority and other good and valuable consideration expressed herein, the Contractor hereby accepts the Contract and agrees and undertakes to implement the Project and perform/discharge all its obligations in accordance with the provisions hereof.

## **3 Article 3**

### **3.1 Labour Laws and Safety code to be complied with by the Contractor**

- a. The Contractor shall obtain a valid license under the Contract Labor (R&A) Act, 1970 and the Contract Labor (Regulation and Abolition) Central rules 1971, before the commencement of the work, and continue to have a valid license until the completion of the work. The Contractor shall also abide by the provisions of the Child Labor (Prohibition and Regulation) Act, 1986. Any failure to fulfill these requirements may result in Termination of this Contract Agreement.
- b. The Contractor shall employ only adult persons to execute the Scope of Work under this Contract Agreement. The Contractor shall pay to labor employed by him, wages as per the provisions of the Contract Labor (Regulation and Abolition) Act 1970 and the Contract Labor (Regulation and Abolition) Central Rules, 1971, wherever applicable.
- c. The Contractor shall comply with the provisions of the Payment of Wages Act, 1936, Minimum Wages Act, 1948, Employees Liability Act, 1938, Workmen's Compensation Act, 1923, Industrial Disputes Act, 1947, Maternity Benefits Act, 1961, and the Contract Labor (Regulation and Abolition) Act 1970, or the modifications thereof or any other laws relating thereto and the rules made there under from time to time.
- d. The Contractor shall indemnify and keep indemnified the Authority against payments to be made under and for the observance of the law aforesaid and the Labor Regulations.
- e. The laws aforesaid shall be deemed to be a part of the Contract Agreement and any breach thereof shall be deemed to be a breach of the Contract Agreement.
- f. In respect of all labor directly or indirectly employed in the work for the performance of the Contractor's part of this Contract Agreement, the Contractor shall at his own expense arrange for the safety provisions as per Safety Code framed from time to time and shall at his own expense provide for all facilities in connection therewith. In case the Contractor fails to make arrangement and provide necessary facilities as aforesaid he shall be liable to pay Liquidated Damages of Rs.200/- per day for each default and in addition the CEO/MC/EO shall be at liberty to make arrangement and provide facilities as aforesaid through any other agency and recover the costs incurred in that behalf from the Contractor.

### **3.2 Submission of Monthly Statement on labor employed**

The Contractor shall submit by the 7th of every month, to the Engineer In charge a true statement showing in respect of the preceding month:

- a. The number of laborers employed by Contractor on the work,
- b. Their working hours,
- c. The wages paid to them,
- d. The accidents that occurred during the said month showing the circumstances under which they happened and the extent of damage and injury caused by them/ steps taken to avoid such happenings in the future, and
- e. The number of female workers who have been allowed maternity benefit and the amount paid to them.

Failing which the Contractor shall be liable to pay to the Authority a sum not exceeding Rs. 200/- for each default and/or Rs. 1000/- for materially incorrect statement. The decision of the Engineer In Charge shall be final and binding in deducting from the Tipping Fee due to the Contractor the amount levied as fine and shall be binding on the Contractor.

### **3.3 Compliance with instructions on removal from site of undesirable person**

The MC, officer authorized by him and/or the Engineer In Charge may require the Contractor to dismiss or remove from the site of the work any person or persons in the Contractor's employment who may be in view of the Engineer In Charge is incompetent or misconducts during his/her duty and the Contractor shall forthwith comply with such requirements.

## **4 Article 4 – Handover of Project Site & Project Facilities**

## **5 Article 5 – Engineer in Charge**

### **5.1 Authority/CEO/MC/EE/EOof concerned cluster ULB/Centre ULB**

## **Article 6 – Contractor's Obligations**

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

### **6.1 Performance Security**

As prescribed in GCC

### **6.2 Applicable Permits**

The Contractor shall in respect of the Project, procure the Applicable Permits and be in compliance thereof at all times during the Contract Period and the Authority may assist the Contractor in procuring

such Permits. It is however clarified that the Contractor shall be solely responsible for obtaining, maintain and renewing such clearances and/or permits as required from time to time.

### **6.3 Financing Arrangement**

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

### **6.4 Development Plan**

- a. The Contractor shall within 15 (fifteen) days of this Contract Agreement, submit to the Engineer In Charge and Authority a plan (“the Development Plan”) in conformity with the Scope of Work described in the RFP document.
- b. Within 7 (seven) days of receipt of the Development Plan, the Engineer In Charge shall review the relevant parts taking into account, inter-alia, comments of the Authority, if any, thereon, and convey its comments/observations to the Contractor on the Development Plan, including the need, if any, to modify the same. If the comments/observations of the Engineer In Charge require the Development Plan to be modified, the Contractor shall suitably modify the Development Plan and re-submit the same to the Engineer In Charge, as the case may be within 5 (five) days of such intimation, for further review. The Engineer In Charge shall give their observations and comments, if any, within 7 (seven) days of receipt of such revised Development Plan, which shall be taken into account by the Contractor while finalizing the Development Plan.
- c. If, within the period stipulated in the preceding Sub-article (ii), the Engineer In Charge does not respond to the Development Plan submitted to it by the Contractor, the Contractor shall be entitled to proceed with the Project with a written approval of the Authority.
- d. Notwithstanding any review or failure to review by the Contractor of the comments/observations of the Engineer In Charge or the Authority, the Contractor shall be solely responsible for the adequacy of the Development Plan and the conformity thereof with the Construction Requirements and shall not be relieved or absolved in any manner whatsoever of any of its obligations hereunder.

For the avoidance of doubt it is clarified that the Development Plan when completed and duly approved shall form a part of this Contract Agreement and any breach of terms of the Development Plan shall be considered as a breach of this Contract Agreement.

### **6.5 Drawings**

- a. Preparation of Drawings
  - i. The Contractor, subject to the Construction Requirements, shall prepare its own Drawings.
  - ii. The Drawings shall be subject to review by the Engineer In Charge as hereinafter provided in Sub-article (b) below.
- b. Review of Drawings

- i. The Contractor shall within 30 (thirty) days from date of this Contract Agreement and in such sequence as is consistent with the Construction Requirements, submit a copy of each of the Drawings to the Engineer In Charge and the Authority.
- ii. By forwarding a copy of the Drawings to the Engineer In Charge and Authority pursuant to the preceding Sub-article (i), the Contractor 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(fifteen) days of receipt of the Drawings, Engineer In Charge shall review the same with respect to the Scope of Work, taking into account, *interalia*, comments of the Authority, if any, thereon, and convey its comments/observations to the Contractor on the conformity of Drawings with Construction Requirements. If the comments/observations of the Engineer In Charge indicate that the Drawings are not in conformity with the Construction Requirements, such Drawings shall be revised by the Contractor to the extent necessary and resubmitted to Engineer In Charge within 5 (five) days of such intimation by the Engineer In Charge for further review. The Engineer In Charge shall give its observations and comments, if any, within 15 (fifteen) days of receipt of such revised Drawings, which shall be taken into account by the Contractor while finalizing the Drawings.
- iv. If, within the period stipulated in the preceding Sub-article (iii), the Engineer In Charge does not respond to the Drawings submitted to it by the Contractor within 15 (fifteen) days the Contractor shall be entitled to proceed with the Project on the basis of such Drawings submitted by it to the Engineer In Charge, and intimate the same to the Authority. The same should be highlighted in the periodic reporting by the Contractor.
- v. Notwithstanding any review or failure to review by or the comments/ observations of the Engineer In Charge or the Authority, the Contractor 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 Contractor 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 the Authority.
- vii. The Contractor shall in consultation with the Engineer in charge finalize an implementation schedule for their respective scope.

## 6.6 Project Implementation

### a. New Assets

The Contractor shall procure/provide the New Assets in accordance with the Development Plan and Construction Requirements and operate & maintain them during the Contract Period in accordance with this Contract Agreement.

### b. Construction Works

- i. Contractor has been given specific permission by the Authority to commence construction.
- ii. The Contractor shall adhere to the Construction Requirements and achieve COD on or before the Scheduled Completion Date.
- iii. Provided that, on the written request by the Contractor for extension of Scheduled Completion Date due to reasons solely attributable to the Contractor, Authority may consider such a request, subject to the Contractor agreeing to pay an amount as per GCC, such extension shall in no case exceed 6 (six) months from Scheduled Completion Date. In the event Contractor is not able to achieve construction within such extended period, it shall be treated as a Contractor Event of Default.
- iv. The Contractor may undertake Construction Works by itself or through a Contractor possessing requisite technical, financial and managerial expertise/capability subject to written approval from CEO/MC/EO; but in either case, the Contractor shall remain solely responsible to meet the Construction Requirements. Prior to commencement of construction, renovation/repair of any of the Project Facilities and MSW Processing Site, the Contractor shall have obtained all such Applicable Permits as are necessary to commence construction/ renovation/ repair of such facilities and sites.
- v. Adherence to the time allowed for the construction of MSW Processing Facility shall be the essence of the Contract Agreement. The execution of the works shall commence within the time period mentioned in the RFP document. If the Contractor commits default subject to Article 11.1 (a) of this Contract Agreement in commencing the execution of the work as aforesaid, the CEO/Municipal Commissioner/EO shall without prejudice to any other right or remedy available in law, be at liberty to forfeit the Performance Security, full or in part as deemed appropriate in accordance with Article 6.1 and Article 11.1 (a) of this Contract Agreement. The CEO/MC/EO may for reasons to be recorded in writing extend the period for commencement of execution of works up to two months.

### c. Completion Certificate and Provisional Completion Certificate

- i. The Contractor shall carry out all necessary and periodical Tests under the supervision of the Engineer In Charge as the case may be, for the purposes of determining that the New

Assets purchased/constructed and Construction Works respectively are being undertaken in accordance with the Construction Requirements. The Contractor 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.

- ii. If the Contractor fails to complete the Punch List items within the aforesaid period of 3 (three) weeks, the Authority may, without prejudice to any other rights or remedy available to it under this Contract Agreement, have such items completed at the risk and costs of the Contractor. The cost incurred by Authority in completing the Punch List items, as certified by the Engineer In Charge, as the case may be, shall be reimbursed by the Contractor to Authority within 7 (seven) days from the date of receipt of a claim in respect thereof from the Authority. Thereupon, the Engineer In Charge, as the case may be, may issue Completion Certificate after prior approval from the Authority.
- iii. The Engineer In Charge, as the case may be, may, by written notice, require the Contractor to suspend forthwith for such period as considered necessary, the whole or any part of the procurement of the New Assets or 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.
- iv. Provided that, if COD is delayed beyond 6 (six) months of the Scheduled Project Completion Date, the Authority shall be entitled to terminate this Contract Agreement and the Lease Deed and to appropriate the Performance Security, and the Authority may avail any other remedy available to it under law.

## **6.7 Operation and Maintenance**

The Contractor shall undertake the Project in accordance with this Contract Agreement and more specifically in terms of Annexures of this Contract Agreement and adhere to the O&M plan and O&M Manual duly approved by the CEO/MC/EO and the Engineer In Charge.

- a. The Contractor shall undertake the Project by itself or through a Contractor subject to express written permission of the Authority.
- b. The Contract Agreement shall not be assigned or sublet without the written approval of the CEO/MC/EO.
- c. The Contractor shall, during the Contract Period:
  - i. be well organized and designate and appoint suitable officers/ representatives as it may deem appropriate to supervise the Project, to deal with the Engineer In Charge/ Authority and to be responsible for all necessary exchange of information required pursuant to this Contract Agreement;
  - ii. Conduct all Tests to ascertain compliance with the Development Plan and the O&M Requirements.

- d. The Contractor shall during the Contract Period in accordance with the provisions of this Contract Agreement:
  - i. Shall ensure that all the Secondary Waste Storage Depots and waste storage containers site falling in all wards are kept clean all the time and shall be fully cleaned at the time of lifting the waste and the surrounding shall also be cleaned by brooming to remove all the litter around the depot.

## **6.8 Repair and Replacement**

- a. The Contractor shall at its cost, plan for replacement, replenishment and renewal as the case may be of the assets (including equipment/ vehicles) well ahead of the time when such assets thereof is reasonably expected to expire its operating life or its impending obsolescence and replace the assets in accordance with Good Industry Practice so as to ensure that the Project commensurate with the requirements of this Contract Agreement, at all times during the Contract Period.
- b. The Contractor shall not remove from the Project Facilities, any equipment, materials, consumable and non-consumable items that are required for the Project, without the prior written consent of the Engineer In Charge.
- c. The Contractor shall maintain and complete accurate records of all equipment, materials, consumables and spare parts procured and shall provide copies of such records to the Authority upon request.

## **6.9 Operation and Maintenance Plan and Operation and Maintenance Manual**

Prior to making a request for issue of Project Completion Certificate for the Project, the Contractor shall, in consultation with the Authority/ Engineer In Charge, finalize:

- a. An O&M Plan ("O&M Plan") prepared in line with the Scope of Work of the Project, Statutory Requirement, Development Plan and compliance with the requirements of this Contract Agreement.
- b. A manual for the operations, regular and preventive maintenance of the Project Facility ("O&M Manual") and shall ensure and procure that at all times during the Contract Period, the Project Facilities are operated and maintained in accordance with the provisions hereof.

## **6.10 Project Vehicles / Equipments**

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

### **6.10.1 Deployment of Tools, Equipment and Machinery, Vehicles and their Calibration**

Contractor to deploy Tools, Equipments and Machinery etc.

- a. The Contractor shall deploy at his own cost all materials, plant, tools, appliances, implements, required for the proper execution of the Contract Agreement and give the ward wise plan of the



deployment to the Authority. The vehicles and man power shall be deployed accordingly and the Authority's Supervisory staff shall have the authority to verify the same.

b. Deployment of vehicles and their Calibration:

- i. The Contractor shall provide the CEO/MC/EO, the list of vehicles to be deployed with their registration number. The vehicles so deployed for collection and Transportation of the MSW in pursuance of this Contract Agreement shall be volumetrically calibrated and such calibration details shall be mentioned on the log book of each vehicle.
- ii. The Carrying capacity of the vehicles will be governed by the calibrated volume and the weight of the MSW carried and weighed shall not exceed the calibrated authentication except in exceptional circumstances which shall restrict the weight to plus/minus 5% of the calibrated volume.

**6.10.2 Display name of the Authority & Slogans on the vehicles & machinery used for SWM Services**

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

**6.11 Vehicle Tracking and Monitoring System**

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

**6.12 Indemnification against Accidents**

- a. The Contractor shall be solely responsible for and keeps the Authority indemnified against all the claims, damages, expenses, losses or injury to persons or property that may arise during the Contract Period from the Project including the vehicles/equipment provide by the Authority.
- b. On the occurrence of an accident which leads or may lead to human loss, the Contractor shall within 21 (twenty one) hours of such accident, report in writing to the Authority clearly stating the facts in sufficient details explaining the circumstances of such accident and the subsequent actions taken by the Contractor.

- c. In the event, compensation may become payable under any act or by judgment of any court/competent Authority thereof whether such compensation become payable by the Contractor or by the Authority, the same shall be borne and paid by the Contractor. If Contractor fails to pay the requisite compensation, Authority shall have the right to recover the same by encashment of the Performance Security and/or from the Tipping Fees payable to the Contractor.

### **6.13 Contractor to Indemnify the Authority against Patent Rights**

The Contractor shall fully indemnify and keep indemnified the Authority against any action, claim or proceeding relating to infringement or use of any patent or design or any alleged patent or design rights and shall pay any royalties which may be payable in respect of any article or part thereof included in the Contract Agreement. In the event of any claims made under or action brought against the Authority in respect of any such matters as aforesaid the Contractor shall be immediately notified thereof and the Contractor shall be at liberty, at his own expenses, to settle any dispute or to conduct any litigation that may arise there from, provided that the Contractor shall not be liable to indemnify the Authority if the infringement of the patent or design or any alleged patent or design right is the direct result of an order passed by the CEO/MC/EO in this behalf.

### **6.14 Insurance**

The Contractor shall at its cost and expense, purchase and maintain by due re-instatement or otherwise, during the Contract Period all insurances in respect of the Project Facilities in accordance with the Good Industry Practice and have the same duly certified by the Engineer In Charge *inter alia* the following:

- a. Contractor's all risk insurance;
- b. Loss, damage or destruction of the Project Facilities, at replacement value;
- c. Comprehensive third party liability insurance including injury or death to personnel of the Authority and others who may enter the Project Facilities;
- d. Workmen's compensation insurance;
- e. Any other insurance that may be necessary to protect the Contractor, its employees, Project Facilities (against loss, damage or destruction at replacement value) including all Force Majeure Events that are insurable and not otherwise covered in items (a) to (d).

The Contractor shall effect all such insurances with an insurer and on terms approved by the Authority and if required by the Authority in its sole discretion, in the joint names of the Authority and the Contractor.

The Contractor shall maintain a register of entry in order of premiums paid towards the insurance and proof of payments made shall be submitted to the Authority whenever requested for.

#### **6.14.1 Application of Insurance Proceeds**

Unless otherwise provided herein, the proceeds of all insurance policies received shall be promptly applied by the Contractor towards repair, renovation, restoration or re-instatement of the Project Facilities and MSW Processing Facility or any part thereof which may have been damaged or destroyed.

#### **6.14.2 Un-insurable Risks**

If during the Contract 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 Contractor shall not be deemed to be in breach of its obligations regarding insurance under this Contract Agreement.

## **6.15 Environmental Compliance**

The Contractor shall, at all times, ensure that all aspects of the Project and the processes employed for undertaking of the Project shall conform to the laws pertaining to environment, health and safety aspects including but not limited to rules such as MSW Rules 2000 and Plastic Waste (Management and Handling) Rules, 2011 as amended from time to time, policies and guidelines related thereto.

The Contractor 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, in accordance with Applicable Laws, the necessary environmental impact assessment studies and implement appropriate environment management plans and submit necessary reports (including the reports to be submitted by the Authority) as per Applicable Laws.

## **6.16 Land Use**

### **6.16.1 Assured Incoming Waste**

The quantities are guaranteed (“Assured Incoming Waste”) subject to the Contractor putting all systems in place as per the RFP document for collection and transportation of waste.

### **6.16.2 Weighbridge**

#### **a. Daily Information**

- i. The Contractor shall, at his own cost, construct new weighbridge at the MSW Processing Facility or the Landfill Facility to accurately measure the quantity of MSW to enable the Parties to determine all quantities and make all calculations, referred to in this Contract Agreement.
- ii. The Contractor shall provide data to the Authority on a monthly basis for each of the items referred to in the preceding clause (i) in a form reasonably acceptable to the Parties.

#### **b. Accuracy of Weighbridge**

- i. The Contractor shall, at its cost, ensure that the weighbridges are maintained, operated and inspected in accordance with all Applicable Laws and that it accurately measures and records all types of MSW collected by the Contractor.
- ii. Without limiting to the preceding clause (i), the Contractor 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 the Authority as soon as possible after the test is carried out.

#### **c. Audit**

The Engineer In Charge/Authority may conduct or arrange an audit of the weighbridge data and records for the purpose of verifying weighbridge data provided by the Contractor.

#### **d. Adjustment**

- i. If a calibration test conducted under Article 6.17.2 (B) or an audit conducted under Article 6.17.2 (C) shows that the weighbridge has been inaccurately measuring any of the items referred to in Article 6.17.1, 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.

- ii. If it is not possible to accurately determine the date from which the weighbridge began inaccurately measuring any of the items referred to in Article 6.17.1, the Parties shall assume that the weighbridge had been:
  - a) Accurately measuring the relevant items referred to in Article 6.17.1 from the date of the last accurate calibration test until the Halfway Point; and
  - b) Inaccurately measuring the relevant items referred to in Article 6.17.1 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.

For the Avoidance of doubt it is clarified that, the Contractor shall weigh, in presence of the Engineer In Charge and/or authorized representative of the Authority, the incoming MSW collected and Transported by it ("Incoming Waste") and weigh the Landfill Waste prior to Disposal of the same in the Landfill Facility in the manner as set out in the O&M Requirements. The record of weighment shall be jointly signed by the Engineer In Charge and authorized representative of the Authority and Contractor. The Contractor would keep a record of the same for a period of at least 10 (ten) years.

**e. Biomedical Waste, Hazardous Waste**

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

## **6.17 Land Filling**

### **Maintenance and Certification of Records**

The Contractor shall maintain day to day records of the quantum (measured in tonnes) of MSW and other wastes collected, MSW and other waste processed at MSW Processing Facility and deposited at SLF, duly countersigned by the Engineer In Charge/ representative of the Authority and provide monthly, quarterly and annual reports to the Authority.

## **6.18 Sale/Distribution of Compost and Other Recyclables and Sharing of Revenue under special conditions**

The Contractor shall be free to sell or dispose of the recyclables, compost or organic manure, RDF, 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 the applicable laws and the O&M Requirements and this Contract Agreement.

### **6.19 Maintenance of Warranties**

The Contractor shall honor and preserve all product warranties for machinery and equipment (including the warranties provided by respective OEM). Further the Contractor shall take the appropriate action for the same.

### **6.20 Carbon Credits**

The Contractor shall endeavor to obtain the carbon credits under Clean Development Mechanism (CDM) of the Kyoto Protocol for the Project by adopting the greenhouse gas mitigation measures. The benefits of such carbon credits, if and when available, would be taken into account when calculating VGF.

The Contractor shall make serious efforts to get Carbon Credits at his own cost for SWM project work undertaken by him as well as by the Authority. The Authority shall extend all necessary help to the Contractor in the form of giving information available with the Authority, signing applications to the authorities as may be required for getting the Carbon Credits. The Contractor shall keep the Authority fully posted with the efforts made by him to get Carbon Credits. The Contractor shall have to be transparent in showing all correspondence to the Authority in this regard.

### **6.21 Shareholding**

As per the MOU of JV/Consortium/SPV

### **6.22 IEC Campaign**

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

### **6.23 Closure and Post Closure Operations of the Landfill Facility**

Deleted

### **6.24 Books of Account**

- a. The Contractor shall maintain books of accounts recording all its receipts (including User Fee and other revenues derived/collected by it from or on account of the Project and/or its use), income, expenditure, assets and liabilities, in accordance with this Contract Agreement, Good Industry Practice, Applicable Laws and Applicable Permits.
- b. The Contractor shall provide 2 (two) copies of its Balance Sheet, Cash Flow Statement and Profit and Loss Account along with a report thereon by its Statutory Auditors, within 6 (six) months of the close of the Accounting Year to which they pertain. In addition the Contractor shall also submit a statement of fixed assets forming part of the Project Facilities, as on the end of the Accounting Year, duly certified by the Statutory Auditor. The statement of fixed assets shall provide the inventory of fixed assets as on the end of Accounting Year along with a list of additions and deletions during the period.
- c. The Authority or its authorized representatives shall have the right to inspect the records of the Contractor during office hours and require copies of relevant extracts of books of accounts to be

provided to the Authority and in the event of any discrepancy or error being found, the same shall be rectified promptly by the Contractor in its books of account.

#### **6.25 General Obligations**

- a. Subject to and in accordance with the terms and conditions of this Contract Agreement, the Contractor shall to the satisfaction of the Authority, with due care and diligence, design and execute the Construction Works as is required under the Construction Requirements and carry out its other obligations under and/or in relation to or reasonably to be inferred from this Contract Agreement and provide all personnel and labor, including the supervision thereof, materials, offices, workshops, tools, machinery, equipment and all other resources and things, whether of a temporary or permanent nature, required in or for such design and execution and for carrying out such obligations.
- b. The personnel and labor used by the Contractor for the Project shall be responsibility of the Contractor and the Authority shall in no case be responsible, in any manner to such personnel and labor.
- c. The Contractor shall assume full responsibility for the proper and timely design and execution of the Construction Works in accordance with this Contract Agreement.
- d. The Contractor shall be fully responsible for the acts or omissions of all its employees, agents, workmen, suppliers, consultants, contractors and any other persons for whom it is contractually responsible for, as if such acts of omissions were its own.
- e. The Contractor shall be responsible for maintaining the Project Facilities so as to keep it in good operable conditions which shall include but is not limited to all day-to-day maintenance and repairs of the Project Facilities and replacement of equipments/consumables irrespective of actual usage and loading levels and irrespective of whether the maintenance, repair or replacement work is required because of any defect in the Project Facilities (latent or otherwise) or due to faulty workmanship or defective design or construction or any other reason whatsoever and whether or not it is known to the Authority);
- f. The Contractor shall at its own cost and expense:
  - i. design, engineer, procure, finance, modify, construct, operate, maintain and transfer the Project Facilities in accordance with the provisions hereof;
  - ii. comply with Applicable Laws at all times during the Contract Period;
  - iii. endeavor to improve the ancillary conditions and infrastructure related to the Project, including assistance to informal recycling workers;
  - iv. Endeavour to sell or otherwise dispose of all recyclables in a manner which is not detrimental to the environment;
  - v. The Contractor shall provide Uniform, and Amenities as under:

- vi. The Contractor (s) shall at his/ their own cost provide his/ their labor with a suitable protective uniform which shall be mandatory for the worker to wear while on duty. The uniform shall have following specification:
- The color of the uniform shall be bright, visible from distance and approved by the CEO/MC/EO.
  - The uniform shall have besides apparel for male and female, a cap, Protective gloves, boots, masks etc as approved by CEO/MC/EO.
  - The Uniform and the cap shall bear the logo of the Authority.
  - The Contractor (s) shall provide adequate supply for drinking water for the laborers reporting at the place of marking attendance.
- g. In the case of any class of work for which there is no such specification as referred to in this Clause, such work shall be carried out in accordance with the standards of ISO or the specifications of Bureau of Indian Standards. In case there is no such specification in Bureau of India Standards, the work shall be carried out as per manufacturer's specifications. In case there are no such specifications as required above, the work shall be carried out in all respects in accordance with the instructions and requirements of the CEO/MC/EO.
- h. 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;
- i. make efforts to maintain harmony and good industrial relations among the personnel employed in connection with the performance of its obligations under this Contract Agreement and shall be solely responsible for compliance with all labor laws and solely liable for all possible claims from any third party and employment related liabilities of its staff employed in relation with the Project and hereby indemnifies Authority against any claims, damages, expenses or losses in this regard and that in no case and shall for no purpose shall Authority be treated as employer in this regard;
- j. Observe and fulfill the environmental and other requirements under the Applicable Laws and Applicable Permits;
- k. Be responsible for quality, soundness, durability, safety and the overall Construction Requirements and O&M Requirements;
- l. Be responsible for all the security, environment and safety aspects of the Project at all times during the Contract Period.
- m. Ensure that the Project Facilities remain free from all encroachments and take all steps necessary to remove encroachments, if any;



- n. upon receipt of a request thereof, afford access to the Project Facilities to the authorized representatives of Authority for the purpose of ascertaining compliance with the terms, covenants and conditions of this Contract Agreement;
- o. Pay all taxes, duties and outgoings, including utility charges relating to the Project Facilities; Contractor shall submit details of the taxes paid to the Authority on closing of every tax assessment year or at any other time specifically asked by the Authority.
- p. ensure and procure that any contract relating to the Project, entered into by the Contractor for implementing the Project in accordance with this Contract Agreement contains provisions that would entitle Lenders or a nominee of Authority to step into such contract/s at Authority's discretion, in place and substitution of the Contractor, pursuant to the provisions of this Contract Agreement;
- q. establish a standard protocol for addressing complaints from Persons in the Contract Area to the satisfaction of the Engineer In Charge in accordance with the O&M Requirements; and
- r. Submit reports regarding matters specified in Annexures and Article 6.7 of this Contract Agreement.

#### **6.26 Liquidated Damages for shortfall/non-compliance**

- a. In the event the Authority, whether from the review of reports submitted by the Contractor/Engineer In Charge in accordance with the provisions of this Contract Agreement or otherwise, observes that the Project/Project Facilities/MSW Processing Facility do not comply or fall short of performance as per the provisions of this Contract Agreement, the Authority may levy the amount of Liquidated Damages payable by the Contractor in accordance with the terms of this Contract Agreement and demand the Contractor by a notice in writing to pay the same within 30 (thirty) days and on failure of the Contractor to pay the same, the Authority shall recover the amount from the Contractor from the monthly invoice and/or by encashment of the Performance Security. Provided that upon receipt of the demand the Contractor may make a written representation to the Authority which shall be considered by the Authority on merits and the Authority may waive the payment of Liquidated Damages in part or full, if it is satisfied that the Contractor has been carrying out its obligations diligently and efficiently and the shortfall to be waived was on account of reasons beyond the control of the Contractor. The Contractor shall pay such Liquidated Damages forthwith and in the event that it contests such Liquidated Damages, the Dispute Resolution Procedure shall apply.
- b. The Authority shall review the above performance of the Contractor and may levy Liquidated Damages on monthly basis in accordance with the terms of this Contract Agreement. However, the Liquidated Damages shall be leviable only after the expiry of 3 months from Appointed Date.
- c. The Liquidated Damages set forth in Article 6.31.1 may be assessed and specified forthwith by the Engineer In Charge; provided that the Authority may, in its discretion, demand a smaller sum as



Liquidated Damages, if in its opinion, the breach has been cured promptly and the Contractor is otherwise in compliance with its obligations under this Contract Agreement.

- d. It is clarified that this provision does not prejudice the rights of the Authority upon a Contractor Event of Default as set out in Article 12.1 including the Authority's right to terminate this Contract Agreement which shall remain unaffected.

#### **6.27 Breach of O&M Obligations**

The Contractor shall be deemed to be in Material Breach of O&M Requirements, if the Engineer In Charge acting reasonably and in accordance with the provisions of this Contract Agreement, has determined that due to breach of its obligations by the Contractor:

- a. There has been failure/undue delay in carrying out scheduled/planned maintenance or the scheduled/planned maintenance has not been carried out in accordance with the O&M Requirements;
- b. The maintenance of the Project Facilities or any part thereof has deteriorated to a level which is below the acceptance level prescribed by the O&M Requirements;
- c. There has been a serious or persistent let up in adhering to the O&M Requirements and thereby the Project Facilities or any part thereof is not safe for operations;
- d. There has been persistent breach of O&M Requirements.
- e. For avoidance of doubt, persistent breach shall mean:
  - i. any breach of O&M Requirements by the Contractor which has not been remedied by the Contractor despite a notice to remedy in respect thereof issued by the Engineer In Charge/ Authority;
  - ii. recurrence of a breach by the Contractor, during the pendency of notice to remedy by the Engineer In Charge/Authority, requiring the Contractor 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 a material breach of O&M Requirements, Authority shall, without prejudice to and notwithstanding any other consequences provided therefore under this Contract Agreement, depending upon the nature of the obligation in respect of which a Material Breach has occurred, be entitled to either levy Liquidated Damages and thereafter terminate this Contract Agreement, if such breach takes place for 4 consecutive weeks or in respect of breach of obligations by the Contractor which are of a serious nature, immediately terminate this Contract Agreement and forfeit the Performance Security.

#### **6.28 No Breach of Obligations**

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

- a. Force Majeure Event, subject to Article 10.3;
- b. Authority Event of Default;
- c. Compliance with the instructions of the Engineer In Charge/Authority or the directions of any Government Agency. Provided that the instructions should not have been issued as a

consequence of a breach by the Contractor of any of its obligations under this Contract Agreement; or

- d. Closure of the Project Facilities or part thereof with the approval of the Authority.

### 6.29 Escrow Agreement

The respective Authorities (ULBs) shall maintain a separate Escrow Account in which the user fee collected by the Authority shall be deposited and the Contractor providing SWM services shall be paid from this account towards payment of fees/charges payable to him for rendering services to the Authority. Any surplus amount left after paying the charges to the Authorities shall be appropriated by the Authorities for meeting its own expenses on Solid Waste Management and towards improving the said service.

All the transactions related to the Contract Agreement shall be effected through an Escrow Account maintained by the Authority. All the payments to the Contractor for his services shall be made from this Escrow Account. The Authorities shall dedicate the collection of user fee and other source of income considered adequate to meet the obligation of payments to the Contractor on time and deposit the same in Escrow Account to ensure timely payment to the Contractor.

ULBs will have the principal rights to operate respective escrow accounts. Maximum three consecutive withdrawals shall be permitted at a time. The bidder shall ensure settlement of previous bills to avail the facility of next withdrawal from the escrow account.

### 6.30 Waste Calibration

While considering the weight of Waste Transported by the Contractor for the purpose of making payment per tonne, the volume of the vehicle and density of Waste shall be taken into consideration to ensure that no malpractice takes place.

#### **The following method of calibration shall be adopted:**

All the collection vehicles shall be weighted at the MSW Processing Facility/Landfill Facility where a weighbridge shall be installed for weighing the vehicles along with the Waste and empty vehicle. The volume of vehicles used shall be recorded in cubic meters. If the net weight of Waste comes out to be more than 500 Kg/M<sup>3</sup> in case of uncompacted Waste, the weight shall be reduced and brought down to the level of 500 Kg/M<sup>3</sup>. If the tonnage of Waste recorded is higher than the calibrated weight, the calibrated weight shall be taken into consideration for payment.

The reduction in weight shall be communicated to the Engineer In Charge on a daily basis for reduction from the total Waste recorded at the final destination for payment to the Contractaire.

#### **Recording the Waste at the MSW Processing Facilities**

The Contractor shall provide & maintain weighbridge at MSW Processing Facility & the Landfill Facility and keep perfect record of the weight of the Waste handled. The Contractor shall also provide an office space for employee of the Authority as a representative to sit at these sites and monitor the services provided and records maintained by the Contractor.

### 6.31 Use of Proven technology

The Contractor shall clearly state the technology he will use for treatment of Waste and give a brief synopsis of the technology and its operation and maintenance. The technology offered shall be proven and in use within or outside the country under similar situations and the Contractor shall obtain necessary clearance from the State and/or Central Pollution Control Board as required at his own cost and efforts.

The Contractor shall have the liberty to upscale the technology during the Contract Period with the prior approval of the Authority and clearance from State Pollution Control Board for deriving larger benefits without causing any harm to the neighborhood, health and environment of the City and without putting any additional burden on the Authority.

The Contractor shall have to observe all the directions contained in the Municipal Solid Waste (Management and Handling) Rules 2000 as well as State Laws and Rules as amended from time to time.

In the event of any major change in the legal framework in the Country or the State, necessitating a major change in the MSW Processing Facility duly created by the Contractor following the present Laws and the Rules, he shall, comply with the new Laws and the Rules at his own cost and may ask for reasonable compensation which shall be determined by a technical committee that may be appointed by State Government/ Authority.

### **6.32 Gradual Conversion of Cities into bin-less cities**

Establishment of Secondary Waste Storage Depots in the cities are essential for intermediate transfer of Waste from primary collection tools such as handcarts, tricycles etc into large close body containers to facilitate bulk transfer of Waste from Secondary Waste Storage Depots to the MSW Processing Facility/Landfill Facility. These Secondary Waste Storage Depots however, give rise to serious objection from the households, shops and establishments where such Secondary Waste Storage Depots are placed in front of their premises (NIMBY SYNDROME). These Secondary Waste Storage Depots can be eliminated gradually by Secondary Waste Storage Depots converted into waste pick up stations by direct transfer of Waste into large vehicles.

As it is unaffordable to park a designated vehicle at each such Secondary Waste Storage Depots; an appropriate option is to designate a large vehicle to pick up Waste from a circular route covering 5 to 10 existing Secondary Waste Storage Depots. The large vehicle so designated shall go round and report at the same place at an interval of every 30 minutes. The sanitation workers need to be asked to go to the same Secondary Waste Storage Depot and wait for on an average 15 minutes at the Secondary Waste Storage Depots to deposit the Waste directly into the designated vehicle when the said vehicle arrives at the Secondary Waste Storage Depots.

By adopting this system the level of service will improve considerably and the sight of the Secondary Waste Storage Depots will become a matter of past.

Direct transfer of Waste collected during street sweeping and drain cleaning into the large vehicle will require proper routing of the vehicle and its optimum use to keep the cost under control. This system may therefore be introduced in a phased manner over a period of years beginning with old city area within 2 months and gradually cover remaining wards in a phased manner over a period of 5 years to make the cities gradually bin-less.

### **6.33 Safety during Construction, Operation and Maintenance of Project facilities**

Due Precautions shall be taken by the Contractor, at his own cost, to ensure the safety and protection against accidents of all staff and labor engaged on the Works, local residents in the vicinity of the works, and the public travelling through the works. The Contractor shall have on his staff on site a designated officer Qualified to promote and maintain safe *working* practices. This officer shall have authority to issue instructions and shall take protective measures to prevent accidents, including but not limited to the establishment of safe working practices and the training of staff and labor in their implementation. Compliance of provisions of Indian Standards for safety in construction listed at Annex E of SP 70:2001 Hand book on Construction Safety Practices shall be made by the Contractor during entire period of the contract.

The Contractor shall also make compliance of provisions Rajasthan Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2009 and Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (Act No 27 of 1996).

### **6.34 Special services in hilly areas**

During monsoon the rain water brings along with it silt and stones etc. which get deposited in the passages blocking the right of way of the people living in these areas causing hardship to them till the silt and stones are removed. The Contractor shall besides designing suitable system of door to door collection of waste for these areas manually and on daily basis and make the arrangements during monsoon to remove the silt from time to time and keep the passages clean all the time.

### **6.35 Group Insurance**

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

### **6.36 Medical Checkup**

The Contractor shall arrange medical checkup of the work force at least once in a year and shall arrange for their treatment if associated with the nature of work allotted in the project.

## **7 Article 7 – Authority’s Obligations**

### **7.1 Specific obligations**

- a. The Authority shall allocate land for the project to the Contractor on lease/ license for the period of Contract for 5 years which can be extended to further 5 years on mutual agreement. The amount of lease shall be Re 1 per sq/mt per annum.
- b. Declare and maintain, or cause to declare and maintain, a no-development zone around the MSW Processing Site in accordance with Applicable Laws.
- c. Grant in a timely manner all such approvals, permissions and authorizations which the Contractor may require or is obliged to seek from the Authority under this Contract Agreement, in connection with implementation of the Project and the performance of its obligations.

### **7.2 General obligations**

The Authority shall:

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

### **7.3 Change in location of Landfill Facility**

Deleted

### **7.4 Monitoring Mechanism by the Authority**

The Contractor is to co-operate in the monitoring mechanism by the Authority as he is expected to perform several tasks shown in the RFP and the payment is to be made for providing the services on the

basis per tonne of Waste handled each day. For ensuring fairness to both sides a monitoring mechanism is devised as under to keep a day to day record and ensure that Contractor is performing his duties as per the Contract Agreement and paid accordingly.

The following Monitoring Mechanism is therefore be adopted by the Authority besides the internal monitoring to be done by the Contractor, he shall extend full support to the Authority in this regard.

#### **7.4.1 Monitoring by Sanitary Supervisors/Inspectors**

##### **a. Door to Door Collection:**

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

##### **b. Verification fleet of Vehicles and Manpower:**

Sanitary Inspector/ Ward office shall verify whether the required fleet of vehicles and man power are deployed by the Contractor or there is a shortfall due to any reason.

##### **c. Secondary Storage and Transportation of Waste:**

The concerned ward inspector to invariably take a round before the close of day to find out whether all the Secondary Waste Storage Depots sites are attended to and are cleaned and record his observation in the prescribed form. He should also take at random feed back by rotation in different areas to find out from the citizens whether bins are being lifted each day before they overflow and submit his report to his next superior.

##### **d. Recording of weight of Waste Transported:**

Municipal Commissioner may designate one person on a monthly rotation basis to monitor and record the Transportation of Waste at the weigh bridge constructed by the Contractor or authorized Weigh Bridge on a day to day basis. The weigh bridge in-charge shall issue receipt in triplicate in the Performa designed by Authority. One copy shall be retained by weigh bridge in-charge, and other two copies shall be given to the driver of the vehicle with a direction to hand over one copy to the person in charge of MSW Processing Facility/ SLF and keep third copy duly signed by supervisor at MSW Processing Facility with him to be given to the Contractor.

Weighment figures will be compiled on a daily basis both by weigh bridge in-charge and person in-charge of MSW Processing Facility separately and reported to Health Officer/ Engineer in-charge as may be designated by the Authority on day to day basis in the prescribed Performa.

#### **7.4.2 Weekly review Meetings**

- a. Weekly review meeting will be conducted by the Commissioner/Addl. or Deputy Commissioner in-charge of SWM with the Contractor or his authorized representative and concerned sanitation officials. He will review the complaints received and their timely disposal and deficiencies noticed during field visits during the week and take stock of situation and give suitable directions for improving performance of the Contractor, if found deficient. Minutes of meeting shall be recorded and shared with the Contractor or his representative and his acknowledgement shall be obtained. Penalty due, if any, shall be communicated to the Contractor.
- b. The Authority shall monitor the performance of the Contractor in terms of the Contract Agreement and ensure the proper records are maintained for the work done and being done on a day to day basis so that the Contractor's performance is objectively assessed for payment and

penalties. This will be done to avoid undue harassment to the Contractor while making monthly payments or showing leniency in levy of penalty for performance.

#### **7.4.3 Monitoring by Third party**

Though the Authority shall introduce internal monitoring mechanism or may appoint any 3rd party agency.

The appointment of third party inspection would be as under:

- a. The Authority would identify 3 members of civil society/NGO from each ward for a period of 1 year extendable up to 3 years.
- b. The appointment shall be purely on honorary basis.
- c. The member so designated as third party civil society inspector will keep a track on the services rendered by the Contractor in terms of Door to Door Collection, street sweeping, proper keeps up of the Secondary Waste Storage Depots and Transportation of Waste of their respective wards.
- d. They will be appraised by the Authority of the role assigned to the Contractor and give printed Performa's to report any deficiency if any noticed by them or member of civil society with whom they interact.
- e. The ward level member of the civil society will submit his observation on weekly basis and this feedback shall be given serious consideration by the SWM department for improving the performance of the Contractor.
- f. The Authority or his nominee shall arrange bi-monthly zone wise meeting of respective members of civil society designated for third party monitoring and get their feedback.
- g. The senior representative of the Contractor will invariably be invited and directed to attend the meetings to take proper measures.
- h. The member of the civil society who attends the meeting shall be paid suitable mount by the Authority per such meeting to meet the out of pocket expenses.
- i. The minute of the meeting with the civil society shall be drawn by the concerned officer of the respective zone and circulate to the Contractor under intimation to the Authority.
- j. The Authority shall take into consideration the comments of the civil society while reviewing the performance of the Contractor and give suitable directions.

#### **7.4.4 Monitoring of weight of the Waste transferred through Private Weigh Bridge**

The Contractor is expected to construct weigh bridges at the MSW Processing Facility and SLF sites which will take some time. The Municipal Commissioner may therefore in the mean time authorize some private reliable computerized weigh bridge operator to weigh and record the weight in the appropriate Performa in presence of Authority's and Contractor's representative. The record of such weigh bridge may be taken into account for payment to the Contractor till such time Contractor constructs his own way bridges. Health officer shall keep vigil to ensure that Weighment records are not tempered with.

#### **7.4.5 Waiver of minimum requirement of manpower & machinery on automation or up gradation of systems/technology**

The Contractor may introduce automation or improved vehicle/equipment/technology etc. for improving efficiency of service with the prior approval of the Authority and State Pollution Control Board if required. If such introduction results in reducing the requirements of manpower, machinery or equipment; the minimum requirements of mentioned in the RFP document may be suitably reduced by the Authority with the prior approval of the State government.

### **8 Article 8**

#### **8.8 Establishment of the Compliant Cell**

The Contractor shall establish a compliant cell in each zone at the place provided by the CEO/MC/EO from the date of starting the work in the respective zone. The compliant cell shall have required infrastructure for effective handling & monitoring of the complaints received. The Contractor shall devise a mechanism of receiving complaints through SMS (Short Messaging Service), phone, email and ensure compliance within 24 hours and reporting feed back to the complainant through SMS or in person as may be convenient. The complaints received shall be given the registration number and same shall be communicated to the complainant immediately. The telephone number of the compliant cell shall be preferably in three digits like other emergency services. These numbers shall be conspicuously displayed in the City and accordingly publicized. Repetitive complaints and short comings may entail Liquidated Damages.

#### **8.2 Establishment of third party for inspection**

Deleted

### **9 Article 9 – VGF Fee**

#### **9.1 Payment of VGF Fee**

Subject to the provisions of this Contract Agreement and in consideration of the Contractor accepting the Contract and undertaking to perform and discharge its obligations in accordance with the terms, conditions and covenants set forth in this Contract Agreement, the Authority agrees and undertakes to pay VGF Fee to the Contractor as per this Article.

##### **9.1.1 VGF Fee**

The VGF Fee for the first year of the operation commencing from the Appointed Date shall be payable as per the VGF Fee rate per MT quoted by the Selected Bidder in its Financial Proposal:

#### **9.2 Mechanism of Payment**

- a. The Contractor shall raise his first bill/invoice only after One (1) month from the date of commencing the contractual obligations as per the prescribed time frame mentioned in the RFP document.
- b. The Contractor shall submit the bills city wise to the respective Authorities (ULBs) after obtaining certification/approval from the Engineer In Charge or the officer designated by the Authorities.

- c. The Engineer In Charge/Designated officer shall verify the bills within Five days. Delay beyond Five days shall be suitably explained.
- d. The verified Bills would be forwarded to the Authority by Engineer In Charge/Designated officer for processing the payment.
- e. 75% of the billed amount shall be paid out of the Escrow account to the Contractor within 10 days after the receipt of the bill by the Authority. The remaining payment considered payable after due verification shall be released from the Escrow account within 20 days from the date of release of 75% of the said bill.
- f. In case any payment due is not released from the Escrow account within 40 days from the submission of bill to the Authority, the Contractor shall be paid the bill when cleared for payment with 6% rate of interest from the 40th day of submission of bill.
- g. Provided that not more than 3 outstanding bills (with interest due on them) shall be paid out of Escrow account in any one calendar month.
- h. For the sake of clarity it is further stated that the Contractor shall have no claim on the interest accrued on the deposits by the Authority in the Escrow account.
- i. The Authority reserves the right of audit and hence Contractor shall maintain proper books of accounts. The Contractor shall ensure computerized tracking system of the Garbage vehicles to ensure prompt and quality service. In case of abnormal billing of MSW, the payments shall be restricted to as per the norms of Garbage generation.
- j. Taxes as applicable will be deducted from the running bills of the Contractor.
- k. The other conditions for payment will be governed as per GF & AR and other Rules on the subject.
- l. In case the Contractor decides to stop the work midway or withdraws from the work without any proper prior Notice or if this Contract Agreement is terminated for Contractor Event of Default, the Performance Security amount shall be forfeited and the contractor shall have no claim on the same. Further the Authority reserves the right to make alternative arrangements until such time a new agency takes over. The cost incurred on the same shall have to be borne by the Contractor. The Contractor shall ensure timely payments to his workforce and meet all the contractual commitments in terms of payments, insurance, safety of its workforce.
- m. Income Tax as per statutory provision shall be borne by the Contractor. The Authority shall deduct all statutory taxes like Income Tax, etc. from monthly payments being made to the Contractor Corporate Tax/any tax assessed on the income of the Contractor shall be the responsibility and payable by the Contractor.
- n. All statutory payments to the workforce should be done immediately upon becoming due. The proof of payments made and any statutory deductions from the wages of the workforce shall be



submitted within one week of making payments. The payment to the work force shall be ensured through bank account. The bank account details shall be communicated to the Authority.

### 9.3 Liquidated Damages on over Disposal of Landfill Waste

- The Landfill Waste from the MSW Processing Facility shall be maximum 25% (twenty five per cent) of the Incoming bio degradable Waste at the MSW Processing Facility.
- Liquidated Damages of Rs 100 per MT with an escalation of 5% per annum shall be imposed for every MT or part thereof increase in the Landfill Waste exceeding the maximum limit as specified in preceding clause.
- The Liquidated Damages shall be computed taking average performance of the Contractor for the Landfill Facility operations for the respective calendar month.
- In case, Landfill Waste is more than 25% (twenty five per cent) of Incoming Waste regularly for a period of [three months], it may be treated as Contractor Event of Default under this Contract Agreement.

### 9.4 Other penalties

The Contractor shall carry out all the activities in conformity with the provisions of the ITB and this Contract Agreement and shall adhere to the time frame shown in the ITB and the Contract Agreement. The period of first 15 days from the start of the work shall be treated as period of acquaintance and no Liquidated Damages will be imposed. The Liquidated Damages under this Contract Agreement shall be imposed by Authority or by their authorized representatives as follows:-

S. No	Activity	Unit of Measurement	Liquidated Damages to be imposed
1	Non Collection of Municipal Solid Waste (Garbage) from households during Door to Door Collection	Per House/shop/establishment	Rs. 2/- per day Per House/shop/establishment
2	Door to Door Collection vehicle does not report to duty in the area under Contract Agreement.	Per Door to Door Collection vehicle not reporting	Rs. 500/- per vehicle per day
3	Non Transportation of MSW from Secondary Waste Storage Depots as per schedule	Per container/storage point	Rs.100/- per container / storage point per day.
4	Deployment of workers without approved uniform and identity card.	Per worker	Rs 10 per day per worker.
5	Non removal of small carcasses	Per complaint not attended	Rs 100/- per complaint
6	Compactor/RC vehicle not deployed	Per vehicle	Rs 1000 /- per vehicle per day
7	Amount of waste going to landfill exceeding the maximum limit of 25% of the total incoming Waste at the MSW Processing Facility.	MT or part thereof increases in the Landfill Waste.	Rs 100 for every MT or part thereof that exceeds the limit.
8	Non establishment of ward office (Room provided by the Authority) with telephone and compliant register	Per ward office not established	Rs 1000/- per month.

9	Non redressal of complaint within 48 hours of its receipt	Per complaint not attended	Rs 100/- per compliant per day
10	Non performance of any activity under the agreement	Non performance of activity	Amount 1.5 times the cost of activity on Risk and expense basis.
11	Non compliance of statutory obligation	Item of non compliance	Amount 1.5 times to the Liquidated Damages imposed by the concerned authority
12	Non submission of fortnightly statement on labor employed as per clause 3.1	Each default	Maximum Rs 200/- per default & Rs 50/- per week for continuing default.
13	Non observance of labor regulations as per clause 3.1	Per each default	Rs 100/- per default per day.

*Note: The Contractor shall be asked to explain before imposition of Liquidated Damages and the decision of the CEO/MC/EO or his authorized representative shall be final in respect of imposition of Liquidated Damages.*

## **10 Article 10 – Force Majeure**

### **10.1 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 results in Material Adverse Effect shall constitute Force Majeure Event:

- a. earthquake, flood, inundation, landslide, fire, ionizing radiation, contamination by radioactivity from nuclear fuel, any nuclear waste, radioactive toxic explosion, volcanic eruptions caused by reasons not attributable to the Contractor or any of the employees, contractors or agents of the Contractor;
- b. storm, tempest, hurricane, cyclone, lightning, thunder or other extreme atmospheric disturbances;
- c. any judgment or order of a court of competent jurisdiction or statutory Authority in India made against the Contractor in any proceedings which is non-collusive and duly prosecuted by the Contractor;
- d. acts of terrorism, war, hostilities (whether declared or not), invasion, act of foreign enemy, rebellion, riots, weapon conflict or military actions, civil war;
- e. strikes, labor disruptions, any other industrial disturbances or public unrest not arising on account of the acts or omissions of 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/Project Facility or any part thereof or of the Contractor's rights in relation to the Project;
- ii. 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 Contractor's or the Contractor's breach or failure in complying with the Construction Requirements, O&M Requirements, Applicable Laws, Applicable Permits, any judgment or order of a Governmental Agency or of any contract by which the Contractor is bound.
- g. Early termination of this Contract Agreement by the Authority for reasons of national Emergency or national security.

## **10.2 Notice of Force Majeure Event**

- a. As soon as practicable and in any case within 7 (seven) days of the date of occurrence of a Force Majeure Event or the date of knowledge thereof, the Affected Party shall notify the Engineer In Charge as the case may be 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 Force Majeure period;
  - iii. the nature of and the extent to which, performance of any of its obligations under this Contract 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 Contract Agreement.
- b. As soon as practicable and in any case within 5 days of notification by the Affected Party in accordance with the preceding Sub-article(a), the Parties shall along with the Engineer In Charge as the case may be, meet, hold discussions in good faith and where necessary conduct physical inspection/survey of the Project Facilities in order to:
  - i. assess the impact of the underlying Force Majeure Event,
  - ii. to determine the likely duration of Force Majeure period 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 Force Majeure period provide to the other Party and the Engineer In Charge regular (not less than weekly) reports concerning the matters set out in the

preceding Sub-article (b) as also any information, details or document, which the other Party may reasonably require.

### **10.3 Performance of Obligations**

If the Affected Party is rendered wholly or partially unable to perform any of its obligations under this Contract 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 Article 10.2 (a);
- b. the excuse from performance shall be of no greater scope and of no longer duration than is necessitated by the Force Majeure Event;
- c. the Affected Party has taken all reasonable efforts to avoid, prevent, mitigate and limit damage, if any, caused or is likely to be caused to the Project Facilities as a result of the Force Majeure Event and to restore the Project Facilities, in accordance with the Good Industry Practice and its relative obligations under this Contract Agreement;
- d. when the Affected Party is able to resume performance of its obligations under this Contract Agreement, it shall give to the other Party and the Engineer In Charge as the case may be, a 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 Contract Agreement;
- f. Any insurance proceeds received shall be entirely applied to repair, replace or restore the assets damaged on account of the Force Majeure Event, or in accordance with Good Industry Practice.

For the avoidance of doubt, it is clarified that in the event of the occurrence of a Force Majeure event, the Contractor may be given an extension in the Contract Period for the time equal to the period for which such Force Majeure event affected the operations to be performed by the Contractor under this Contract Agreement.

### **10.4 Termination due to Force Majeure Event**

#### **a. Termination**

- i. If a Force Majeure Event, excluding events described under Articles 10.1(f), and 10.1 (g), continues or is in the reasonable judgment of the Parties likely to continue beyond a period of 60 (sixty) days, the Parties may mutually decide to terminate this Contract Agreement or continue this Contract 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 60 (sixty) days, be entitled to terminate this Contract Agreement.

- ii. Notwithstanding anything inconsistent contained in this Contract Agreement, if a Force Majeure Event is an event described under Articles 10.1(f) and the same subsists for a period exceeding 180 (one hundred and eighty) days, then either Party shall be entitled to terminate this Contract Agreement.
- iii. Provided that the Authority may at its sole discretion have the option to terminate this Contract Agreement any time after the occurrence of any event described under Articles 10.1(f).

**b. Termination Notice**

- i. If either Party, having become entitled to do so, decides to terminate this Contract Agreement pursuant to the preceding sub-article (a), it shall issue Termination Notice setting out:
  - ii. in sufficient detail the underlying Force Majeure Event;
  - iii. the Termination Date which shall be a date occurring not earlier than 30 days from the date of Termination Notice;
  - iv. the estimated Termination Payment including the details of computation thereof; and
  - v. 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 the Authority in accordance with the following sub-article (d) is paid to the Contractor on the Termination Date; and
- ii. The Project Facilities and MSW Processing Site is handed over to the Authority by the Contractor on the Termination Date free from any Encumbrance.

**d. Termination Payment**

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

- i. If Termination is due to a Force Majeure Event, described under Articles 10.1 (a) to (c), Termination Payment payable to the Contractor shall be equal to 70% of the Book Value less Insurance Cover.
- ii. If Termination is due to the occurrence of any event described under Articles 10.1(d), or 10.1(e), Authority shall make a Termination Payment to the Contractor of an amount equal to 100% of the Book Value less Insurance Cover.
- iii. If Termination is due to the occurrence of the event described under Article 10.1 (f) or 10.1 (g), the Authority shall make a Termination Payment to the Contractor of an amount that would be payable under Article 11.2(f) as if it were Authority Event of Default.

Provided that, the Authority shall be entitled to deduct from the Termination Payment any amount due and recoverable by the Authority from the Contractor as on the Termination Date.

Provided that, no Termination Payment shall be payable to the Contractor if the Contractor fails to maintain Insurance Cover in accordance with Article 6.14 of this Contract Agreement.

## 10.5 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.

## 11 Article 11 - Events of default and Termination

### 11.1 Events of Default

Event of Default means either Contractor Event of Default or Authority Event of Default or both as the context may admit or require.

#### a. Contractor Event of Default

Any of the following events shall constitute an Event of Default by the Contractor (“**Contractor Event of Default**”) unless such event has occurred as a result of one or more reasons set out in Article 6.33:

- i. The Contractor fails to submit the Development Plan/Drawings beyond 45 (forty five) days of the specified time;
- ii. The Contractor fails to comply with the Development Plan/ Drawings having a Material Adverse Effect on the Project;
- iii. The Contractor has failed to adhere to the Construction Requirements and such failure, in the reasonable estimation of the Engineer In Charge, is likely to delay achievement of COD beyond 6 months of the Scheduled Completion Date or has actually resulted in the Contractor not achieving COD within 6 months of the Scheduled Completion Date;
- iv. At any time during the Operations Period, the Contractor fails to adhere to the Construction Requirements or O&M Requirements and has failed to remedy the same or has failed to take any effective steps to remedy the same within 45 (forty five) days of receipt of notice from the Authority/Engineer In Charge;
- v. The Contractor has failed to prepare and submit reports referred to in Annexures and in accordance with this Contract Agreement and such failure continues for a period of more than 60 (sixty) days after written intimation by the Authority;
- vi. The Contractor has failed to ensure minimum shareholding requirements specified in Article 6.22.
- vii. The Contractor is in Breach of any of the terms and conditions under this Contract Agreement and the same has not been remedied for more than 30 (thirty) days of its occurrence;
- viii. Any representation made or warranty given by the Contractor under this Contract Agreement is found to be false or misleading;
- ix. A resolution for voluntary winding up has been passed by the shareholders of the Contractor;
- x. Any petition for winding up of the Contractor has been admitted and liquidator or provisional liquidator has been appointed or the Contractor 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 the Authority, provided that, as part of such amalgamation or reconstruction and the

amalgamated or reconstructed entity has unconditionally assumed all surviving obligations of the Contractor under this Contract Agreements;

- xi. The Contractor has abandoned the Project or the Project Facilities or MSW Processing Facility
- xii. The Contractor has unlawfully repudiated this Contract Agreement has otherwise expressed an intention not to be bound by this Contract Agreement;
- xiii. The Contractor 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 45 (forty five) days;

**b. Authority Event of Default**

Any of the following events shall constitute an Event of Default by the Authority ("**Authority Event of Default**"), unless caused by a Contractor Event of Default or a Force Majeure Event:

- i. The Authority has failed to make any payments due to the Contractor and more than 180 (one hundred and eighty) days have elapsed since such Default;
- ii. The Authority has failed to provide possession of MSW Processing Site or failed to provide access to Project Facilities within 90 (ninety) days from the date of receipt of notice from the Contractor in that regard;
- iii. The Authority is in Material Breach of any of its obligations under this Contract Agreement and has failed to cure such breach within 30 (thirty) days of receipt of notice thereof issued by the Contractor;
- iv. Upon expiry of life of the Landfill Site, the Authority fails to provide land for the new site for the purpose of Land filling within the mutually agreed time period;
- v. The Authority has unlawfully repudiated this Contract Agreement or otherwise expressed its intention not to be bound by this Contract Agreement;
- vi. The Authority has unreasonably withheld or delayed grant of any approval or permission which the Contractor is obliged to seek under this Contract Agreement, and thereby caused Material Adverse Effect; and
- vii. Any representation made or warranties given by the Authority under this Contract Agreement has been found to be false or misleading.

**11.2 Termination due to Event of Default**

**a. Termination for Contractor Event of Default**

- i. Without prejudice to any other right or remedy which the Authority may have in respect thereof under this Contract Agreement, upon the occurrence of a Contractor Event of Default, the Authority may terminate this Contract Agreement in the manner as set out under Article 11.2(a)(ii) and Article 11.2(a)(iii).
- ii. If the Authority decides to terminate this Contract Agreement pursuant to preceding Sub-article (i), it shall in the first instance issue Preliminary Notice to the Contractor. Within 30 (thirty) days

of receipt of the Preliminary Notice, the Contractor shall submit to the Authority in sufficient detail, the manner in which it proposes to cure the underlying Event of Default (the "Contractor's Proposal to Rectify"). In case of non-submission of the Contractor's Proposal to Rectify within the said period of 30 (thirty) days, the Authority shall be entitled to terminate this Contract Agreement by issuing Termination Notice, and to appropriate the Performance Security.

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

**b. Termination for Authority Event of Default**

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

**c. Termination Notice**

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

- i. in sufficient detail the underlying Event of Default;
- ii. the Termination Date which shall be a date occurring not earlier than 180 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 Facilities,
- ii. The termination payment, if any, payable by the Authority in accordance with the following Sub-article (f) is paid to the Contractor on the Termination Date and
- iii. The Project Facilities are handed over to the Authority by the Contractor on the Termination Date free from any Encumbrance along with any payment that may be due by the Contractor to the Authority.

e. **Withdrawal of Termination Notice**

- i. Notwithstanding anything inconsistent contained in this Contract 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.
- ii. 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**

- i. Upon Termination of this Contract Agreement on account of Authority Event of Default, the Authority shall release the Performance Security, if subsisting, and the Authority shall pay to the Contractor, by way of Termination Payment, an amount equal to 100% of Book Value.  
Provided that no Termination Payment shall be due or payable to the Contractor occurring up to 1 year from the COD before the COD and on account of the Authority Event of Default relating to non-achievement of COD.
- ii. Upon Termination of this Contract Agreement on account of Contractor Event of Default, the Authority shall pay to the Contractor, by way of Termination Payment, an amount equal to 70% of the Book Value.
- iii. For the avoidance of doubt, the Contractor hereby acknowledges that no Termination Payment shall be due or payable on account of a Contractor Event of Default occurring up to 1 year from the COD. Further, the Authority shall forfeit the Performance Security on account of a Contractor Event of Default, or any other remedy available to the Authority under Law.

### 11.3 Rights of the Authority on Termination

- a. Upon Termination of this Contract Agreement for any reason whatsoever, the Authority shall upon making the Termination Payment, if any; to the Contractor have the power and Authority to:
  - i. enter upon and take possession and control of the Project Facilities and MSW Processing forthwith;

- ii. prohibit the Contractor and any Person claiming through or under the Contractor from entering upon/ dealing with the Project Facilities and MSW Processing Facility
- b. Notwithstanding anything contained in this Contract Agreement, the Authority shall not, as a consequence of Termination or otherwise, have any obligation whatsoever including but not limited to obligations as to compensation for loss of employment, continuance or regularization of employment, absorption or reemployment on any ground, in relation to any person in the employment of or engaged by the Contractor in connection with the Project, and the hand back of the Project Facilities and MSW Processing and Disposal Facility by the Contractor to the Authority shall be free from any such obligation. It is clarified that only the Project Facilities and MSW Processing and Disposal Facility of the Contractor shall be taken over and not the liabilities.

#### **11.4 Accrued Rights of Parties**

Notwithstanding anything to the contrary contained in this Contract Agreement, Termination pursuant to any of the provisions of this Contract 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 Contract Agreement, including without limitation those relating to Termination Payment, shall survive the Termination but only to the extent such survival is necessary for giving effect to such rights and obligations.

#### **11.5 Suspension of Work**

The Engineer In Charge/ CEO/MC/EO may for the reasons mentioned below, suspend the progress of the works or any part thereof for such time and in such manner as the CEO/MC/EO may consider necessary. The Contractor shall on receiving of such order in writing, stop the work so as not to cause any damage or injury to the work already done or endanger the safety thereof:

- a. Default on the part of the Contractor or;
- b. Improper execution of the works or part thereof for reasons other than the default of the Contractor; or
- c. Lack of safety of the works or part thereof.

The Contractor shall, during such suspension, properly protect and secure the works to the extent necessary and carry out the instruction given in that behalf by the CEO/MC/EO.

#### **11.6 Action in case Work not done as per specifications**

- a. All works under or in course of execution or executed in pursuance of this Contract Agreement shall at all times be open and accessible to the inspection and supervision of the Engineer In Charge/ CEO/MC/EO, his authorized representative and the Contractor shall, at all times, during the usual working hours and at all other times at which reasonable notice of the visit of such officers has been given to the Contractor, either himself be present to receive orders and instructions or have a responsible agent duly accredited in writing, present for that purpose. Orders given to the Contractor's agent shall be considered to have the same force as if they had been given to the Contractor himself. If it shall appear to the CEO/MC/EO or his authorized

subordinates that any work has been executed with unsound, imperfect, or unskillful workmanship, or with materials or articles provided by him for the execution of the work which are of a inferior quality or otherwise not in accordance with this Contract Agreement , the Contractor shall, on demand in writing within one month from completion of work and/a complain received whichever is later from the CEO/MC/EO specifying the work, materials or articles complained of notwithstanding that the same may have been passed, certified earlier, forthwith rectify, or remove and reconstruct the work so specified in whole or in part, as the case may require or as the case may be remove the materials or articles so specified and provide other proper and suitable materials or articles at his own charge and cost.

- b. In the event of his failing to do so within a period specified by the CEO/MC/EO in his demand aforesaid, the Contract provided under this Agreement shall be liable for termination.

### **11.7 Remedies and Powers**

Forfeiture: If the Contractor

- a. becomes bankrupt or,
- b. have a receiving order made against him or,
- c. presents his petition on bankruptcy or,
- d. makes arrangement with or assignment in favor of his creditors or,
- e. agrees to carry out the contract under a committee of inspection of his creditors or,
- f. goes in to liquidation (other than a voluntary liquidation for the purposes of amalgamation or reconstruction) or,
- g. assigns the contract to other party without the consent in writing of the CEO/MC/EO or,
- h. abandons the contract or,
- i. without reasonable excuse fails to commence the works or,
- j. suspends the progress of the works for 28 days after receiving from the Authority written notice to proceed, or,
- k. is not executing the works in accordance with the contract or is persistently neglecting to carry out his obligations under the contract, or, Sub-let any part of the contract without express written permission of the Authority. The Authority, may after giving 14 days notice in writing to the Contractor enter upon the site and the works and expel the Contractor there from without thereby voiding the contract, or releasing the Contractor from any of his obligations or liabilities under the contract, or affecting the right and powers conferred on the CEO/MC/EO and may itself complete the works or may employ any other Contractor to complete the works.
- l. fails to fulfill any of its obligations under this Contract Agreement

### 11.8 Exit from the contractual obligation

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

## 12 Article 12–Handback Requirements

### 12.1 Ownership

Without prejudice and subject to the Contract, the ownership of the Project Facilities including all modifications, renovations and improvements made therein by the Contractor, shall at all times remain with the Authority.

### 12.2 Contractor's Obligations

#### 1. Project Facilities

- i. The Contractor shall on the date of expiry of the Contract Period, hand back vacant and peaceful possession of the Transportation vehicles & equipment, and Project Facilities including any tools, spares, inventory, vehicles, machinery and all other movables required for its functioning to the respective Authority free of cost and in good operable condition. In case of any dispute between the authorities in apportioning the vehicles, equipment, asserts etc. the matter shall be decided by Director of Local Bodies on receiving the request from

any of the authorities. The decision of DLB shall be final. As on the expiry of the Contract Period shall be the property of the Contractor and the Contractor shall be at liberty to dispose of the said stocks in accordance with Applicable Laws. However, the arrangements for storage of such stocks till its Disposal could be decided reasonably on mutual understanding between the Authority and the Contractor.

- ii. At least 3 (three) months before the expected expiry of the Contract Period a joint inspection of the Project Facilities shall be undertaken by the Authority, Engineer In Charge and the Contractor. the Authority/Engineer In Charge shall, within 15 (fifteen) days of such inspection prepare and furnish to the Contractor a list of minor and petty works/jobs (“Hand-back Requirements”), if any, to be carried out so as to conform to the Construction Requirements and O&M Requirements. The Contractor shall promptly undertake and complete such works/jobs at least one month prior to the expected expiry of the Contract Period and ensure that the said Project Facilities continue to meet such requirements until the same are handed back to the Authority.
- iii. The Authority/Engineer In Charge shall, within 15 (fifteen) days of the joint inspection undertaken under preceding sub-article prepare and furnish to the Contractor a list of items, if any, with corresponding distinctive descriptions, which are to be compulsorily handed back to the Authority along with the said Project Facilities.

## **2. Landfill Facility**

Deleted

### **12.3 Authority’s Obligations**

In the event that the Contractor has not complied with its obligations with reference to Hand-back Requirements and/or O&M Requirements, the Authority shall, deduct amounts from the Performance Security in proportion to the activities/tasks outlined herein below:

- a. Carrying out works/jobs listed under Article 12.2, which have not been carried out by the Contractor.
- b. Purchase of items, which have not been handed back to the Authority in terms of Article 12.2, and
- c. Any outstanding dues, which may have accrued in respect of the Project during the Contract Period, duly discharged and released to the Contractor, the Performance Security or balance therein after deductions in respect (a) & (b) above, as the case may be, upon issuance of certificate by the Engineer In Charge regarding compliance by the Contractor with the Hand-back Requirements, shall be paid.

## 13 Article 13 - Dispute Resolution

### 13.1 Amicable Resolution

- a. Save where expressly stated to the contrary in this Contract Agreement, any Dispute, difference or controversy of whatever nature between the Parties, howsoever arising under, out of or in relation to this Contract Agreement, including those arising with regard to acts, decision or opinion of the Engineer In Charge (the "**Dispute**") shall in the first instance be attempted to be resolved amicably in accordance with the procedure set forth in Sub-article (b) below.
- b. Either Party may require such Dispute to be referred to the Authority for amicable settlement. Upon such reference, the Authority shall meet the Contractor/Authorized representative of the Contractor, at the earliest mutual convenience and in any event within 15 (fifteen) days of such reference to discuss and attempt to amicably resolve the Dispute. If the Dispute is not amicably settled within 15 (fifteen) days of such meeting, either Party may then refer the Dispute to the Arbitrator. Principal Secretary LSG shall be the sole arbitrator to adjudicate the matter related and arising out of the scope of work under this Contract agreement. The decisions of the sole arbitrator shall be final and binding upon the parties.
- c. The Authority/State Government may appoint a Regulator for adjudication of the matters related to Urban Development and incidental to urban projects. On appointment of Regulator, the same may work as sole Arbitrator under the Contract. The Regulator shall decide the dispute within 30 days or as specified in the applicable law(s).
- d. **Place of adjudication**  
The place of arbitration shall be at Jaipur only.
- 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 Contract Agreement without prejudice to a final adjustment in accordance with such award.

## 14 Article 14 - Representations and Warranties

### 14.1 Representations and Warranties of the Contractor

The Contractor represents and warrants to the Authority 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 Contract 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 Contract Agreement;
- d. It has the financial standing and capacity to undertake the Project;

- e. This Contract 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 Contract 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 Contractor's charter documents 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 Contractor's knowledge threatened against it at law or in equity before any court or before any other judicial, quasi judicial or other Authority, the outcome of which may constitute Contractor 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 Contractor from the Authority of any amount due under any of the provisions of this Contract Agreement, in the manner and to the extent provided for under the applicable provisions of this Contract Agreement, all rights and interests of the Contractor in and to the MSW Processing Facility/Landfill Facility and Project Facilities shall pass to and vest in the Authority on the Termination Date free and clear of all Encumbrances without any further act or deed on the part of the Contractor or the Authority;
- k. No representation or warranty by the Contractor contained herein or in any other document furnished by it to the Authority 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 Contractor to any person to procure the Contract;
- m. Without prejudice to any express provision contained in this Contract Agreement, the Contractor acknowledges that prior to the execution of this Contract Agreement, the Contractor has after a complete and careful examination made an independent evaluation of the Existing Assets, and the information provided by the Authority, 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 Contractor in the course of performance of its obligations hereunder; and

- n. The Contractor 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 the Authority shall not be liable for the same in any manner whatsoever to the Contractor.

#### **14.2 Representations and Warranties of the Authority**

The Authority represents and warrants to the Contractor that:

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

#### **14.3 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.

### **15 Article 15 - Disclaimer**

**Deleted**

#### **15.1 Governing Law and Jurisdiction**

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

#### **15.2 Waiver of immunity**

Each Party unconditionally and irrevocably:

- a. agrees that the execution, delivery and performance by it of this Contract Agreement constitutes 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 Contract Agreement or any transaction contemplated by this Contract Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Party 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).

### **15.3 Depreciation and Interest**

- a. For the purposes of depreciation under the Applicable Laws, the property representing the capital investment made by the Contractor in the Project shall be deemed to be acquired and owned by the Contractor. For the avoidance of doubt, the Authority shall not in any manner be liable in respect of any claims for depreciation to be made by the Contractor under the Applicable Laws.
- b. Unless otherwise specified, any interest payable under this Contract Agreement shall accrue on a monthly basis and from the respective due dates as provided for in this Agreement.

### **15.4 Liability for review of Documents, Reports and Development Plan**

Except to the extent expressly provided in this Contract Agreement:

- a. no review, comment or approval by the Authority or the Engineer In Charge of any documents including project agreement(s), periodic reports, financial statements, Development Plan, Drawings, O&M Plan, O&M Manual or any other documents submitted by the Contractor nor any observation or inspection of the development, operation or maintenance of the Project nor the failure to review, approve, comment, observe or inspect hereunder shall relieve or absolve the Contractor from its obligations, duties and liabilities under this Contract Agreement, the Applicable Laws and Applicable Permits; and
- b. The Authority shall not be liable to the Contractor by reason of any review, comment, approval, observation or inspection referred to in Sub-article (a) above.

### **15.5 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 Contract 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 Contract Agreement;
  - ii. Shall not be effective unless it is in writing and executed by a duly authorized representative of such Party; and
  - iii. Shall not affect the validity or enforceability of this Contract 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 Contract 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 Contract Agreement.

### **15.6 Survival**

Termination of this Contract Agreement

- a. shall not relieve the Contractor or the Authority 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 Contract Agreement expressly limiting the liability of either Party, shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.

### **15.7 Entire Agreement**

This Contract Agreement, Annexure and the Schedules together constitute a complete and exclusive statement of the terms of this Contract Agreement between the Parties on the subject hereof and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Contract Agreement are abrogated and withdrawn. For the avoidance of doubt, the Parties hereto agree that any obligations of the Contractor arising from the Request for Proposal, as the case may be, shall be deemed to form part of this Contract Agreement and treated as such.

#### **15.7.1 Removal of difficulty**

If any difficulty arises in giving effect to this agreement /lease deed, the decision of Principal Secretary, Urban Development Department & Local Self Government will be final and binding on both the parties.

### **15.8 Amendments, Modifications or Alterations**

No amendments, modifications or alterations of or any additions to the terms and conditions of this Contract Agreement shall be valid unless the same be in writing and agreed to by the Parties.

### **15.9 Notices**

Unless otherwise stated, notices to be given under this Contract Agreement including but not limited to a notice of waiver of any term, breach of any term of this Contract Agreement and Termination of this Contract 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.

### **15.10 Severability**

If for any reason whatsoever any provision of this Contract 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 Contract Agreement or otherwise.

### **15.11 No Partnership**

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

### **15.12 Third Parties**

This Contract Agreement is intended solely for the benefit of the Parties and their respective successors and permitted assigns and nothing in this Contract Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a Party to this Contract Agreement.

### **15.13 Successors and Assigns**

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

### **15.14 Language**

All notices required to be given under this Contract Agreement and all communications, documentation and proceedings which are in any way relevant to this Contract Agreement shall be in writing and in English language.

### **15.15 Exclusion of Implied Warranties etc**

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

### **15.16 Waiver of Sovereign Immunity**

Each Party hereto unconditionally and irrevocably:

- a. Agrees that the execution, delivery and performance by it of this Contract Agreement and all other agreements, contracts, documents and writings relating to this Contract Agreement constitute private and commercial acts and not public or governmental acts;
- b. Consents generally in respect of the enforcement of any judgment against it in any proceedings, in any jurisdiction to the giving of any relief or the issue of any process in connection with such proceedings including without limitation the making, enforcement or execution against or in respect of any property irrespective of its use.

### **15.17 Counterparts**

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

## **Schedule III – Lease Deed**

**17 Annexure 1-A**

**For reference of wards and their population the data of census 2011 should be followed**

## **Annexure 1-B**

### **Standard of Service for Door to Door Collection of Waste**

The Contractor shall arrange for Door to Door Collection of Waste from all households, shops, workshops, offices and other establishments at pre informed timings (such as 7:00-7:30 am, 7:30-8:00 am etc.) in all the wards of the city, using his own financial resources, manpower, vehicles, tools, equipment etc.

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

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

#### **1. Standard of services in the areas accessible through motorized vehicles:**

- a. The Contractor shall at least deploy covered motorized tipping LC vehicles at the rate of one vehicle per 2000 households (other than tractor or tractor type slow moving vehicles) for Door to Door Collection of Waste, from residential and non-residential premises. The vehicles shall have non-conventional horn so as to alert the citizens about the arrival of waste collection vehicle.
- b. Motorized vehicles shall ply on roads, streets, lanes & bye-lanes and each vehicle shall be accompanied by at least 2 sanitary workers. The driver shall blow the horn and the sanitary workers shall blow the whistle intermittently and collect the Waste from all the households, shops & establishments situated on both sides of the road / street etc. in the wards allotted under the contract for Door to Door Collection. The waste collectors shall collect the domestic / trade bins from the member or representative of the households, shops or establishments who may come forward to hand over the Waste to the waste collector on hearing the horn or the whistle.
- c. The waste collectors shall in a routine course, educate the citizens to segregate the Bio-degradable and non Bio-degradable waste and keep ready in two bins and handover as soon as they hear the sound of the horn or whistle.
- d. The waste collection vehicle shall have two compartments one for Bio-degradable and another for recyclable waste. In cases where the citizens give segregated Waste to the waste collector, he shall put the organic matter in the larger compartment for Bio-degradable waste and recyclable waste in another compartment. In cases where mixed Waste is given, it shall be deposited in the compartment meant for Bio - degradable waste.

- e. The waste collector shall transfer the contents of the domestic / trade bin into the waste collection vehicle and return back the container to the person who had handed over the Waste.
- f. The waste collector shall also pick up the Waste from the entrance of the premises if kept in a liftable container not exceeding 60 liters capacity by the Waste generator. The waste collector, after emptying the container into the waste collection vehicle, shall keep back the container to its original place.
- g. In case of multi storied buildings or large commercial complexes/malls the waste collector will not be required to approach each unit in the premises. The waste collector shall report in front of the premises near the entrance at the ground floor, announce his arrival and give reasonable time to the residents/traders/occupiers/management of the premises to deliver their Waste to the waste collector.
- h. The Contractor may enter into a working arrangement with large commercial / institutional establishment/malls etc to pick up their Waste from a fixed point in their premises easily accessible to the waste collection vehicle.
- i. The waste collectors shall move from house to house to collect the Waste from the entrance and shall not insist on the households to come to the vehicle and deposit the Waste inside the vehicle.
- j. The waste collectors shall not enter inside the household premises for collection of Waste to save time and avoid any allegations of theft.
- k. The waste collection vehicle shall move slowly in the residential & commercial areas during the collection process and intermittently stop for a while to enable the waste collectors to deposit the Waste collected from the Door to Door Collection into the vehicle
- l. The waste collection staff shall wear the uniform and behave decently with the citizens they serve.
- m. The waste collectors shall not demand any charges from the citizens for rendering service unless specifically permitted by the Authority.
- n. When the waste collection vehicle is full, it shall be taken to the waste processing facility or to the landfill or as may be directed by the authority, to unload the Bio-degradable wastes collected during Door to Door Collection for processing of waste. Contractor may away the recyclables for sale or other profitable use and return back to continue the Door to Door Collection work till work allotted is over.
- o. The Contractor shall maintain the fleet of covered vehicles in a good working condition with minimum 10 % spare vehicles to maintain the adequacy of the fleet on the road.
- p. Door to door Collection Service shall also be provided to residents of Housing Board Colonies, Railway Colony and Colonies of Industrial houses etc. as may be advised by the respective Authorities.

**2. Standard of service in inaccessible areas:**

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

**Timings for Door To Door (D2D) Collection**

**Full Time Duty Hours : 06:00 A.M. To 02:00 P.M.**

D 2 D Service Hours

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

Non-Residential Establishments : 10:00 A.M. To 01:00 P.M.

(Such As Shops, Offices,  
Workshops, Industries etc)

**Note: If Part time work force is to be deployed the timing would be:**

D2D Collection from Residential : 07:00 A.M. To 11:00 A.M.

D2D Collection from Non-Residential: 10:00 A.M. To 02:00 P.M.

Areas

**Minimum norms for the use of tools, equipment and vehicles for Door to Door Collection:**

Contractor shall deploy covered motorized tipping LCV vehicles for Door to Door Collection of domestic, trade & institutional waste in the areas that are accessible to such vehicle. He shall deploy at least one such vehicle per 2,000 households, shops & establishments.

In the areas that are not easily accessible to motorized vehicles, the Contractor shall deploy minimum one waste collector using handcart or tricycle for waste collection per 300 households in densely populated areas having density above 30, 000 persons per sq km. In the areas having medium density between 5000 and 30, 000 he shall deploy at least one waste collector per 200 households and in low density areas having a population of less than 5000 per sq km the Contractor shall deploy minimum one waste collector per 150 households.

**Annexure 1-C****Placement of covered containers for Secondary Storage of Waste & deployment of covered tipping vehicles for Transportation of containers**

- a. The Contractor shall provide covered sturdy containers of the volume that he deems appropriate for secondary storage of street sweepings and silt removed from the drains, vegetable & fruit markets. While doing so he shall ensure that the storage bins are placed at a distance that can be covered by the waste collector without fatigue. If handcarts are used for waste collection, the distance between two bins shall not be more than 500 meters. If tricycles are used the distance between the two bins shall not be more than 1 kilometer. If motorized vehicles are used for direct collection of street sweepings & silt, placement of such containers may not be necessary. The Contractor shall prepare a list of sites where such containers are proposed to be placed and the areas from where direct collection of street sweepings & silt is planned. The Contractor shall get the design & location of the containers to be placed approved from the officer authorized by the Authority.
- b. The containers to be placed in the designated area shall have the capacity 1.5 times of the volume of Waste expected to be received at the Secondary Waste Storage Depots taking into consideration the Waste density of 500 kg/cubic meter. The Contractor shall ensure that all the large containers are transported everyday and small containers, if placed are cleared everyday and he shall further ensure that no container overflows at any point of time. He shall clean such containers without any loss of time irrespective of number of times the container may have to be cleared or transported in a day. The Contractor shall plan his operations of clearing the containers in two shifts (6am to 2 pm and 2 pm to 10 pm) so that the fleet of vehicles and manpower is available on road throughout the day. He shall clear the bins as per the scope of work and attend to any overflow of bins or waste lying outside the bin, irrespective of having cleared that site anytime earlier during the day.
- c. The Contractor shall ensure that the area surrounding the bins is kept clean from 6:00 AM to 10:00 PM every day by deploying flying squads with necessary manpower and vehicles. The container sites shall be disinfected using permissible disinfectants on a daily basis.
- d. The Contractor shall deploy at his own cost, covered tipping vehicles as may be necessary to Transport the containers from the Secondary Waste Storage Depots to MSW Processing Facility/Landfill Facility as may be necessary.
- e. The Contractor shall specifically ensure that appropriate large sized containers are placed close to the Vegetable and Fruit markets. The number of markets in the respective cities is listed in Annexures.
- f. The Contractor shall deploy covered containers of 1.15 m<sup>3</sup> for secondary storage of waste in market areas and rest of the city. There should be not less than 4 bins of 1.1 m<sup>3</sup> capacity per sq. km. of area and the distance between such bins should not exceed 500 meters.



**Annexure 1-D****MSW pick up points in lieu of containers for direct transfer of Waste in covered mobile vans**

- a. Establishment of Secondary Waste Storage Depots in the City are essential for intermediate transfer of Waste from primary collection tools such as handcarts, tricycles etc into large close body containers to facilitate bulk transfer of Waste from Secondary Waste Storage Depots to the MSW Processing Facility/Landfill Facility. These Secondary Waste Storage Depots however, give rise to serious objection from the households, shops and establishments where such Secondary Waste Storage Depots are created in front of their premises (NIMBY SYNDROME). These Secondary Waste Storage Depots can be eliminated gradually by converting waste storage container sites into waste pick up stations by direct transfer of Waste into motorized vehicles.
- b. In cases where Waste is required to be collected through Door to Door Collection in handcarts/tricycles from narrow lanes or where Waste is collected through street sweeping and drain cleaning in handcart or tricycles, and usually taken to the Secondary Waste Storage Depots, such sites can be made bin less and instead of using containers for Secondary Storage, Waste can be directly transferred in pick up vans which may move on a circular route to pick up Waste from the waste collectors from designated locations.
- c. As it is unaffordable to park a designated vehicle at each Secondary Waste Storage Depot; an appropriate option is to designate a large vehicle to pick up Waste from a circular route covering 5 to 10 existing Secondary Waste Storage Depots. The large vehicle so designated should go round and report at the same place at an interval of every 30 minutes. The sanitation workers need to be asked to go to the same Secondary Waste Storage Depot and wait for on an average 15 minutes at the Secondary Waste Storage Depot to deposit the Waste directly into the designated vehicle when the said vehicle arrives at the Secondary Waste Storage Depots.
- d. A street sweeper generally makes 3 trips in 8 hours to the Secondary Waste Storage Depots however; he or she will have 12 to 16 opportunities of depositing the Waste into the vehicle in 8 hours. This will make the operation sustainable.
- e. By adopting this system the level of service will improve considerably and the sight of the Secondary Waste Storage Depots will become a matter of past.
- f. Direct transfer of Waste collected during street sweeping and drain cleaning into the large vehicle will require proper routing of the vehicle and its optimum use to keep the cost under control. This system may therefore be introduced in a phased manner and gradually cover remaining wards in a phased manner over a period of 5 years to make the City gradually bin-less.
- g. The Contractor shall deploy covered tipping LCV for direct transfer of street sweepings and silt from drains from the pre designated points and ensure that as soon as a vehicle gets full the replacement shall be provided to avoid any gap in the service. The number of vehicles may be increased as required to meet the future requirement
- h. This arrangement is to be made by the Contractor using his financial resources, manpower, machinery, vehicles as may be necessary.

## **Annexure 1-E**

### **Provision of Litter Bins for households**

The Contractor shall using his own financial resources, manpower, vehicle, machinery, tools etc, provide litter bins in the wards of all the cities of cluster with top cover and capacity between 20 to 30 liters depending on the location and the likelihood of the Waste to be deposited in such bins. The placement of bins should be every households to facilitate store their waste at their premises for wet and dry waste separately.

Each citizen should be repeatedly motivated to form a habit to store the daily-generated waste in his premises in two bins in a segregated form. They must be appraised about the Biodegradable and Recyclable waste categories as under:

- **Biodegradable/ Wet waste:** Food waste, Fruits and Vegetable waste. These wastes should be stored in one bin preferably in a Green colour bin.
- **Recyclable / Dry waste:** Paper, Plastic, Polythene, Glass, Wood, Cloth, Rubber, Leather, Metal, Electrical items etc should be stored in another bin preferably in Blue colour bin.

The litter bins should be made of sturdy non corrosive material having a decent appearance and easy to handle.

The Waste from litter bins shall be removed each day or more frequently by the sanitation workers deployed for door to door collection.

**Section VI C : Contract Forms**

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**1. Letter of Acceptance****Letter of Acceptance***[on letter head paper of the Procuring Entity]*

No. ....

Dated .....

To: ..... *[name and address of the Contractor]* .....Subject: ..... *[Notification of Award for the Works]* .....

This is to notify you that your Bid dated .... *[date]* .... for execution of the ..... *[name of the contract and identification number, as given in the Contract Data]* ..... for the Accepted Contract Amount of the equivalent of ..... *[.amount in numbers and words and name of currency]* ....., as corrected and modified in negotiations and in accordance with the Instructions to Bidders has been accepted by .... *[designation of the Procuring Entity]* ..... The date of commencement and completion of the Works shall be: .....

You are requested to furnish the Performance Security/ Performance Security Declaration within ..... Days in the form given in the Contract Forms for the same for an amount equivalent to Rupees ..... within ..... days of notification of the award valid up to 60 days after the date of expiry of Defects Liability Period and maintenance period, if applicable, and sign the Contract, failing which action as stated in sub-section 2 of section 42 of the Rajasthan Transparency in Public Procurement Act, 2012 and Instructions to Bidders shall be taken.

Authorized Signature: .....

Name and Title of Signatory: .....

Designation: .....

## 2. Contract Agreement

### Contract Agreement

THIS AGREEMENT made the . . . . .day of . . . . ., . . . . ., between the Governor of Rajasthan/ . . . . . *[name of the Procuring Entity if other than a department of the State Government]* . . . . . (hereinafter “the Procuring Entity”) which expression shall, where the context so admits, be deemed to include his successors in office and assigns, of the one part, and . . . . . *[name of the Contractor]* . . . . .(hereinafter “the Contractor”), which expression shall, where the context so admits, be deemed to include his heirs, successors, executors and administrators, of the other part:

WHEREAS the *Procuring Entity* desires that the Works known as . . . . . *[name of the Contract]* . . . . . should be executed by the Contractor, and has accepted a Bid by the Contractor for the execution and completion of these Works and the remedying of any defects therein, and for which the Contractor has submitted Performance Security for Rupees ----- in the form of -----

The Procuring Entity and the Contractor agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.
  - a) the Letter of Acceptance;
  - b) the Bid of the Contractor as accepted alongwith the correspondence done on it, if any;
  - c) the Special Conditions of Contract/ Contract Data;
  - d) the General Conditions of Contract;
  - e) the Specifications/Procurement Entity Requirement;
  - f) the Drawings; and
  - g) the Instructions to Bidders and Notice Inviting Bids.
3. In consideration of the payments to be made by the Procuring Entity to the Contractor as indicated in this Agreement, the Contractor hereby covenants with the Procuring Entity to execute the Works and to remedy defects therein (and, if applicable, maintain the Works for a period of -----) in conformity in all respects with the provisions of the Contract.
4. The Procuring Entity hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein (and ,if applicable, maintain the

Works for a period of -----), the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of India and Rajasthan on the day, month and year indicated above.

Signed by .....

Signed by.....

for and on behalf of the Governor/ Procuring Entity  
in the presence of

for and on behalf the Contractor  
in the presence of

Witness, Name, Signature, Address, Date

Witness, Name, Signature, Address, Date

**3. Performance Security****Performance Security**

..... *[Bank's Name, and Address of Issuing Branch or Office]* .....

**Beneficiary:** ..... *[Name and Address of Procuring Entity]* .....

**Date:** .....

**Performance Guarantee No.:**.....

We have been informed that . . . . . *[name of the Contractor]* . . . . . (hereinafter called "the Contractor") has entered into Contract No. . . . . *[reference number of the Contract]*. . . . . dated . . . . . with you, for the execution of . . . . . *[name of contract and brief description of Works]* . . . . . (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a performance security is required.

At the request of the Contractor, we . . . . . *[name of the Bank]* . . . . . hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of Rupees\* . . . . . *[amount in figures]* . . . . . (Rupees..... *[amount in words]* . . . . . ) such sum being payable upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or to show grounds for your demand or the sum specified therein.

The Guarantor agrees to extend this guarantee for a specified period in response to the Procuring Entity's written request for such extension for that specified period, provided that such request is presented to the Guarantor before the expiry of the guarantee.

This guarantee shall expire, no later than the . . . . . Day of . . . . . \*\*, and any demand for payment under it must be received by us at this office on or before that date.

.....  
*Seal of Bank and Authorised Signature(s)*

**\* *The Guarantor shall insert an amount representing the percentage of the Contract Price specified in the Contract***

**\*\* *Insert the date sixty days after the expected completion date, including defect liability period and maintenance period, if any.***

*Notes: 1. All italicized text is for guidance on how to prepare this advance payment guarantee and shall be deleted from the final document.*

*2. The Procuring Entity should note that in the event of an extension of the time for completion of the Contract, the Procuring Entity would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee.*

#### 4. Performance Security Declaration

##### Form of Performance Security Declaration

Date: \_\_\_\_\_ *[insert date (as day, month and year)]*

Contract Name and No.: \_\_\_\_\_ *[insert name and number of Contract]*

To: \_\_\_\_\_ *[insert Designation and complete address of Procuring Entity]*

We, the undersigned, declare that:

We understand that, according to your conditions, the Contract must be supported by a Performance Security Declaration as a guarantee to ensure fulfillment of our all performance obligations under the Contract for \_\_\_\_\_ *[insert name of subject matter of procurement.*

We accept that we will automatically be suspended from being eligible for bidding in any contract with you for the period of time of \_\_\_\_\_ *[Procuring Entity to indicate here the period of time for which the Procuring Entity will declare a Bidder ineligible to be awarded a Contract if the performance Security Declaration is to be executed]* starting on the date that we receive a notification from you, the \_\_\_\_\_ *[Designation of the Procuring Entity]* that our Performance Security Declaration is executed, if we are in breach of any of our performance obligation under the conditions of the Contract,

We understand this Performance Security Declaration shall expire after 60 days of completion of our all obligations under the Contract including Defect Liability, warranty/ Guarantee, operation, maintenance, etc. in accordance with the conditions of the Contract.

Signed: \_\_\_\_\_

*[insert signature of person whose name and capacity are shown]*

In the capacity of: \_\_\_\_\_

*[insert legal capacity of person signing the Performance Security Declaration]*

Name: \_\_\_\_\_

*[insert complete name of person signing the Declaration]*

Duly authorized to sign the Contract for and on behalf of: \_\_\_\_\_

*[insert complete name and address of the Bidder]*

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ *[insert date of signing]*

Corporate Seal \_\_\_\_\_.



**Bill of Quantities**

Annexure-4A

Tender Inviting Authority: Chief Executive Officer/Commissioner/EO -----

Name of Work: Door to Door collection, Transportation, Processing of municipal solid waste on VGF basis

Contract No: Solis Waste Management Works/------

Bidder Name:		Excess ( + )		%
--------------	--	--------------	--	---

**SCHEDULE OF WORKS**

(This BOQ template must not be modified/replaced by the bidder and the same should be uploaded after filling the relevant columns, else the bidder is liable to be rejected for this tender. Bidders are allowed to enter the Bidder Name and Values only)

Sl. No.	Description of work	No. or Qty.	Unit	Estimated Rate	
				Figure	Words
1.00	<p>Door to door collection of municipal Solid waste and its transportation up to processing/ Disposal facility as may be directed by the authority from time to time Providing containers at secondary waste storage depot , maintenance of secondary storage facility and transportation of waste from the depot to the waste processing or disposal facility as detailed in RFP complete in all respect on VGF % basis.</p> <p>(a) Cost recovery through collection of user charges from households/commercial/hotels/restaurant etc.</p> <p>(b) 20% from Gol under Swachh Bharat Mission (SBM) as a grant to ULB.</p> <p>(c) Minimum % of VGF which shall be paid to contractor by concerned ULB from their own resources/Grant /TFC/SFC/Urban Cess etc . Assessment/Analysis sheet about VGF % quoted should be attached along with Financial bid by Bidder</p>	1.000	Ton	1000.00	Rs. One Thousand per MT.

Request for proposal (RFP) for solid waste management Single Stage Two Envelopes (Two part) Bid  
Total Estimated Cost in Figures for one metric ton

Quoted Amount as per VGF% quoted per metric ton

1000.00

Quoted Rate in Words

One Thousand