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This RFP document is not an agreement and is not an offer or invitation by NDMC or NDMC Representatives to any parties other than the Applicants who are qualified to submit the Proposal ("Bidders"). The purpose of this RFP document is to provide the Bidder(s) with information to assist the formulation of their Proposal. This RFP document does not purport to contain all the information each Bidder may require. This RFP document may not be appropriate for all persons and it is not possible for NDMC or NDMC Representatives, to consider the investment objectives, financial situation and particular needs of each Bidder who reads or uses this RFP document. Each Bidder should conduct its own investigations and analysis and should check the accuracy, reliability and completeness of the information in this RFP document and where necessary obtain independent advice from appropriate sources. Neither NDMC nor their employees or consultants make any representation or warranty as to the accuracy, reliability or completeness of the information in this RFP document. NDMC shall incur no liability under any law, statute, rules or regulations as to the accuracy, reliability or completeness of the RFP document.

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NDMC reserves the right to reject any or all of the Proposals (as defined herein) without assigning any reason whatsoever. NDMC further reserves the right, at its complete discretion and without assigning any reasons, to discontinue the Proposal to execute the Projects through the Bidder.

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

Request proposal for PPP Project to develop 250 to 500 KLD capacity STPs (05 Nos.) at different locations in NDMC area and run for 12 years

Request for Proposal (RFP)



PUBLIC PRIVATE PARTNERSHIP (PPP) PROJECT TO DEVELOP ADDITIONAL WATER RESOURCES BY INSTALLING 250KLD TO 500 KLD CAPACITY STPS (05 NOS.) AT DIFFERENT LOCATIONS IN NDMC AREA AND RUN FOR 12 YEARS"

New Delhi Municipal Council (NDMC) seeks Request for Proposal (RFP) from reputed / eligible agencies for developing PUBLIC PRIVATE PARTNERSHIP (PPP) PROJECT TO DEVELOP ADDITIONAL WATER RESOURCES BY INSTALLING 250KLD TO 500 KLD CAPACITY STP's (05 NOS.) AT DIFFERENT LOCATIONS IN NDMC AREA AND RUN FOR 12 YEARS"

To decrease the dependency on regular Un-Filtered water supply (by CPWD) for Horticulture purposes, NDMC is planning to lay additional infrastructure of minimum water requirement daily of 0.5 MLD by using its available resources i.e. continuously generated sewage. The need of this proposal will be essential for betterment of environment by adding additional greenbelt including preserving the existing one with his full capacity. NDMC hereby wishes to invite reputed firms (Applicants) for selection as Developers to develop Sewage Treatment Plant of various capacity

1. Inside Bapu Dham Housing Complex: 250 KLD,
2. At Horticulture Nursery NDMC opposite INA Metro Station: 500 KLD,
3. At island existing at the intersection of Rajendra Prasad Road & Ashoka Road: 500 KLD.,
4. At Bharti Nagar Sewerage Pumping Station: 500 KLD,
5. At Nehru Park: 500 KLD.

including Operation and Maintenance for twelve years of all the above mentioned plants

WHO CAN APPLY: The Applicants may be a single entity consortium, coming together to implement the Project(s). The applicants shall be experienced in tasks of project development/ construction of 250 to 500 KLD STP and have profitable financial operations.

HOW TO APPLY: Eligible contractors may download the bid documents for reference only from Delhi Govt. E- procurement Portal <https://govtprocurement.delhi.gov> in for bidding purpose. However, tenders shall be quoted through e-tendering only.

Cost of the RfP Document

Obtained from the Office of EE (Hort.)	NIL
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Relevant Dates

Uploading RfP	03.06.2026
Last date for submission of RfP	22.06.2026
Pre-Bid Meeting	---
Date of opening of Technical Bid	22.06.2026

SCOPE OF WORK: The scope of work would include the entire process of development of additional water by recycling the sewage water upto acceptable parameter for reuse in horticulture demand/ fountains/ water bodies in the area by installing/construction of STPs including designing, financing, operations & maintenance for 12 years. The STPs should be under ground with maximum 2 ft. height above ground level.

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Volume II	
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Instructions to Bidders

BIDDING PROCEDURE

1. General

1.1 Scope of Proposal

1.1.1 The New Delhi Municipal Council (hereinafter referred to as "NDMC") provides civic services to an estimated population of 3.5 Lac covering an area of 42.74 square Kilometers. In addition to the resident population of the NDMC area, an additional 15 Lac people commute to commercial complexes and government offices in NDMC area.

1.1.2 However the consistent and increasing demand of water for horticulture in NDMC area during summer and winter is to be required for maintaining / improving green areas. The valuable resources of scarce water is recycled upto the standard of horticulture demand in NDMC area by continuous availability of raw material for the Sewage Treatment Plant i.e. sewage. NDMC is desirous to improve the availability of raw water for horticulture and dependency on UFW currently provided by CPWD by developing infrastructure STPs. With this objective, development of STPs infrastructure is proposed under a Public Private Partnership at identified of various locations :-

1. Inside Bapu Dham Housing Complex: 250 KLD,
2. At Horticulture Nursery NDMC opposite INA Metro Station: 500 KLD,
3. At island existing at the intersection of Rajendra Prasad Road & Ashoka Road: 500 KLD.,
4. At Bharti Nagar Sewerage Pumping Station: 500 KLD,
5. At Nehru Park: 500 KLD.

NDMC invites detailed proposals (hereinafter referred to as "Proposal") for installing STPs to provide treated water for horticulture purposes (hereinafter referred to _____

Instruction as the "Project") on PPP Model on a build, operate and supply the treated water with the installed capacity to the department for 12 years with his offer and transfer the same after 12 years i.e. closure of this offer.

1.1.3 The Proposals would be evaluated on the basis of the evaluation criteria set out in this RFP document ("Evaluation Criteria") in order to identify the Successful Bidder. The Successful Bidder ("Concessionaire") would then have to enter into a Concession Agreement with NDMC and perform

the obligations as stipulated therein, in respect of Project.

1.1.4 The Concessionaire would be responsible for designing, financing, constructing/installing, operating and maintaining the STPs for a period as stipulated in **Article 2.2** of the Draft Concession Agreement subject to his fulfilling the requirements set out in this RFP document.

1.1.5 Terms used in this RFP document, which have not been defined herein, shall have the meaning ascribed to them in the Draft Concession Agreement.

1.2 Eligible Bidders

1.2.1 Applicants who finds themselves qualified for the Project (referred to as "Bidders") are eligible to submit their Proposal in response to this RFP document.

1.2.2 Bidders shall upload scanned copy of all the eligibility criteria documents for evidence of their continued eligibility to the satisfaction of NDMC.

1.3 Eligibility Criteria

1.3.1

The bidder should have experience in execution of similar works of at least one Sewage Treatment Plants (STP's) of minimum 250 KLD capacity.

The agency shall also have at least 1 year of operation and Maintenance (O&M) experience for STP's of minimum 250 KLD capacity.

For the purpose of O&M experience, ongoing works shall also be considered, subject to the condition that:

(i) O&M has been carried out for a minimum continuous period as required under the eligibility criteria.

(ii) Performance certificates issued by the client clearly indicate satisfactory execution and duration of O&M completed till date.

(iii) Experience shall be considered on pro-rata basis for the completed period of O&M works of capacity more than 250 KLD."

1.3.2 Similar work means:- Design/Supply, installation, testing and commissioning of minimum 250 KLD STPs.

1.3.3 The following documents should be submitted by the bidders along with their proposal:-

(a) Average Annual turnover for the last three years should not be less than Rs. 3.0 Crore, as certified by the registered chartered Accountant.

(b) Loss and profit statement for last three years verified by registered Chartered Accountant shall also be submitted with RFP.

(c) The ESI & EPF registration to be made as per Labor Law or undertaking for

complying the same, for international firms, if considered as successful bidder.

- (d) Certificate of Registration for GST and acknowledgement of up to date filed return or undertaking for complying the same, for international firms if considered as successful bidder. If the bidder has not obtained GST registration in the NCT Delhi, or as required by GST authorities then in such a case the bidder shall submit an undertaking (as prescribed in Chapter-5, Undertaking-A).

UNDERTAKING-A
(On an INR 100/- Stamp paper)

Format for the undertaking to be submitted by bidder If, the bidder has not obtained GST registration in the State in which the work is to be taken up, or as required by GST authorities then in such a case the bidder shall scan and upload following under taking along with other bid documents

"If work is awarded to me, I/we shall obtain GST registration Certificate of the State, in which work is to be taken up, within one month from the date of receipt of award letter or before release of any payment by NDMC, whichever is earlier, failing which I/We shall be responsible for any delay in payments which will be due towards me/us on a/c of the work executed and/or for any action taken by NDMC or GST department in this regard.

Name & Signature with stamp of Authorized Signatory (Bidder)
Designation
Address of Authorized Signatory

- (e) Undertaking to be submitted by bidder:

UNDERTAKING

"I/ We _____ hereby certify that I/my firm have/has not been blacklisted /debarred in any Govt./Public undertaking /Private undertaking etc. on account of **supply of sub-standard material and /or poor execution/poor performance** for the last three years from the date of opening of tender."

And

"I/We _____ have not been **debarred or blacklisted or suspended** from the business from any department of central/State Government."

And

"I/We _____ have not been **under liquidation, court receivership or similar proceedings and not bankrupt.**"

Date-----

Name & Signature with stamp of Authorized Signatory (Bidder)
Designation
Address of Authorized Signatory

(f) Integrity Pact duly signed by the Contractor as per format defined in Annexure- '1'.

(g) An Affidavit on Stamp paper should be submitted which is as under:-
I/We undertake and confirm that eligible similar work(s) has/have not been got executed through another contractor on back to back basis. Further that, if such a violation comes to the notice of Department, then I/We shall be debarred for tendering in NDMC in future forever. Also, if such a violation comes to the notice of Department before date of start of work, the Engineer –in -charge shall be free to forfeit the entire amount of Bid Security/Performance Security.

1.3.3 Each Bidder shall submit a Power of Attorney as per the format enclosed as **Appendix 1 A**, authorizing the signatory of the Proposal to commit the Bidder.

1.4 Setting up of a Special Purpose Company for signing Project Concession Agreement

If the Successful Bidder is a consortium, it shall set up a Special Purpose Company, incorporated under the provisions of the Companies Act Delhi Building Byelaws, 2016 and Delhi Master Plan 2041 and in accordance with Shareholder commitments mentioned in the RfP document and the draft Concession Agreement, within six (6) weeks from the acceptance of the Letter of Intent ("Lol") for signing of the Concession Agreement. NDMC will sign the Concession Agreement with only the Special Purpose Company set up by the Successful Bidder for each Part. If the Successful Bidder is a single business entity, then it may choose to either set up a Special Purpose Company, or implement the project on its own.

1.4.1 Additional Requirements for Proposals submitted by a Consortium

- (a) Wherever required, the Proposal shall contain the information required for each of the members of the Consortium.
- (b) The members of the Consortium shall furnish a Power of Attorney duly signed by the authorized representative of the members as per the format set out in **Appendix 1 B** (Format for designating the Lead Member or the Lead Technical Member and the Lead Financial Member as the case may be). The Lead Member or the Lead Technical Member and the Lead Financial Member, as the case may

be should be the same as indicated in the Application for Qualification.

- (c) The Proposal shall be signed by the duly authorized signatory of the Lead Member and shall be legally binding on all the members of the Consortium. In case of a Consortium with one member as the Lead Technical Member and one member as the Lead Financial Member, the Proposal shall be signed by their respective duly authorized signatories and shall be legally binding on all the members of the Consortium;
- (d) The Consortium shall submit a Memorandum of Understanding ("MoU"), drafted specifically for this project, as part of its Proposal. The MoU shall inter alia, also convey their intent to form a special purpose Joint Venture Company (JVC) with shareholding commitment(s) explicitly stated as mentioned below:
- (e) In case of a Consortium with a Lead Member, the Lead Member shall commit to hold a minimum equity stake equal to 50% of its paid up equity capital of the special purpose vehicle created, at all times during the Concession Period.
- (f) In case of a Consortium with a Lead Technical Member (LTM) and a Lead Financial Member (LFM), LTM should commit to hold not less than 10% and LFM should commit to hold not less than 41% of its paid up equity capital of the special purpose vehicle created, at all times during the Concession Period.

These shareholding commitments would be recorded in the Concession Agreement and any change therein would only be with the approval of NDMC. The MoU shall communicate the willingness of the Consortium to subsequently carry out all the responsibilities as Concessionaire in terms of the Concession Agreement, in case the Concession to undertake the Project is awarded to the Consortium. The MoU shall also clearly outline the proposed roles and responsibilities of each member at each stage.

- (i) All members of the Consortium shall be liable jointly and severally for the execution of the Project in accordance with the terms of the Concession Agreement and a statement to this effect shall be included in the MoU;
- (ii) All witnesses and sureties shall be persons of status and probity and their full names and addresses shall be stated below their signature. All signatures in the Proposal documents shall be dated. A copy of the MoU should be submitted as part of the Proposal. The MoU entered into between the members of the Consortium

should be specific to the Project and should contain the above requirements, failing which the Proposal would be liable to be considered non-responsive.

1.5 Change in Composition of the Consortium

Change in the composition of a Consortium will not be permitted by NDMC.

1.6 Number of Proposals

Each Bidder should submit only one (1) Proposal for all STP. Any Bidder or member of a Consortium, which submits more than one Proposal for the same Project would be disqualified and would also cause the disqualification of the Consortium in which it is a member.

1.7 Proposal Preparation Cost

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

1.8 Language

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

1.9 Amendments to RFP

1.9.1 At any time prior to the Proposal Due Date, as indicated in the RFP Time Schedule, NDMC may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, amend the RFP by the issuance of Addenda.

1.9.2 Any Addendum thus issued would be in writing and sent to all the Bidders who have received and acknowledged the RFP document and shall be binding upon them. Bidders shall promptly acknowledge receipt thereof to NDMC.

1.9.3 In order to afford Bidders reasonable time to take the Addendum into

account, or for any other reason, NDMC may, at its discretion, extend the Proposal Due Date.

B. Preparation and Submission of Proposal

1.10 Currency

- 1.10.1 The currency for the purpose of the Proposal shall be the Indian Rupee (INR). The conversion to Indian Rupees shall be based on the closing exchange rate published by the Reserve Bank of India. In all cases where the original figure is in foreign currency, such original figures in the relevant foreign currency and the INR equivalent thereof must be given. The exchange rate(s) applied shall have to be clearly stated. NDMC, however, reserves the right to use any other suitable exchange rate for the purpose of uniformly evaluating all Bidders.

1.11 Bid Security

- 1.11.1 Each Proposal shall be accompanied by a Bid Security of **Rs.10,00,000/- (Rupees Ten Lacs only)**.
- 1.11.2 The Bid Security shall be kept valid throughout the Proposal Validity Period and would need to be extended, if so required by NDMC, for any extension in Proposal Validity Period.
- 1.11.3 The Bid Security shall be in the form as detailed in Appendix 4.
- 1.11.4 The Bid Security of every unsuccessful Bidder would be returned within a period of ten (10) weeks from the date of announcement of the Successful Bidder. The Bid Security submitted by the Successful Bidder would be released upon furnishing of the Performance Security in the form and manner stipulated in the Concession Agreement.
- 1.11.5 The Bid Security shall be forfeited in any of the following cases:
- (a) If the Bidder modifies/ withdraws its Proposal except as provided in **Clause 1.20;or**
 - (b) If the Bidder withdraws its Proposal during the interval between the Proposal Due Date and expiration of the Proposal Validity Period; or
 - (c) If the Successful Bidder fails to provide the Performance Security within the stipulated time or any extension thereof provided by NDMC; or
 - (d) If any information or document furnished by the Bidder turns out to be misleading or untrue in any material respect.

1.12 Validity of Proposal

- 1.12.1 The Proposal shall remain valid for a period not less than One Hundred Eighty (180) days from the Proposal Due Date ("Proposal Validity Period").
- 1.12.2 Prior to expiry of the Proposal Validity Period, NDMC may request the Bidders to extend the period of validity for a specified additional period. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder agreeing to the request will not be allowed to modify its Proposal, except as provided under **Clause 1.20** but would be required to extend the validity of its Bid Security for the period of extension and comply with **Clause 1.11** of this document in all respects.
- 1.12.3 The Successful Bidder shall, where required, extend the Proposal Validity Period till the date of execution of the Concession Agreement.

1.13 Bidder's Responsibility

- 1.13.1 Bidders may carry out Project inspection/ site visit at any time at their cost.
- 1.13.2 Bidders are required to check the available quantity of raw sewage themselves at their own cost before applying for this work. NDMC cannot be held liable in the event that full quantity of raw sewage is not available and bidders will be solely responsible for less quantity of raw sewage. However, if full quantity of raw sewage is available in the beginning of the project and later on the quantity of raw sewage decreases due to any reason beyond the control of the bidder/ NDMC, the payment will be made only for the quantity of water treated by the concessionaire. However, no penalty shall be imposed for not treating full quantity of raw water.
- 1.13.3 The Bidder is expected to examine carefully the contents of all the documents provided. Failure to comply with the requirements of RFP shall be at the Bidder's own risk.
- 1.13.4 It shall be deemed that prior to the submission of Proposal, the Bidder has:
- (a) made a complete and careful examination of terms & conditions/ requirements, and other information set forth in this RfP document
 - (b) received all such relevant information as it has requested from NDMC; and
 - (c) made a complete and careful examination of the various aspects of the Project including but not limited to:
 - i. Bidders own validation of the Project Information Memorandum, of this RFP.

- ii. The property on which the STP's are proposed;
- iii. Existing facilities and structures;
- iv. Condition of the buildings including but not limited to open spaces in and around the Project Site;
- v. The conditions of the access roads, ground conditions, and utilities in the vicinity of the Project Site;
- vi. Conditions affecting transportation, access, disposal, handling and storage of materials; and
- vii. All other matters that might affect the Bidder's performance under the terms of this RFP document.

1.13.5 NDMC shall not be liable for any mistake or error or neglect by the Bidder in respect of the above.

1.13.6 In case of any complaint from the common public/passersby/pedestrian/walkers regarding occurrence of smell/ Oduor either from inlet or from outlet or any other part of STPs shall arise, a penalty @ Rs 10,000/- per day of occurrence of complaint as aforesaid shall be levied on the concessionaire during the entire concession period since the date of commissioning of STP's.

1.14 Pre-Proposal Meeting

1.14.1 To clarify and discuss issues with respect to the Project and the RFP, NDMC will hold Pre-Proposal meeting(s).

1.14.2 Prior to the Pre-Proposal meeting(s), the Bidders may submit a list of queries and propose deviations, if any, to the Project requirements and/ or the Concession Agreement. Bidders must formulate their queries and forward the same to NDMC as per RFP Time Schedule prior to the meeting. NDMC may, in its sole discretion or based on inputs provided by Bidders that it considers acceptable, amend the RFP.

1.14.3 Bidders may note that NDMC will not entertain any deviations to the RFP at the time of submission of the Proposal or thereafter, without prejudice to deviations, if any, to the Technical Submission, substantiated by the Bidder vide **Appendix 5 A**. The Techno-Commercial Proposal to be submitted by the Bidders shall be unconditional and the Bidders would be deemed to have accepted the terms and conditions of the RFP with all its contents including the Draft Concession Agreement. Any Proposal with deviations from the contents of this RFP document or Proposals that lays down any condition shall be regarded as non- responsive and would be rejected.

1.14.4 NDMC will endeavor to hold the Pre-Proposal meeting as per RFP Time Schedule.

The details of the meeting will be separately communicated to the Bidders.

- 1.14.5 Attendance of the Bidders at the Pre- Proposal meeting(s) is not mandatory. However, subsequent to the meeting, NDMC may not respond to queries from any Bidder who has not attended the Pre-Proposal meeting(s).
- 1.14.6 All correspondence / enquiries should be submitted to the following in writing by e-mail/ registered post / courier:

ATTN OF : Executive Engineer
(Horticulture Division)
Address : Office of Executive Engineer
14th Floor, Room No.1412,
Palika Kendra, New Delhi - 110001

e-mail: pramod.sharma@ndmc.gov.in

1.15 Clarifications by NDMC

A prospective Bidder requiring any clarification on the RFP document may notify NDMC in writing or through e-mail within such date as specified in RFP Time Schedule. At its sole discretion, NDMC may forward to each Bidder, a copy of NDMC's response, including a description of the enquiry but without identifying its source. No interpretation, revision, or other communication from NDMC regarding this solicitation is valid unless it is in writing and is signed by Executive Engineer, Sewerage Project Division, NDMC.

1.16 Format and Signing of Proposal

- 1.16.1 Bidders would provide all the information as per this RFP and in the specified format. NDMC reserves the right to reject any Proposal that is not in the specified format.

Bidders who wish to participate in this proposal will have to register on e-procurement of Delhi. To participate in online proposals, bidders will have to procure Digital Signature Certificate (type II or type III) as per Information Technology Act 2000 using which they can sign their electronic bids. Bidder may contact e-Procurement cell, NDMC or IT&C, Government of Delhi for further assistance. Bidders who already have a valid Digital Certificate need not procure a new digital certificate. Before electronic submission of proposal, it should be ensured that all the proposal papers including conditions of contract are read, understood by the Applicant. The uploaded document of the bid shall contain no alteration, or additions, unless notified. In case the bidder makes addition and/or correction, the provision written in the original document, read with the addendum or corrigendum issued shall prevail.

- 1.16.2 The **Proposal** should be submitted in two parts:

Part I :

Part I (A) : Other Submissions

This should include the following:

- i. Power of Attorney as per **Appendix 1-A**, authorizing the signatory of the Proposal to commit the Bidder
- ii. Power of Attorney as per **Appendix 1-B**, wherever required
- iii. Memorandum of Understanding (MoU), as applicable under **Clause 1.4 (d)**
- iv. Anti-Collusion Certificate as per **Appendix 3**
- v. Bid Security as per **Appendix 4** (separate for each Project bid for)
- vi. The original Volume I of the RFP Document duly signed on each page of the document by the Authorized Signatory.
- vii. Integrity Pact duly signed by the Contractor as per format defined in Annexure '1'.

All documents mentioned as per 1.3 (eligibility criteria) shall be submitted at the time of bidding by the bidder.

Part I (B): Technical Submissions

Technical Submissions shall include Chart as per the format set out in **Appendix 5- A**. the Bidder's Proposal as per guidelines provided in **Section 2** and the Compliance

Part-II: Techno - Commercial Bid

Bidder shall submit their offer only in online electronic format as per the format set out in **Appendix-5-B**

1.18 Proposal Due Date

- 1.18.1 Proposals should be submitted before 3:00 PM (IST) on the Proposal Due Date as indicated in Tender Notice in the manner and form as detailed in this RFP.

Proposals submitted in physical form will not be accepted. All proposal shall be submitted online.

- 1.18.2 NDMC, at its sole discretion, may extend the Proposal Due Date by issuing an Addendum in accordance with **Clause 1.9**.

1.19 Late Proposals

Any Proposal received by NDMC after the Proposal Due Date will be returned unopened to the Bidder.

1.20 Modification and Withdrawal of Proposals

- 1.20.1 The Bidder may modify or withdraw its Proposal after submission, provided that written notice of the modification or withdrawal is received by NDMC before the Proposal Due Date. No Proposal shall be modified or withdrawn by the Bidder after the Proposal Due Date.
- 1.20.2 The Bidder's modification or withdrawal notice shall be prepared, sealed, marked and delivered in accordance with the provisions of Clause 1.16 with envelopes additionally marked "MODIFICATION" or "WITHDRAWAL" and also "PART- I SUBMISSION" as appropriate.
- 1.20.3 In case of withdrawal of a Proposal during the interval between the Proposal Due Date and expiration of the Proposal Validity Period, the Bid Security shall automatically stand forfeited in accordance with **Clause 1.11** of this document.

1.21 Tests of Responsiveness

- 1.21.1 Prior to evaluation of Proposals, NDMC will determine whether each Proposal is responsive to the requirements of the RFP. A Proposal shall be considered responsive if;
- (a) it is received before 3:00 PM (IST) on the Proposal Due Date
 - (b) it contains the information and documents as requested in the RFP
 - (a) it contains information in formats specified in the it is RFP
 - (e) accompanied by the Bid Security as set out in **Clause 1.11**
 - (f) it mentions the validity period as set out in **Clause 1.12**
 - (g) it provides the information in reasonable detail. ("Reasonable Detail" means that, but for minor deviations, the information can be reviewed and evaluated by NDMC without communication with the Bidder). NDMC reserves the right to determine whether the information has been provided in reasonable detail.
 - (h) there are no inconsistencies between the Proposal and the supporting documents
 - (i) it is in accordance with the other provisions of this RFP document.
- 1.21.2 A Proposal that is substantially responsive is one that confirms to the preceding requirements without material deviation or reservation. A material deviation or reservation is one which,
- (a) affects in any substantial way, the scope, quality, or performance of the Project Facility, or
 - (b) limits in any substantial way, inconsistent with the RFP document, NDMC's rights or the Bidder's obligations under the Concession Agreement, or

- (e) unfairly affects the competitive position of other Bidders resenting substantially responsive bids.

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

1.22 Confidentiality

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

1.23 Clarifications by Bidders

To assist in the process of evaluation and award of Proposals, NDMC may, at its sole discretion, ask any Bidder for clarification/ s on its Proposal or substantiation of any of the submissions made by the Bidder. The request for such clarification or substantiation and the response shall be in writing or by facsimile. No material change in the substance of the Proposal would be permitted by way of such clarification/ substantiation.

1.24 Escalation annually in bid price:- **Escalation @5% per annum shall be admissible after the one year from the date of commercial operation date of each STP'S.**

1.25 Proposal Evaluation: Stage I – Other Submissions

1.25.1 In Stage I evaluation, the Part-I (A)-Other Submissions of the Proposal would first be checked for responsiveness with the requirements of the RFP.

1.25.2 The Stage II evaluation, the Part- I (B) - Technical Submissions of a Bidder shall be taken up only after the contents of the Other Submissions are found to meet the requirements of this RFP, i.e., the Part 1 (A) submission is found to be responsive in terms of the requirements under **Clause 1.21**.

1.25.3 NDMC reserves the right to reject the Proposal of a Bidder without opening the Part I (B) and Part-II Submissions if, in its opinion, the

contents of Part - I (A) - Other Submissions are not substantially responsive with the requirements of this RFP.

1.26 Proposal Evaluation: Stage II – Technical Submissions

- 1.26.1 In Stage II of the evaluation process, Part I (B) Submission of all the Bidders who pass the Part-I (A) evaluation would be evaluated.
- 1.26.2 In Stage II, the Part I(B) – Technical Submissions of the Proposal would first be checked for responsiveness with the requirements of the RFP.
- 1.26.3 In case the Proposal is found to be responsive in terms of the requirements under **Clause 1.2 1**, the Technical Submission of the Bidder would be evaluated in accordance with the conditions set out in this RFP document.
- 1.26.4 NDMC would have the right to review the Part-I(B) Technical Proposals and seek clarifications where necessary.
- 1.26.5 NDMC may request the Bidder to make a visual presentation on the Project Proposal. No marks or extra weightage shall be assigned to the presentation. NDMC reserves the right to call for presentations from any / all of the Bidders
- 1.26.6 The evaluation of the Techno- Commercial Bid (i.e., the Part II of submission online vide Clause 1 .1 6) would be taken up only after the contents of the Part 1 (B) – Technical Submissions are found to meet the requirements of this RFP. NDMC reserves the right to reject the Proposal of a Bidder without opening the Part II submissions Submitted online if, in its opinion, the contents of the Technical Submission are not substantially responsive with the requirements of this RFP.

1.27 Proposal Evaluation: Stage III – Techno-Commercial Bid

- 1.27.1 The Part-II, downloaded viz., **Techno- Commercial Bid** of all the Bidders who pass the Part I (B) evaluation, for particular project, will be opened in the presence of the Bidders' representatives who choose to attend. The Bidders' representatives who are present shall be required to sign and record their attendance.
- 1.27.2 The **Techno-Commercial Bid** would be evaluated and ranked on the basis of the evaluation criteria set out in **Section 2**. The Bidder obtaining the highest rank after evaluation of the **Techno-Commercial Bid**, shall, subject to terms and conditions set out under **Section 2** be declared as the Preferred Bidder.

1.28 Declaration of Successful Bidder

- 1.28.1 NDMC may either choose to accept the Proposal of the Preferred Bidder or invite him for presentations and/ or discussions, however, without warranting an alteration/ permitting an alteration to its quote under **Techno-Commercial Bid**.
- 1.28.2 Prior to proceeding with the nomination as Successful Bidder, NDMC may determine to its satisfaction that no circumstances, in particular, the Preferred Bidder's work in hand, future commitments and current litigation, have arisen or intervened that would change NDMC's opinion as to whether the Preferred Bidder is still qualified to satisfactorily implement the Project.
- 1.28.3 In the event the Preferred Bidder is declared the preferred bidder for more than one project of NDMC (including through separate tendering), NDMC may require the Bidder to demonstrate, to the satisfaction of NDMC, their capability to implement the Project, if awarded to them.
- 1.28.4 Upon acceptance of the Proposal of the Preferred Bidder with or without invoking the provisions under **Clauses 1.28.1 to Clause 1.28.4** herein above, NDMC shall declare the Preferred Bidder as the Successful Bidder.

1.29 Notification/s

NDMC will notify the Successful Bidder by a Letter of Intent (LOI) that its Proposal has been accepted.

1.30 NDMC's Right to Accept or Reject the Proposal

- 1.30.1 NDMC reserves the right to accept or reject any or all of the Proposals without assigning any reason and to take any measure as it may deem fit, including annulment of the bidding process, at any time prior to award of Concession, without liability or any obligation for such acceptance, rejection or annulment.
- 1.30.2 NDMC reserves the right to invite revised Proposals from Bidders with or without amendment of the RFP at any stage, without liability or any obligation for such invitation and without assigning any reason.
- 1.30.3 NDMC reserves the right to reject any Proposal if at any time:
- (a) a material misrepresentation made at any stage in the bidding process is uncovered; or
 - (b) the Bidder does not respond promptly and thoroughly to requests for supplemental information required for the evaluation of the Proposal. This would lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium would be disqualified/ rejected.

If such disqualification/ rejection occur after the Proposals have been opened and the Successful Bidder gets disqualified/ rejected, then NDMC reserves the right to:

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

1.31 Acceptance of Letter of Intent (Lol) and Execution of Concession Agreement

- 1.31.1 Within two (2) weeks from the date of issue of the Lol, the Successful Bidder shall accept the Lol and return the same to NDMC. The Successful Bidder shall execute the Concession Agreement within six (6) weeks of the issue of Lol or within such further time as NDMC may agree to in its sole discretion.
- 1.31.2 NDMC will promptly notify other Bidders that their Proposal has been unsuccessful and their Bid Security will be returned as early as possible as and in any case not later than ten (10) weeks from the date of announcement of the Successful Bidder.

1.32 Performance Security (performance guarantee)

This guarantee shall be deposit in the form Deposit at Call receipt of any scheduled bank/Banker's Cheque of any scheduled bank/Demand Draft of any scheduled bank/Pay Order of any scheduled bank or Fixed Deposit Receipts in India in favor of The Secretary. NDMC, as required under the Concession Agreement. Value of Performance Security should be for a sum of Rs. 40,00,000/- (Rupees Forty Lakhs only).

- 1.32.1 Failure of the Successful Bidder to comply with the requirements of **Clause 1.31.1** and/ or **Clause 1.32.1** shall constitute sufficient grounds for the annulment of the Lol, and forfeiture of the Bid Security. In such an event, NDMC reserves the right to
 - (a) **Not used**
 - (b) take any such measure as may be deemed fit in the sole discretion of NDMC, including annulment of the bidding process.

SECTION-2

EVALUATION METHODOLOGY

2.1 Guidelines for submission of Project Proposal

The Bidder would be required to furnish the following as part of their Project Proposal (Part I (B) - Technical Submission)

2.1.1 Project Appreciation

Under this item, the Bidders should provide a brief description of their understanding of the Project.

2.1.1.2 Project Layout and Design

2.1.1.1 The Bidder should provide project layout and design for each item under Project Facility and shall inter alia, include the following. The provision of drawings, where applicable and feasible, need be ONLY of preliminary and conceptual in nature, and of scale 1: 100.

- (a) Conceptual Plan for the STPs including the supporting preliminary designs and drawings for all the mandatory facilities as indicated in Schedule 2 of the draft Concession Agreement;
- (b) Architecture layout and area allocation for each facility such as primary, secondary and tertiary treatment, intake of raw sewage and treated water storage area and O&M staff working space etc.

2.1.2 Plan of Implementation

The Bidders should provide their plan for implementation of the Project including an appropriate Time Activity Chart.

2.1.3 Resource Allocation

The Bidders should provide the plan for resource allocation for the Project viz. plant and equipment to be deployed, personnel at site etc. The bidder should also provide an indication of the

- (i) proposed arrangements for financial tie-ups— debt and equity- for the project,
- (ii) the extent of financial tie-ups, if any already achieved for the project at the time of bidding, **expressed as a percentage** of the total fund requirement envisaged for the project, and the aggregate equity contribution envisaged for the project, **expressed again as a percentage** of the total project cost.

The capital resource deployment, viz., project cost & details thereof are NOT being requested under this submission and bidders are strictly advised not to provide these details under this submission.

2.2 Compliance chart

Along with the Project proposal, the Bidder shall submit details as per the compliance chart form at set out in **Appendix 5-A**, along with relevant supporting documents indicating the bidder's compliance to the Construction Requirements and O&M Requirements as set out in the Draft Concession Agreement – **Schedules 1, 2 and 4** and development control norms and fixed design parameters as set out in **Schedule 1** of the Draft Concession Agreement.

2.3 Evaluation of Technical submission.

The Bidder's Technical Submission would be evaluated to check the adequacy and appropriateness of the proposed technology for the Project purposes and its conformance to the Construction Requirements and O&M Requirements (as set out in the Draft Concession Agreement – between **Schedules 2, 3 and 4** and development control norms and fixed design parameters as set out in **Schedule 1** of the Draft Concession Agreement).

2.4 Evaluation of Part II submissions- Techno- Commercial Bid: Treated water rates.

The Part II submission online, viz., **Techno-Commercial Bid** of Bidders who have passed the stage II evaluation, for the particular Project, would be downloaded and evaluated on the basis of the lowest **Net Treated Water Rates** received for each group from the bid submitted by the bidders through e-procurement systems, as per the format prescribed in **Appendix 5-B**.

CONTENTS OF PROPOSAL

2.1 Part I (A) - Other Submissions.

The Part I (A) Submission of the Proposal shall consist of:

- i. Power of Attorney as per **Appendix 1 -A**, authorizing the signatory of the Proposal to commit the Bidder
- ii. Power of Attorney as per **Appendix 1 -B**, wherever required
- iv. Memorandum of Understanding (MoU), wherever required
- v. Anti-Collusion Certificate as per **Appendix 3**
- vi. Bid Security as per **Appendix 4**
- vii. Integrity Pact duly signed by the Contractor as per format defined in Annexure 'I'.
- viii. All documents mentioned as per 1.3 (eligibility criteria) shall be submitted at the time of bidding by the bidder.

Part-I (B) – Technical Submission

The Part I(B) Technical Submission shall consist of:

- i. Project Proposal
- ii. Compliance chart as per **Appendix 5-A**

Part II Techno- Commercial Bid in the form at Appendix 5-B (No physical submission is required).

NOTE: PART I and PART II, should be submitted only in online mode, no physical submission shall be considered.

PRE-INTEGRITY PACT

To,

.....
.....
.....

Sub: RFP No. 01/EE (Hort.)/2025-26 for the work: Public Private Partnership (PPP) project to develop additional water resources by installing 250 to 500 KLD capacity STPs (05 Nos.) at different locations in NDMC area and run for 12 years along with infrastructure (construction of sewage treatment plant) in NDMC area.

Dear Sir,

It is hereby declared that NDMC is committed to follow the principle of transparency, equity and competitiveness in public procurement.

The subject Request for Proposal (RFP) is an invitation to offer made on the condition that the bidder will sign the Pre-integrity Agreement, which is an integral part of RFP/bid documents, failing which the tenderer/bidder will stand disqualified from the tendering process and the bid of the bidder would be summarily rejected.

This declaration shall form part and parcel of the Integrity Agreement and signing of the same shall be deemed as acceptance and signing of the Integrity Agreement on behalf of the NDMC.

Yours faithfully

**Executive Engineer
(Hort.) Division**

PRE-INTEGRITY PACT

**To,
Executive Engineer,
Horticulture Department
New Delhi Municipal Council
Room No.1412, Palika Kendra,
New Delhi - 110001**

Sub: RFP No. 01/EE (Hort.)/2025-26 for the work: Public Private Partnership (PPP) project to develop additional water resources by installing 250 to 500 KLD capacity STPs (05 Nos.) at different locations in NDMC area and run for 12 years along with infrastructure (construction of sewage treatment plant) in NDMC area.

Dear Sir,

I/We acknowledge that NDMC is committed to follow the principles thereof as enumerated in the Integrity Agreement enclosed with the tender/bid document.

I/We agree that the Request for Proposal (RFP) is an invitation to offer made on the condition that I/We will sign the enclosed Pre-integrity Agreement, which is an integral part of tender documents, failing which I/We will stand disqualified from the tendering process. I/We acknowledge that THE MAKING OF THE BID SHALL BE REGARDED AS AN UNCONDITIONAL AND ABSOLUTE ACCEPTANCE of this condition of the RFP.

I/We confirm acceptance and compliance with the Pre-integrity Agreement in letter and spirit and further agree that execution of the said Pre-integrity Agreement shall be separate and distinct from the main contract, which will come into existence when RFP/bid is finally accepted by NDMC. I/We acknowledge and accept the duration of the Pre-integrity Agreement, which shall be in the line with Article 1 of the enclosed Pre-integrity Agreement.

I/We acknowledge that in the event of my/our failure to sign and accept the Pre-integrity Agreement, while submitting the RFP/bid, NDMC shall have unqualified, absolute and unfettered right to disqualify the tenderer/bidder and reject the RFP/bid in accordance with terms and conditions of the RFP/bid.

Yours faithfully

(Duly authorized signatory of the Bidder)

Annexure-I

PRE-CONTRACT INTEGRITY AGREEMENT /EE (Hort.) Division/2025-26

The pre-bid pre-contact Agreement (hereinafter called the Integrity Pact) is made on _____ day of the month of _____ 20.....

BETWEEN

New Delhi Municipal Council represented through _____ (Hereinafter referred as the 'Principal/Owner', which expression shall unless repugnant to the meaning or context hereof include its successors and permitted assigns)

AND

_____ (Hereinafter referred to as the "Tenderer / Contractor" and which expression shall unless repugnant to the meaning or context hereof include its successors and permitted assigns)

Whereas the NDMC proposes to procure of the Tender Document No: [insert tender document no] dated through the **Bidder(s)/Contractor(s)** and the **Bidder(s)/Contractor(s)** is willing to offer/has offered the same.

Whereas the **Bidder(s)/Contractor(s)** is a company incorporated under the Companies, Act, 1956/2013 NDMC is a Body Corporate established under the provisions of the New Delhi Municipal Council Act, 1994 performing its functions on behalf of the Council.

Now, therefore,

To avoid all forms of corruption by following a system that is fair, transparent and free from any influence/prejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:

Enabling the NDMC to obtain the desired said work/Services/Stores/ Equipment's at a competitive price in conformity with the defined specifications by avoiding the high cost and the distortionary impact of corruption during tendering, execution & public procurement, and

Enabling **Bidder(s)/Contractor(s)** to abstain from bribing or indulging in any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also abstain from bribing and other corrupt practices and the NDMC will commit to prevent corruption, in any form, by its official by following transparent procedures.

The parties hereto hereby agree to enter this Integrity Pact and agree as follows:

1. Commitments of the NDMC

- 1.1. NDMC undertakes that no official of the NDMC, connected directly or indirectly with the contract, will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the **Bidder(s)/Contractor(s)**, either for themselves or for any person, organization or third party related to the contract in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to the contract.
- 1.2. NDMC will, during the pre-contract stage, treat all **Bidder(s)/Contractor(s)** alike, and will provide to all **Bidder(s)/Contractor(s)** the same information and will not provide any such information **Bidder(s)/Contractor(s)** which could afford an advantage to that particular **Bidder(s)/Contractor(s)** in comparison to other **Bidder(s)/Contractor(s)**.
- 1.3. All the officials of the Principal/Owner will report to the CVO, NDMC any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.
2. In case any such preceding misconduct on the part of such official(s) is reported by the **Bidder(s)/Contractor(s)** to NDMC with full and verifiable facts and the same is prima facie found to be correct by NDMC, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by NDMC and such a person shall be debarred from further dealings related to the contract process. In such a case while an enquiry is being conducted by the NDMC the proceedings under the contract would not be stalled.

Commitments of Bidder(s)/Contractor(s)

3. The **Bidder(s)/Contractor(s)** commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its bid or during any pre-contract, contract or post-contract or post-contract stage in order to secure the contract or in furtherance to secure it and in particular commit itself to the following:
 - 3.1 The **Bidder(s)/Contractor(s)** will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of NDMC, connected directly or indirectly with the bidding process, or to any person, organization or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract.
 - 3.2 The **Bidder(s)/Contractor(s)** further undertakes that it has not given, offered or promised to give, directly or indirectly any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees brokerage or inducement to any official of NDMC or otherwise in procuring the contract or forbearing to do or having done any act in relation to the obtaining or execution of the contract or any other contract **with the Government including NDMC** for showing or forbearing to show favour or disfavor to any person in relation to the contract or any other contract **with the Government including NDMC**.
 - 3.3 **Bidder(s)/Contractor(s)** shall disclose the name and address of agents & representatives and Indian **Bidder(s)/Contractor(s)** shall disclose their foreign Principals or associates.
 - 3.4 **Bidder(s)/Contractor(s)** shall disclose the payments to be made by them to such agents/brokers or any other intermediaries, in connection with this bid/contract.

- 3.5 The **Bidder(s)/Contractor(s)** further confirms and declares to NDMC that the **Bidder(s)/Contractor(s)** has not engaged any individual or firm or company whether Indian or foreign to intercede, facilitate or in any way to recommend to NDMC or any of its functionaries, whether officially, or unofficially to the award of the contract to the **Bidder(s)/Contractor(s)**, nor has any amount been paid, promised or intended to be paid to any such individual, firm or company in respect of any such intercession, facilitation or recommendation.
- 3.6 The **Bidder(s)/Contractor(s)**, either while presenting the bid or during pre-contract negotiations or before signing the contract, shall disclose any payments he has made, is committed to or intends to make to officials of NDMC or their family members, agents, brokers or any other intermediaries in connection with the contract and the details of services agreed upon for such payments.
- 3.7 The **Bidder(s)/Contractor(s)** will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract. Bidder shall remain responsible to maintain safety & confidentiality of his bid documents during bid process.
- 3.8 The **Bidder(s)/Contractor(s)** will not accept any advantage in exchange for any corrupt practice, unfair means, and illegal activities.
- 3.9 The **Bidder(s)/Contractor(s)** shall not use improperly, for purposes of competition or personal gain, or pass no to others, any information provided by NDMC as part business relationship regarding plans, technical proposals and business details, including information contained in any electronic data carrier. The **Bidder(s)/Contractor(s)** also undertakes to exercise due and adequate care lest any such information is divulged.
- 3.10 The **Bidder(s)/Contractor(s)** commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts.
- 3.11 The **Bidder(s)/Contractor(s)** shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.
- 3.12 If the **Bidder(s)/Contractor(s)** or any employee of the **Bidder(s)/Contractor(s)** or any person acting on behalf of the **Bidder(s)/Contractor(s)**, either directly or indirectly, is a relative of any of the officers of NDMC, or alternatively, in any relative of an officer of NDMC has financial interest/stake in the **Bidder(s)/Contractor(s)** firm, the same shall be disclosed by the **Bidder(s)/Contractor(s)** at the time of filling of tender. The term 'relative' for this purpose would be as defined in Section 6 of the Companies Act 1956/Section 2(77) of the Companies Act, 2013.
- 3.13 The **Bidder(s)/Contractor(s)** shall not lend to or borrow any money form or enter into any monetary dealings or transaction, directly or indirectly, with any employee of NDMC.

4. Pervious Transgression

- 4.1. The **Bidder(s)/Contractor(s)** declares that no previous transgression occurred in the last three years immediately before signing of this Integrity Pact, with any other company in any country in respect of any corrupt practices envisaged here under or with any Public Sector Enterprise in India or any Government in India including NDMC that could justify **Bidder(s)'/Contractor(s)'** exclusion from the tender process.
- 4.2. The **Bidder(s)/Contractor(s)** agrees that if it makes incorrect statement on this subject, **Bidder(s)/Contractor(s)** can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

5. Sanctions for Violations

- 5.1 Any breach of the aforesaid provisions by the **Bidder(s)/Contractor(s)** or any one employed by it or action on its behalf [whether with or without the knowledge of the **Bidder(s)/Contractor(s)**] shall entitle the NDMC to take all or any one of the following actions, wherever required:-
- (i) To immediately call off the pre contract negotiations without assigning any reason or giving any compensation to the **Bidder(s)/Contractor(s)**. However, the proceedings with the other **Bidder(s)/Contractor(s)** would continue.
 - (ii) The Earnest Money Deposit (in pre-contract stage) and/or Security Deposit/Performance Bond/Guarantee (after the contract is signed) shall stand forfeited and the NDMC shall not be required to assign any reason therefore.
 - (iii) To immediately cancel the contract, if already signed, without giving any compensation to the **Bidder(s)/Contractor(s)**.
 - (iv) To recover all sums already paid by NDMC, if any, and in case of an Indian **Bidder(s)/Contractor(s)** with interest thereon at 2% higher than the prevailing Prime Lending Rate of State Bank of India, while in case of a **Bidder(s)/Contractor(s)** from a country other than India with interest there on at 2% higher than the LIBOR. If any outstanding payments is due to the **Bidder(s)/Contractor(s)** from the NDMC in connection with any other contract for any other stores, such outstanding payment could also be utilized to recover the aforesaid sum and interest.
 - (v) To encash the advance Bank Guarantee and Performance Bond/Warranty Bond, if furnished by the Bidder(s)/Contractor(s), in order to recover the payments, already made by the Principal/Owner, along with interest.
 - (vi) To cancel all or any other contracts with the **Bidder(s)/Contractor(s)**. The **Bidder(s)/Contractor(s)** shall be liable to pay compensation for any loss or damage to NDMC resulting from such cancellation/rescission and NDMC shall be entitled to deduct the amount so payable form the money(s) due to the **Bidder(s)/Contractor(s)**.
 - (vii) To debar the **Bidder(s)/Contractor(s)** from participation in future bidding processes of the NDMC for a period of Five Years which may be further extended at the discretion of NDMC. Further NDMC shall have the right to intimate other Government Departments/Authorities/Bodies for initiating any further action.
 - (viii) To recover all sums paid in violation of this Pact by **Bidder(s)/Contractor(s)** to any middleman or agent or broker with a view to securing the contract.

- (ix) In case where irrevocable Letter of Credit have been received in respect of any contract signed by the Principal/Owner with the **Bidder(s)/Contractor(s)**, the same shall not be opened.
- (x) Forfeiture of Performance Bond/Guarantee in case of a decision by the Principal/Owner to forfeit the same without assigning any reason for imposing sanction for violation of this Pact.

5.2 NDMC will be entitles to take all or any of the actions mentioned at para 5.1 (i) to (vii) or this Pact also on the Commission by the **Bidder(s)/Contractor(s)** or any one employed by it or acting on behalf [whether with or without the knowledge of the **Bidder(s)/Contractor(s)**, of an offence as defined in Chapter IX of the Indian Penal code, 1860 or Prevention of Corruption Act, 1988 or other statute enacted for prevention of corruption.

5.3 The decision of NDMC to the effect that a breach of the provisions of this Pact has been committed by the **Bidder(s)/Contractor(s)** shall be final and conclusive on the **Bidder(s)/Contractor(s)**. However, the **Bidder(s)/Contractor(s)** can approach the Independent Monitor (s) appointed for the purposes of this Pact.

6. Independent External Monitors

6.1 NDMC has appointed Independent External Monitors (hereinafter referred to as IEMs) for this Pact in consultation with the Central Vigilance Commission whose names and email IDs are as follows:-

(i) Shri Arun Kumar Sinha,

E-mail: aksinha2@yahoo.co

Phone – 9810229264

(ii) Lt. Gen. Balbir Singh Sandhu

E Mail - balbirsandhu1957@gmail.com

Phone - 9910035610

The NDMC has adopted Integrity Pact for all its contract for **Rs.50 Lakh** and above. It is mandatory for the Bidder(s)/Contractor(s) to sign the Integrity Pact. The bid of Bidder(s)/Contractor(s) who does not sign the Integrity Pact is deemed as part of the contract so that the parties concerned are bound by its provision.

- 6.2** The task of the IEMs shall be to review independently and objectively, wherever and to what extent the parties comply with the obligations under the Pact.
- 6.3** The IEMs shall not be subject to instructions by the representatives of the parties and perform their functions neutrally and independently.
- 6.4** Both the parties accept that the IEMs have the right to access all the documents relating to the project/procurement, including minutes of meetings.
- 6.5** As soon as the IEMs notices, or have reason to believe a violation of this Pact, they shall so inform to Chairman, NDMC

- 6.6 The **Bidder(s)/Contractor(s)** accepts that the IEMs have the right to access without restriction to all project documentation of the NDMC including that provided by the **Bidder(s)/Contractor(s)**. The **Bidder(s)/Contractor(s)** will also grant the IEMs, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to subcontractors. The IEMs shall be under contractual obligation to treat the information and documents of the **Bidder(s)/Contractor(s)/Subcontractor(s)** confidentiality. **In case of sub-contraction, the Bidder(s)/Contractor(s) shall take the responsibility of the adoption of Integrity Pact by the sub-contractor.**
- 6.7 NDMC will provide to the IEMs sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the parties. The parties will offer to the IEMs the option to participate in such meetings.
- 6.8 The IEMs will submit a written report to the Chairman, NDMC within 8 to 10 weeks from the date of reference or intimation to him by NDMC/ **Bidder(s)/Contractor(s)** and, should the occasion arise, submit proposals for correcting problematic situation.
- 6.9 **The Bidder(s)/Contractor(s) shall not approach the courts while representing the matters to monitors and will await their decision.**

7. **Facilitation of Investigation.**

In case of any allegation of violation of any provisions of this pact or payment of commission, NDMC or its agencies shall be entitled to examine all the documents including the Books of Accounts of the **Bidder(s)/Contractor(s)** and the **Bidder(s)/Contractor(s)** shall provide necessary information and documents in English and shall extend all possible help or the purpose of such examination.

8. **Law and Place of Jurisdiction**

This pact is subject to Indian Law. The place of performance and jurisdiction is the seat of the NDMC.

9. **Other Legal Actions**

The action stipulated in this Integrity Pact are without prejudice to any other Legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.

10. **Validity**

- 10.1 **The validity of this Integrity Pact shall be from the date Integrity Pact is signed by both the parties till the final completion of the contract including defect liability period if any. In case of unsuccessful bidder this Integrity Pact shall expire on the date of signing of the contract by successful bidder.**
- 10.2 Should one or several provision of this Pact turn out to be invalid, the remainder of this Pact shall remain valid. In this case, the parties will strive to come to an agreement to their original intention.

11. The parties hereby sign this Integrity Pact at _____ on _____.

Bidder(s)/Contractor(s)

Witnesses

1. **Signature**

(i) **Name**

(ii) **Father's Name/Husband Name**

(iii) **Addresses**

2. **Signature**

(i) **Name**

(ii) **Father's Name/Husband Name**

(iii) **Addresses**

APPENDIX 1 - A

FORMAT FOR POWER OF ATTORNEY FOR SIGNING OF PROPOSAL
(On Rs. 100 Stamp paper duly attested by Notary Public)

POWER OF ATTORNEY

Know all men by these presents, _____
We

_____ (name and address of the registered office) do hereby constitute, appoint and authorize Mr. / Ms. _____ (name and residential address) who is presently employed with us and holding the position of _____ as our attorney, to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to development
.....(hereinafter referred to as “NDMC”) situated at Palika Kendra, Sansad Marg, New Delhi, including signing and submission of all documents and providing information/ responses to NDMC in all matters in connection with our Proposal.

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

Accepted

Dated this the _____ Day of _____ 20

For _____

(Name, Designation and Address _____ Signature)

(Name, Title and Address of the Attorney) Date: _____

Note:

- 1. To be executed by the Lead Member in case of a Consortium.*
- 2. The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant (s) and when it is so required the same should be under common seal affixed in accordance with the required procedure.*
- 3. Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a 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.*
- 4. A certified copy of the appropriate resolution/ document conveying authority to the person signing this Power of Attorney shall be enclosed in lieu of the Power of Attorney.*

⁵ In case of partnership firm : name and address of principal office of the partnership firm to be provided

APPENDIX 1 - B

**FORMAT FOR POWER OF ATTORNEY FOR DESIGNATING LEAD
MEMBER OF CONSORTIUM**

(On a Rs. 100 Stamp Paper duly attested by Notary Public)

POWER OF ATTORNEY

Whereas, the New Delhi Municipal Council ("NDMC") has invited proposals from qualified Applicants for taking up on build, operate and supply the treated water with the installed capacity to the department for a 12 years and Transfer basis,..... of NDMC situated at Palika Kendra, Sansad Marg, New Delhi.

Whereas, the Consortium being one of the qualified Applicants is interested in bidding for the Project involving design, financing, construction, operation and maintenance of the Parking facility and the Commercial Area in accordance with the provisions of the Concession Agreement and undertaking development of the Project in accordance with the terms and conditions of the Request for Qualification (RFP Document), Request for Proposal (RFP Document) and other connected documents in respect of the Project.

Whereas, it is necessary under the RFP Document for the members of the Consortium to designate a 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 Proposal for the Project, or in the alternative to appoint one of them as the Lead Member who, would have all necessary power and authority to do all acts, deeds and things on behalf of the Consortium, as may be necessary in connection with the Consortium's Proposal for the Project.

NOW THIS POWER OF ATTORNEY WITNESSETH THAT;

We, M/s _____ and M/s _____ (the respective names and addresses of the registered office, in case of companies/ principal office, in case of partnership firms) do hereby designate M/s _____ being one of the members of the Consortium, as the Lead Member of the Consortium, to do on behalf of the Consortium, all or any of the acts, deeds or things necessary or incidental to the Consortium's Proposal for the Project, including submission of Proposal, participating in conferences, responding to queries, submission of information/ documents and generally to represent the Consortium in all its dealings with NDMC, any other Government Agency or any person, in connection with the Project until culmination of the process of bidding and thereafter till the Concession Agreement is entered into with NDMC.

Request proposal for PPP Project to develop 250 to 500 KLD capacity STPs (05 Nos.) at different locations in NDMC area and run for 12 years

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

OR

We, M/s. _____, M/s _____, M/s. _____
_____ and M/s. _____ (the respective names and
addresses of the registered office) do hereby designate M/s _____
_____ (name and address of registered office) being one of the members of the
Consortium as the Lead Technical Member and
M/s _____ (name and registered office) also being
one of the members of the Consortium, as the Lead Financial Member, of the
Consortium who, acting jointly, shall do, all or any of the acts, deeds or things
necessary or incidental to the Consortium's bid for the Project including
submission of application/ proposal, participating in conferences, responding to
queries, submission of information/ documents and generally to represent the
Consortium in all its dealings with NDMC, any other Government Agency or any
person in connection with the Project until culmination of the process of bidding and
thereafter till the Concession Agreement is entered into with NDMC.

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

Dated this the _____ Day of 20...
_____ (Executants)

(TO BE EXECUTED BY BOTH MEMBERS OF THE CONSORTIUM)

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

*Also, where required, the executants(s) should submit for verification the
extract of the charter documents and documents such as a resolution /
power of attorney in favour of the Person executing this Power of Attorney
for the delegation of power hereunder on behalf of the Bidder.*

Strike out whichever is not applicable.

APPENDIX 3

FORMAT FOR ANTI - COLLUSION CERTIFICATE

Anti-Collusion Certificate

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

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

Dated this _____ Day of ____ 20__

_____ (Name of the Bidder)

_____ (Signature of the Authorized Person)

_____ (Name of the Authorized Person)

Note:

1. *On the Letterhead of the Bidder*
2. *To be executed by both members in case of Consortium*

Names of all members in case of Consortium

APPENDIX 4

Earnest Money will be deposited in Online mode through <https://ndmc.procure247.com> using payment modes i.e. Debit Card/Credit Card/Net Banking/Challan (e-CMS) etc. A Payment receipt generated through the said portal shall be uploaded on e-procurement website alongwith other requisite tender documents /and scanned copy of original Bank Guarantee including e-Bank Guarantee (for balance amount as prescribed) within the period of bid submission.

The Earnest Money will be deposited only through Online mode on <https://ndmc.procure247.com>. The original Bank Guarantee (for balance amount as prescribed) shall be deposited by the Contractor in any division office of NDMC and bank guarantee along with its receipt should be uploaded with the tender documents otherwise the same are liable not be opened.

A part of earnest money is acceptable in the form of bank guarantee also. In such case, minimum 50% of earnest money or Rs. 20 lac, whichever is less, shall have to be deposited through Online payment mode, and balance may be deposited in shape of bank guarantee including e-bank guarantee any Commercial Bank having validity for a period of 90 days for Single bid works and 180 days for two bid system or more from the last date of receipt of bids which is to be scanned and uploaded by the intending bidders.

The earnest money given by all the tenderers except the lowest tenderer shall be refunded immediately after the expiry of stipulated bid validity period or immediately after acceptance of the successful bidder, whichever is earlier. However, in case of 2/3 bid systems, Earnest money deposit of bidders unsuccessful during technical bid evaluation etc. should be returned within 30 days of declaration of result of technical bid evaluation

Online bid documents submitted by intending bidders shall be opened only of those bidders,

Who has deposited EMD online and the scanned copy / downloaded copy of receipt of successful transaction/deposition of Online Earnest Money through Online EMD Payment Portal / and scanned copy of Bank Guarantee including e-Bank Guarantee of any Commercial Bank and receipt issued by any division office of NDMC for deposition of bank guarantee and other documents Scanned and uploaded are found in order.

COMPLIANCE CHART FORMAT

The construction of Project Facilities shall be in accordance with the Development and Design Control Norms, Construction requirements and O&M requirements as spelt out in this RFP document (read together with the Draft Concession Agreement, its Schedules and the Project Information Memorandum). The **Schedules 1, 2 and 3** of the Draft Concession Agreement, between them, captures the Development and Design Control Norms, Construction requirements and O&M requirements.

The bidder is required to stipulate in the last column, of table below, either **A or B** :

- A. That the stipulations relating to Development, Design Control Norms and Construction and O&M requirements shall be complied with, OR
- B. That the stipulations relating to Development, Design Control Norms and Construction and O&M requirements would have certain deviations

If the response under the last column of table below is **B**, then the Bidder is required to justify the necessity for the deviation in quantitative and qualitative terms in the last column of the table below.

NDMC reserves the right to accept in full or in part or reject the deviations. Bidders may note that, notwithstanding NDMC's acceptance, in part or full or rejection of the deviations provided below by the bidder, the bid shall be unconditional and there shall be no change in the techno - commercial bid. It may also be noted that, the fixed design parameter's, development control norms in schedule 1 of draft Concession Agreement and covenants mentioned under table 2.1 of C

Appendix 5-A

Clause 1.1 in schedule 2 of draft Concession Agreement should be strictly adhered to by the bidders.

TECHNICAL PROPOSAL REQUIREMENTS - CHECKLIST FOR COMPLIANCE

SI No	Design/ Output Parameter	<u>Indicate A or B i.e., Compliance to/ Deviation from related provisions in Schedules 1, 2 & 4 of the Draft Concession Agreement.</u> ONLY where specified, bidder is required to mention the relevant detail against the particular parameter. If the Indication is B, i.e., if there is a deviation, then the bidder is required to site the related article and justify his deviation from the same
A	Delivery of treated water	
1	Parameter of treated water From STP	

Request proposal for PPP Project to develop 250 to 500 KLD capacity STPs (05 Nos.) at different locations in NDMC area and run for 12 years

Minimum standard of water acceptable to the department		
Sr. No.	Para meter	Permissible Limit
1	Turbidity (NTU)	<2
2	SS	10
3	TDS	2100
4	pH	6.5 to 8.3
5	Temperature C	Ambient
6	Oil & Grease	10
7	Minimum Residual Chlorine	1
8	Total Kjeldahl Nitrogen as N	10
9	BOD	10
10	Chemical Oxygen Demand (COD)	AA
11	Dissolved Phosphorous as P	2
12	Nitrate Nitrogen as N	10
13	Faecal Coliform, MPN/100 mL	100
14	Helminthic Eggs/litre	AA
15	Colour	Colourless
16	Odour	Aseptic which means not septic and not foul odour

Note:-All units in mg/l unless specified. AA- as arising when other parameters are satisfied.

A tolerance of plus 5% is allowable when yearly average values are considered.

2.	Maximum Depth of construction, below ground	Detail to be filled by bidder.
3.	Maximum Height of the STPs plant above the ground level	Detail to be filled by bidder. (The STPs should preferably be under ground and height in no case to be more than 2 ft above ground level).
4.	No tree is permissible to cut /fell at any cost. The trees falling in the layout need to be prevented from felling; this includes shifting and change in the layout of Sewage Treatment Plant. The Contractor should cut and dispose the tree which are falling in the layout of their scope of work awarded to them after obtaining necessary clearance from the concerned authorities only in case of absolute necessity when no other option is left, for which, the concessionary will try to preserve as much trees. The quoted rates shall include this expenditure for cutting of trees and no extra payment shall be made towards the same.	

Request proposal for PPP Project to develop 250 to 500 KLD capacity STPs (05 Nos.) at different locations in NDMC area and run for 12 years

5.	The bidder has to make the provision of connecting line from feeder line to STPs up to any distance.	
6.	The treated water thus received will only be supplied to NDMC and if any other department is willing to purchase the treated water then the same can only be allowed with prior permission from NDMC.	
7.	The designated capacity of the STPs mentioned in RFP at the stated locations is minimum however, if bidder suggest installation of more capacity of STPs will be considered	
8.	The capacity of the storage tank of treated water should be equal or greater than the capacity of the plant.	
B.	Sewage Treatment Technology	
1	Name of the primary, secondary and tertiary treatment technology	Detail to be filled by bidder.
2	Name of Technology supplier and Country of Origin.	Detail to be filled by bidder.
3	Number of projects of similar nature as the one proposed, with capacity : a) in India b) abroad	Detail to be filled by bidder.
4	Number of years of operation of the technology provided	Detail to be filled by bidder.
5	If Technology provider is a foreign firm , details of the arrangement for maintenance and servicing they have in India	Detail to be filled by bidder.
C	Utilities	Detail to be filled by bidder.
1	Electrical a) Total Installed Power requirement for treatment plant (in KW and KVA)	Detail to be filled by bidder.
2	Underground storage a) capacity of raw sewage storage facility provided b) Capacity of treated water storage facility	Detail to be filled by bidder.
D	Project cost	Detail to be filled by bidder.
1	Extent of financial tie-up achieved for the project at the time of bidding expressed as a percentage of the estimated total project cost	Detail to be filled by bidder.

Request proposal for PPP Project to develop 250 to 500 KLD capacity STPs (05 Nos.) at different locations in NDMC area and run for 12 years

2	The bidder's equity contribution expressed as a percentage of the estimated total project cost.	Detail to be filled by bidder.
---	--	--------------------------------

_____ (Name of the Bidder)

_____ (Signature of the Authorized Person)

_____ (Name of the Authorized Person)

Request proposal for PPP Project to develop 250 to 500 KLD capacity STPs (05 Nos.) at different locations in NDMC area and run for 12 years

Appendix 5-B

Financial Bid

Item No.	Description of item	Quantity in KLD	Rate	Rate in words	Unit	Amount
1	Supply of treated water with minimum specified parameters mentioned in Appendix-5A from Sewage Treatment Plant with the capacity output installed / constructed by using the municipal sewage provided free of cost for twelve years of concession period from the various locations of 1. Inside Bapu Dham Housing Complex: 250 KLD, 2. At Horticulture Nursery NDMC opposite INA Metro Station: 500 KLD, 3. At island existing at the intersection of Rajendra Prasad Road & Ashoka Road: 500 KLD., 4. At Bharti Nagar Sewerage Pumping Station: 500 KLD, 5. At Nehru Park: 500 KLD. (Schedule of quantity is for 12 years)	77,62,500			Per kilo litre	

Appendix-6

Information and instruction for Executive Engineer for e-tendering.

1. The Executive Engineer (NDMC) should receive the online EMD for tender.
2. The RFP approving authority EE(Hort.) at the time of issue of RFP shall also fill and upload following prescribed format of receipt of deposition of online EMD along with RFP:-

Receipt of deposition of online EMD (Receipt on.....)

Name of Work:- Public Private Partnership (PPP) project to develop additional water resources by installing 250 to 500 KLD capacity STPs (05 Nos.) at different locations in NDMC area and run for 12 years along with infrastructure (construction of sewage treatment plant) in NDMC area.

- (ii) RFP No.01/EE(Hort.)/2025-26
- (iii) Amount of EMD **Rs. 10,00,000/-**
- (iv) Last date of submission of bid **on 22.06.2026 at 4.00 PM**

The earnest money (EMD) shall be accepted only through Online mode by Registration of the bidder on the portal <https://ndmc.procure247.com> (**one time**) using payment modes i.e. Debit Card/Credit Card/Net Banking/Challan (e-CMS) etc. (detailed instructions given in the Section – Instructions to bidders).

The scanned copy / downloaded copy of receipt of successful transaction/deposition of Online Earnest Money through Online EMD Payment Portal / and scanned copy of Bank Guarantee including e-Bank Guarantee of any Commercial Bank and receipt issued by any division office of NDMC for deposition of bank guarantee (for balance amount as prescribed, if any) should be uploaded with the tender documents otherwise the same are liable not be opened.

Request proposal for PPP Project to develop 250 to 500 KLD capacity STPs (05 Nos.) at different locations in NDMC area and run for 12 years

The availability and existence of plot area is marked against STPs site locations and none of the bidder shall be allowed to exceed the specified area.

S. No.	Locations of proposed STP	Available area (approx.)	Capacity
1	Inside Bapu Dham Housing Complex		250 KLD
2	At Horticulture Nursery NDMC opposite INA Metro Station		500 KLD
3	At island existing at the intersection of Rajendra Prasad Road & Ashoka Road		500 KLD
4	At Bharti Nagar Sewerage Pumping Station		500 KLD
5	At Nehru Park		500 KLD

Information regarding Sewerage Collection point for proposed STP site location for **reference only**. However, this may be verified by bidder at the site inspection before bidding.

Sr. No.	location of STP'S	Location of Inlet Manhole	Depth of manholes	Dia metre (mm)	Remarks
1	Inside Nehru Park	Near Navyug School Vinay Marg	4.00 mtr	1200	Raw Sewage

Additional Conditions:

- (1) During actual rainy days, the payment of treated water as per actual flow meter reading shall only be paid to the concessionaire & no payment shall be made to the concessionaire under Clause 6.2 (f) on actual rainy days.
- (2) Prior intimation shall be given by the concessionaire to the engineer-in-charge before taking up the work of maintenance / shut down of the STP/ TTP failing which penalty as per Table no.-1 at page 57 of Concession Agreement shall be imposed on the days of default fully or partly on pro-rata basis.
- (3) No price escalation on the cost of construction of STPs shall be given for any time period in case, the site of work for the STP under the agreement will be handed over to the concessionaire at any later stage. However the concession period shall be counted from the actual date of handing over of site in this case.
- (4) The penalty structure as specified in Table 1 & 2 at pg. 57 & 58 of Concession Agreement shall be considered for individual STP/ TTP as the case may be.
- (5) The allocated site for STPs as per RFP can any time be changed/ replaced by the Engineer-in-Charge by giving intimation to the concessionaire and no extra claim to this effect shall be sought by the concessionaire from the NDMC on any ground as the case may be and further no any Clause reflecting/ resembling condition to above shall be considered by the NDMC, if presented by the concessionaire.
- (6) During the course of O&M of any of the commissioned STPs site under the agreement, non availability of required quantity of sewage if arise at any point of time later on shall not bind the NDMC for making payment under Clause 6.2(f) on annual basis on the day of default. However penalty specified in Table 1 & 2 in the Concession Agreement at page 57 & 58 shall not be hold good for the aforesaid day/ days of default.

CONCESSION AGREEMENT

between

New Delhi Municipal Council ("NDMC")

and

(Concessionaire)

Sewage Treatment Plants of 250 KLD to 500 KLD capacity (05 Nos).

1. Inside Bapu Dham Housing Complex: 250 KLD,
2. At Horticulture Nursery NDMC opposite INA Metro Station: 500 KLD,
3. At island existing at the intersection of Rajendra Prasad Road & Ashoka Road: 500 KLD.,
4. At Bharti Nagar Sewerage Pumping Station: 500 KLD,
5. At Nehru Park: 500 KLD.

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Concessionaire agreement for PPP Project to develop 250 to 500 KLD capacity STPs (05 Nos.) at different locations in NDMC area and run for 12 years

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This Concession Agreement entered into on this the _____ day of _____ (Month), Two Thousand and at Delhi,

BETWEEN

The Chairperson, on behalf of the New Delhi Municipal Council a body corporate constituted under the New Delhi Municipal Council Act, 1994 having its office at Pallika Kendra, Sansad Marg, New Delhi hereinafter referred to as "the Concessing Authority" or "NDMC" which expression shall unless repugnant to the context include its successors and assigns, OF THE ONE PART,

AND

_____, a company incorporated under provisions of the Companies Act, 1956, having its registered office at _____, hereinafter referred to as "Concessionaire" which expression shall unless repugnant to the context include its successors and permitted assigns, OF THE OTHER PART.

WHEREAS,

- A. The consistent and increasing demand of water for horticulture in NDMC area during summer and winter is to be required for maintaining / improving green area's. The valuable resources of scare water is recycled upto the standard of horticulture demand in NDMC area by continuous availability of raw material for the Sewage Treatment Plant i.e. sewage. NDMC is desirous to improve the availability of raw water for horticulture and dependency on UFW currently provided by CPWD by developing infrastructure STP's/ TTP's. With this objective, development of STP's infrastructure is proposed under a Public Private Partnership **1. Inside Babu Dham Housing Complex: 250 KLD, 2. At Horticulture Nursery NDMC opposite INA Metro Station: 500 KLD, 3. At island existing at the intersection of Rajendra Prasad Road & Ashoka Road: 500 KLD., 4. At Bharti Nagar Sewerage Pumping Station: 500 KLD, 5. At Nehru Park: 500 KLD.**
- B. NDMC, after evaluating the aforesaid Proposals accepted the Proposal submitted by the Concessionaire/Consortium and issued Letter of Acceptance No. _____ dated _____ to the Concessionaire /Consortium for implementing the Project.
- C. In accordance with the terms of the Proposal submitted by the Consortium, the Consortium has caused the Concessionaire to be incorporated as a special purpose company (as hereinafter defined)¹ to implement the Project.
- D. The Parties hereto are required to enter into the Concession Agreement being these presents to record the terms, conditions and covenants of the Concession.

¹ In case the bidder is a Consortium

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS :-

ARTICLE 1

DEFINITIONS AND INTERPRETATION

1.1 Definitions

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

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

“Affected Party” shall mean the Party claiming to be affected by a Force Majeure Event in accordance with **Article 7.1**.

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

“Applicable Law” shall mean all laws, acts, ordinances, rules, regulations, notifications, guidelines or bylaws which have the force of law and that are in force and effect, as of the date hereof, and which may be promulgated or brought into force and effect hereinafter in India including judgements, awards, decrees, injunctions, writs or orders of any court of record, as may be in force and effect during the subsistence of this Agreement and applicable to the Project/the Concessionaire.

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

“Appointed Date” shall mean the date of LOI or handing over of site whichever is later.

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

**Deleted
EE(Hort)**

“Book Value” means the value of the capital expenditure incurred on the Project as per the books of the Concessionaire net of depreciation charged on the basis of

straight line method and amortized equally over the Operations Period, duly certified by the Expert.

"Change in Law" shall have the meaning ascribed thereto in **Article 9**.

"COD" or **"Commercial Operations Date"** shall mean the date on which the Engineer-in-Charge has issued the Provisional Completion Certificate or the Completion Certificate in accordance with the provisions of **Article 5.4**.

"Completion Certificate" shall mean the certificate issued by Engineer-in-Charge certifying, that:

- (i) the Concessionaire has constructed the STPs in accordance with the Construction Requirements; and

"Concession" shall have the meaning ascribed thereto in **Article 2.1** of this Agreement.

"Concessionaire Event of Default" shall have the meaning ascribed thereto in **Article 8.1(a)**.

"Concession Period" means the period of Concession specified in **Article 2.2**, as applicable.

"Consortium" shall mean the consortium consisting of (i) M/s. **AAAA** (ii) M/s. **BBBB** (iii) M/s. **CCCC** and (iv) M/s. **DDDD** formed/ acting pursuant to the Memorandum of Understanding dated _____ entered into by them, for the purpose of submitting their proposal for undertaking the Project through the Concessionaire, a special purpose company formed and incorporated by them in India.

"Members" Members shall mean each member shall have more than 25% Equity.

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

"Construction Requirements" shall mean the requirements as to construction of the STPs as set out in Schedule 2.

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

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

"Cure Period" shall have the meaning ascribed thereto in Article 8.2(a)(iii) of this Agreement.

"Drawings" shall mean all of the drawings, designs, calculations and documents pertaining to the Project submitted by the Concessionaire in connection with the Project.

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

"Encumbrance" shall mean any encumbrance such as mortgage, charge, pledge,

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

“EPC Contract” shall mean the contract if any entered into by the Concessionaire for the purpose of design, engineering, procurement of equipment and materials (including by import thereof) and construction of the Project in accordance with the provisions of this Agreement.

“Financial Close” means the date on which the Financing Documents and the Equity Documents have become effective, and the Concessionaire has access to the funds/financial assistance committed there under.

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

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

“Force Majeure” or **“Force Majeure Event”** shall mean an act, event, condition or occurrence as specified in **Article 7**.

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

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

“Handback Requirements” shall have the meaning ascribed thereto in **Article 10**.

“Implementation Schedule” shall mean the monthly milestone schedule to be submitted by the Concessionaire in accordance with **Article 5.3** of this Agreement.

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

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

“Master Plan” shall mean Master Plan of Delhi 2041.

“Material Adverse Effect” shall mean a material adverse effect on (a) the ability of

the Concessionaire to exercise any of its rights or perform/discharge any of its duties/obligations under and in accordance with the provisions of this Agreement and/or (b) the legality, validity, binding nature or enforceability of this Agreement.

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

“Month” “the calendar month as per the Gregorian calendar

“NDMC Event of Default” shall have the meaning ascribed thereto in **Article 8.1(b)**.

“O&M Contract” means the contract, if any, entered into by the Concessionaire for the operation and maintenance of the STPs in accordance with the provisions of this Agreement.

“O&M Manual” shall mean the manual in respect of the operation and maintenance of the STPs to be prepared by the Concessionaire in accordance with **Schedule 3**.

“O&M Requirements” shall mean the requirements as to operation and maintenance of the STPs set forth in **Schedule 3**.

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

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

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

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

“Project” shall mean design, financing, construction, operation and maintenance of STPs at the Project Sites in accordance with the provisions of this Agreement.

“Project Agreements” shall mean collectively this Agreement, EPC Contract, O&M Contract and any other material contract (other than Financing Documents) entered into or may hereafter be entered into by the Concessionaire in connection with the Project.

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

“Project Site” shall have the meaning prescribed thereto in article 3 of this Agreement.

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

“Request for Proposal” or “RFP” shall mean the RFP dated ... issued by NDMC for this Project.

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

“Scheduled Project Completion Date” or “SPCD” shall mean the date 6 months from the Appointed Date.

“Substitution Agreement” shall mean the agreement substantially in the form set out at **Schedule 8**, to be entered into between NDMC, Lenders and the Concessionaire.

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

“Techno-Commercial Report” shall mean the report in respect of the Project prepared by NDMC and provided by NDMC to the bidders as part of bidding

documents.

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

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

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

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

“Year” shall mean a period of 12 Months commencing from the appointed date and every 12 Month period thereafter during the term of this Concession Agreement.

“Bid Security” shall mean **“EMD”** (Earnest Money Deposit) and both are one and the same thing for this project.

“Performance Security” shall mean **“Performance Guarantee”** and both are one and the same thing for this project.

1.2 Interpretation

In this Agreement, unless the context otherwise requires,

- (a) any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies to, or is capable of being applied to any transactions entered into hereunder;
- (b) 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, organisations or other entities (whether or not having a separate legal entity);
- (c) the headings are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;
- (d) the words "include" and "including" are to be construed without limitation;
- (e) any reference to day, month or year shall mean a reference to a calendar day, calendar month or calendar year respectively;
- (f) 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;
- (g) any reference to any period of time shall mean a reference to that according to Indian Standard Time (IST).
- (h) the Schedules to this Agreement form an integral part of this Agreement as though they were expressly set out in the body of this Agreement;
- (i) 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;
- (j) references to recitals, Articles, sub-articles, clauses, or Schedules in this Agreement shall, except where the context otherwise requires, be deemed to be references to recitals, Articles, sub-articles, clauses and Schedules of or to this Agreement;
- (k) any agreement, consent, approval, authorisation, notice, communication, information or report required under or pursuant to this Agreement from or by any Party shall be valid and effectual only if it is in writing under the hands of duly authorised representative of such Party or Engineer –in –Charge in this behalf and not otherwise;
- (l) references to "Construction" includes investigation, design, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental thereto

ARTICLE 2 CONCESSION

Grant of Concession

Subject to and in accordance with the terms and covenants set forth in this Agreement, the Concessioneing Authority hereby grants and authorises the Concessionaire to design, engineer, finance, construct, operate and maintain the Project and to exercise and/ or enjoy the rights, powers, benefits, privileges, authorisations and entitlements as set forth in this Agreement. (the “**Concession**”).

2.1 Concession Period

The Concession hereby granted is for a period of 12 years commencing from the Appointed Date during which the Concessionaire is authorised to implement the Project in accordance with the licence hereby granted and to provide STPs/ TTP's and services in accordance with the provisions hereof (hereinafter referred to as the “Concession Period”).

Provided, in the event of an early termination of the Concession/ this Agreement by the Parties in accordance with the provisions hereof, the Concession Period shall mean and be limited to the period commencing from the Appointed Date and ending with the date of termination of the Concession/this Agreement.

ARTICLE - 3

PROJECT SITE

3.1 Handover of Project Site

- (a) NDMC shall, subject to submission of Performance Security in terms of provisions of Article 5.1, within 10 days from the date of this Agreement , grant permission/ licence to the Concessionaire to enter upon and utilise the Site for the construction pursuant to and purpose of implementing the Project in accordance with this Agreement.
- (b) Upon the permission being granted pursuant to the preceding sub-article 3.1 (a), the Concessionaire shall, subject to the provisions of Article 5, have the right to enter upon, occupy and use the same and to make at its costs, charges and expenses such investigation, development and improvements in the Project Site as may be necessary or appropriate to develop implement the Project and provide STP in accordance with the provisions of this Agreement.

3.2 Rights, Title and Use of the Project Site

- (a) The Concessionaire shall have the right to the use of the Project Site in accordance with the provisions of this Agreement and for this purpose it may regulate the entry and use of the same at their own cost.
- (b) The Concessionaire shall have the right to enter into License Agreements with suitable Persons, in respect of the Commercial Facilities subject to the conditions set forth under this Agreement provided such License Agreements are placed for NDMC's record within 15 days of execution.
- (c) The Project Site and STP shall be and continue to vest in NDMC. The Concessionaire shall not part with or create any Encumbrance on the whole or any part of the Project Site and/or the Project Facilities, save and except as set forth and permitted under this Agreement .
- (d) The Concessionaire shall not without the prior written approval of NDMC use the Project Site for any purpose other than for the purpose of the Project and purposes incidental or ancillary thereto.

3.3 Peaceful Possession as Licensee

NDMC, as Concessioning Authority, hereby warrants that:

- (a) The Project Site together with the necessary access/ right of way/ way-leaves has been leased to NDMC and that NDMC has full powers to hold, dispose of and deal with the same consistent with the provisions of this Agreement and that the Concessionaire shall, in respect of the Project Site, have no liability regarding any compensation payment on account of rehabilitation/ resettlement or land acquisition of any Persons affected thereby.
- (b) The Concessionaire shall, subject to complying with the terms and conditions of this Agreement, be permitted peaceful use of the Project Site as Licensee. Licensee shall, subject to complying with the terms and conditions of this Agreement, remain in peaceful possession and enjoyment of the Licensor's

Assets during the License Period. In the event the Concessionaire is obstructed by any Person claiming any right, title or interest in or over the Project Site or any part thereof or in the event of any enforcement action including any attachment, distraint, appointment of receiver or liquidator being initiated by any Person claiming to have any interest in/charge on the Project Site or any part thereof, NDMC shall, if called upon by the Concessionaire, defend such claims and proceedings and also keep the Concessionaire indemnified against any consequential loss or damages which the Concessionaire may suffer, on account of any such right, title, interest or charge.

3.4 Applicable Permits

The Concessionaire shall obtain and maintain all Applicable Permits including those indicated in **Schedule 3** as is required for the Project. Such Applicable Permits shall be obtained in such sequence as is consistent with the requirements of the Project.

ARTICLE 4 INDEPENDENT/ Third Party

4.1 Procedure for Appointment

The appointment of independent engineer is kept optional and incase the NDMC or concessionaire shall feel the need of Independent Engineer, then, with the mutual consent (through tender) an Independent Engineer shall be appointed and NDMC will pay 100% fee for the Independent Engineer/third party and testing charges, but in case, if any sample is failed during testing, than the fee of testing shall be borne by the concessionaire in totality.

ARTICLE 5 CONCESSIONAIRE'S OBLIGATIONS

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

5.1 Performance Security

(a) The Concessionaire shall, for due and punctual performance of its obligations hereunder relating to the Project, deliver to NDMC, simultaneously with the execution of this Agreement, in the form as set forth in **Schedule 4**, ("Performance Security") for a sum of Rs. 40,00,000/- (Rupees Forty Lacs only).

(b) This performance guarantee shall be deposit in the form Deposit at Call receipt of any scheduled bank/Banker's Cheque of any scheduled bank/Demand Draft of any scheduled bank/Pay Order of any scheduled bank or Fixed Deposit Receipts

(c) The Performance Security shall be kept valid up to the satisfactory /Successful commissioning of the plant from the Appointed Date and further till the concession period (i.e O&M of 12 years).

(d) The performance guarantee shall be kept valid up to the satisfactory/successful commissioning of the plant from the Appointed date and further till the concession period. In case the bank does not issue the required Performance Guarantee for the entire project period at one time, the agency shall get the pG revalidated/extended from time to time through the bank till completion of the O&M period.

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

5.2 Financing Arrangement

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

(b) The Concessionaire shall achieve Financial Close on or before 90 days from the Appointed Date.

5.3 Drawings

- (a) The Concessionaire shall, subject to the Construction Requirements, as set forth in **Schedule 2** and Approved Development Control Norms including those set forth in **Schedule 1** and **Schedule 2**, prepare the Drawings for Project of installation of STP Provided that, the Concessionaire shall, in any event be solely responsible for the adequacy of the Drawings.
- (b) The Concessionaire shall submit the Drawings to NDMC within 15 days after signing of agreement. with a schedule with 3 monthly milestones for implementation of the Project ("Implementation Schedule");

5.4 Project Implementation

(a) Construction Works

- i. The Concessionaire shall design, engineer, procure and construct the STP in accordance with the Construction Requirements as set out in the Schedules to this Agreement
- ii. The Concessionaire shall adhere to the Implementation Schedule and the Construction Requirements during the Construction Period and achieve COD for the Project on or before the Scheduled Project Completion Date.
- iii. The Concessionaire may undertake Construction Works by itself or through a Contractor possessing requisite technical, financial and managerial expertise/capability; but in either case, the Concessionaire shall remain solely responsible to meet the Construction Requirements.
- iv. The Concessionaire shall, before commencement of Construction Works:
 - have requisite organization and designate and appoint suitable officers/ representatives as it may deem appropriate to supervise the Project, to deal with the Engineer-in-Charge/NDMC and to be responsible for all necessary exchange of information required pursuant to this Agreement;
 - obtained approval of NDMC for the Drawings and carried out such changes as may be suggested by NDMC towards conformity with the Construction Requirements; and
 - all Applicable Permits required for commencement of Construction Works have been obtained.
- v. For the purposes of determining that Construction Works are being undertaken in accordance with the Construction Requirements, Approved Development Control Norms and the Drawings approved pursuant to **Article 5.3(a)**, the Concessionaire shall with due diligence carry out all necessary and periodical Tests in accordance with and as per the instructions of the Engineer-in-Charge and such Tests shall be carried out under the supervision of Engineer-in-Charge. The Concessionaire shall

maintain proper record of such Tests and the remedial measures taken to cure the defects or deficiencies, if any, indicated by the Test results.

- vi. The Construction Works shall be deemed to be complete and ready for commercial operations only after the satisfaction of the Engineer-in-Charge.
- 5.5** “The COD of the project shall be given after successful commissioning of project in a six months period. However, an extension of six months shall be considered with penalty @ Rs.5/- per KL/day per Plant of delay period shall either be levied after issue of COD or shall be recovered from the bid security
- 5.6** Performance security as admissible and beyond that the project shall be scrapped with penalty to be levied for project opportunity lost of treated water for one year period @ Rs.5/- per KL/day per Plant of delay period from the bid security/ Performance security.
- 5.7 Operation and Maintenance**
- (a) The Concessionaire shall operate and maintain the STP in accordance with the O&M Requirements in terms of **Schedule 3**.
 - (b) The Concessionaire may undertake operations and maintenance of the STPs by itself or through a Contractor possessing requisite technical, financial and managerial expertise/capability; but in either case, the Concessionaire shall remain solely responsible to meet the O&M Requirements.
 - (c) The Concessionaire shall, during the Operations Period:
 - i. have requisite organization and designate and appoint suitable officers/ representatives as it may deem appropriate to supervise the Project Facilities, to deal with the personnel deployed by NDMC for monitoring proper operations and maintenance of the Project, consistent with the O&M Manual and the O&M Requirements, and to be responsible for all necessary exchange of information required pursuant to this Agreement;
 - ii. The concessionaire shall display and upload the treated water quality parameters on NDMC Website every week. In case the treated water quality is found below the acceptable limit, then the payments for last 15 days shall be recovered from the running bills of the concessionaire. NDMC shall also check the treated water quality randomly to ensure the quality of treated water.
 - (d) In the event, the Concessionaire has failed to operate and maintain the STPs in accordance with the O&M Requirements, and such failure has not been remedied despite a notice to that effect issued by the NDMC (“Notice to Remedy”), NDMC may, without prejudice to any of its other rights/remedies under this Agreement, be entitled to cause the repair and maintenance of the STP at the risk and cost of the Concessionaire. The Concessionaire shall reimburse one and half times the costs incurred by NDMC on account of such repair and maintenance within 7 days of receipt of NDMC’s claim therefor.
 - (e) The Concessionaire shall be deemed to be in material breach of O&M Requirements, if NDMC, acting reasonably and in accordance with the

provisions of this Agreement, has determined that due to breach of its obligations by the Concessionaire,

- i. the maintenance of the STP or any part thereof has deteriorated to a level which is below the acceptance level prescribed by the O&M Requirements;
 - ii. there has been a serious or persistent breach in adhering to the O&M Requirements and thereby the STP or any part thereof is not safe for operations;
- (f) Upon occurrence of a Material Breach of O&M Requirements, NDMC shall, without prejudice to and notwithstanding any other consequences provided therefor under this Agreement, be entitled to terminate this Agreement.

5.8 Insurance

(a) Premium Payment

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

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

(b) Un-insurable Risks

If during the Concession Period, any risk which has been previously insured becomes un-insurable due to the fact that the insurers have ceased to insure such a risk and therefore insurance cannot be maintained/re-instated in respect of such risk, the Concessionaire shall not be deemed to be in breach of its obligations regarding insurance under this Agreement. However the concessionaire shall intimate to NDMC in time if any such sieze is made by the insurance company due to any reason.

5.9 Legal Compliance

The Concessionaire shall, ensure that all aspects of the STP during the Concession Period and processes employed in the construction, operation and maintenance thereof shall conform to the extant applicable laws, including those pertaining to environment, labour, health and safety aspects including, policies and guidelines related thereto.

5.10 Shareholding

The Concessionaire shall ensure that M/s ____ (LEAD MEMBER/ SELECTED BIDDER) _____² hold not less than 51% of the paid up share capital of the Concessionaire during the entire Concession Period.

Or

The Concessionaire shall ensure that M/s. (LEAD TECHNICAL MEMBER) _____³ hold not less than 10% of the paid up share capital of the Concessionaire during the entire Concession Period and M/s. (LEAD

² Name of the Lead Member (in case of Consortium) or the selected Bidder (in case the selected Bidder is a single entity)

³ Name of LTM and LFM (in case of a Consortium comprising LTM and LFM)

FINANCIAL MEMBER)_____ hold not less than 41% of the paid up share capital of the Concessionaire during the entire Concession Period, and together, the M/s. (LEAD TECHNICAL MEMBER)_____⁴ and M/s. (LEAD FINANCIAL MEMBER)_____ hold not less than 51% of the paid up share capital of the Concessionaire during the entire Concession Period.

Specific Obligations

(a) Compulsory operation and maintenance for treating sewerage.

Here it should be ensured by the concessionaire that all the STP are working all the time and annual repair/maintenance etc shall be taken during rainy season only i.e. between 15th July to 15th Sept.

Only raw sewage shall be supplied free of cost, rest all expenses shall be borne by the Concessionaire.

5.11 General Obligations

The Concessionaire shall at its own cost and expense:

- (a) investigate, study, design, finance, construct, operate and maintain the STP in accordance with the provisions thereof;
- (b) obtain all Applicable Permits and be in compliance thereof at all times during the Concession Period;
- (c) comply with Applicable Law governing the operations of the Project Facilities, as the case may be, at all times during the Concession Period;
- (d) ensure and procure that each Project Agreements contains provisions that would entitle NDMC or a nominee of NDMC or the Lender or the Lender's nominee to step into the same at NDMC's discretion, in place and substitution of the Concessionaire, pursuant to the provisions of this Agreement or the Substitution Agreement;
- (e) procure and maintain in full force and effect, as necessary, appropriate proprietary rights, licenses, agreements and permissions for materials, methods, processes and systems used in or incorporated into the Project Facilities;
- (f) appoint, supervise, monitor and control as necessary, the activities of Contractors under the respective Project Agreements;
- (g) make efforts to maintain harmony and good industrial relations among the personnel employed in connection with the performance of its obligations under this Agreement and shall be solely responsible for compliance with all labour laws and solely liable for all possible claims and employment related liabilities of its staff employed in relation with the STP and hereby indemnifies NDMC against any claims, damages, expenses or losses in this regard and that in no case and shall for no purpose shall NDMC be treated as employer in this regard;

⁴ Name of LTM and LFM (in case of a Consortium comprising LTM and LFM)

- (h) make its own arrangements for construction materials and observe and fulfil the environmental and other requirements under the Applicable Law and Applicable Permits issued time to time.
- (i) be responsible for all the health, security, environment and safety aspects of the project i.e. to develop STP, as the case may be, at all times during the Concession Period;
- (j) ensure that the STP remains free from all encroachments and take all steps necessary to remove encroachments, if any;
- (k) be responsible for the shifting of utilities if any with due permission if any required and in the manner stipulated by the relevant Government Agency;
- (l) ensure that the shifting of utilities is carried out in a manner so as to cause least damage and inconvenience to the users thereof;
- (m) upon receipt of a request thereof, afford access to the STP to the authorised representatives of NDMC for the purpose of ascertaining compliance with the terms, covenants and conditions of this Agreement and to any Government Agency having jurisdiction over the Project, including those concerned with safety, security or environmental protection to inspect the STP and to investigate any matter within their authority and upon reasonable notice, the Concessionaire shall provide to such persons assistance reasonably required to carry out their respective duties and functions.
- (n) Pay all taxes, duties and outgoings, including utility charges relating to the Project Facilities;
- (o) Upon Termination, vacate the Project Site and hand back the STP in accordance with the Hand back Requirements.
- (p) Any residual or by product shall be the property of the concessionaire and he shall be free to use as per their will.
- (q) As fixed by department time to time, no pre-fixing of electrical charges and agency to quote according the variable rates.

5.12 No Breach of Obligations

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

- i. Force Majeure Event, subject to **Article 7.1**;
- ii. NDMC Event of Default;
- iii. Compliance with written instructions of the NDMC or the directions of any Government Agency in writing, other than instructions issued as a consequence of a breach by the Concessionaire of any of its obligations hereunder;

- 5.12** In case of any complaint from the common public/passersby/pedestrian/ walkers regarding occurrence of smell/odour either from inlet or from outlet or any other part of STP shall arise, a penalty @ Rs 10,000/- per day of occurrence of complaint as aforesaid shall be levied on the concessionaire during the entire concession period since the date of commissioning of STP.

ARTICLE 6

NDMC's OBLIGATIONS

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

6.1 Specific Obligations

- (a) NDMC shall grant permission/license to enter upon and utilize the Project Site to the Concessionaire pursuant to and in accordance with this Agreement;
- (b) Prior to handover of the Project Site, NDMC shall
 - i. make arrangements to relocate all the occupants of the Project Site, to an alternative site as may be suitably identified by NDMC;
 - ii. remove all encroachments from the Project Site;
- (c) NDMC shall grant/assist in obtaining all such approvals, permissions and authorizations which the Concessionaire may require or is obliged to seek from NDMC under this Agreement, in connection with implementation of the Project and the performance of its obligations. Provided where authorization for availment of utilities such as power, water, sewerage, telecommunications or any other incidental services/utilities is required, the same shall be provided by NDMC in the form as set out in **Schedule 5**, within 15 (fifteen) days from receipt of request from the Concessionaire to make available such authorization.
- (d) Without prejudice to the generality of the preceding sub-clause (c), the NDMC shall provide all assistance for transfer of the utilities if any at the Project Site.
- (e) NDMC shall grant/assist in obtaining necessary permissions and approvals to the Concessionaire so as to enable the Concessionaire to meet his obligations relating to the Construction Requirements and shall take necessary steps for regulation of traffic and/or removal of obstructions and other impediments, if any, to facilitate the same.
- (f) NDMC shall ensure consuming the BOQ Quantity with the variation of plus/minus five percent(+/- 5%) and if it fails then the balance will be reimbursed on an annual average quantity by NDMC

6.2 General Obligations

NDMC shall :

- (a) upon a reasonable request from the Concessionaire, in writing, assist, by issuing letters of recommendation, the Concessionaire in obtaining access to all necessary infrastructure facilities and utilities, including water, electricity and telecommunication facilities at rates and on terms no less favourable to the Concessionaire than those generally available to commercial customers receiving substantially equivalent facilities/utilities;
- (b) assist the Concessionaire, by issuing letters of recommendation, in obtaining police assistance, upon payment of prescribed costs and charges, if any, for traffic regulation, patrolling and provision of security on the Project Site/STPs and implementing this Agreement in accordance with the provisions hereof;
- (c) observe and comply with all its obligations set forth in this Agreement.
- (d) Steering Committee shall be constituted to take final technical decision. The committee shall be headed by Chief Engineer (Civil), which shall be binding to both the parties. Representative of concessionaire shall also be the member of Steering Committee.
- (e) For the sake of releasing payment to the concessionaire, it will be ensured by NDMC that monthly bill shall be made and 75% of billed amount will be made in 7 days (working days) and rest after checking of bill.
- (f) NDMC shall ensure consuming the BOQ Quantity with the variation of plus/minus five percent(+/- 5%) and if it fails then the balance will be reimbursed on an annual average quantity by NDMC.

- 6.3 Price Escalation:-** Escalation annually in bid price @5% per annum shall be admissible after the one year from the date of commercial operation of each STP.

ARTICLE 7

FORCE MAJEURE

7.1 Force Majeure Events

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 and landslide;
- (b) storm, tempest, hurricane, cyclone, lightning, thunder or other extreme atmospheric disturbances;
- (c) fire caused by reasons not attributable to the Concessionaire or any of the employees, contractors or agents of the Concessionaire;
- (d) acts of terrorism;
- (e) strikes, labour disruptions, any other industrial disturbances or public unrest not arising on account of the acts or omissions of the Concessionaire; or

- (f) war, hostilities (whether war be declared or not), invasion, act of foreign enemy, rebellion, riots, weapon conflict or military action or civil war;

7.2 Notice of Force Majeure Event

1. As soon as practicable and in any case within 7 days of the date of occurrence of a Force Majeure Event or the date of knowledge thereof, the Affected Party shall notify Engineer –in- charge 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 Agreement is affected by the Force Majeure Event; and
 - (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;

7.3 Performance of Obligations

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

- (a) due notice of the Force Majeure Event has been given as required by the preceding Clause 9.2 (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 Agreement;
- (d) the Affected Party shall continue to perform such of its obligations which are not affected by the Force Majeure Event and which are capable of being performed in accordance with this Agreement;

7.4 Termination due to Force Majeure Event

If a Force Majeure Event leads to a situation that in the reasonable judgement of the Parties, the Project Facilities cannot be restored ("Total Loss") or if a Force Majeure Event subsists for a period exceeding 180 days either Party shall be entitled to terminate this Agreement by a notice in writing in respect thereof ('Termination Notice'). Following the issue of Termination Notice by a Party, the Parties shall promptly take all such steps as may be necessary or required to ensure that the Project Site and Project Facilities are handed back to NDMC by the Concessionaire on the Termination Date free from all Encumbrance.

7.5 Liability for other losses, damages on a Force Majeure Event

Save and except as expressly provided in this **Article 7**, 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. However, liquidated damages at the following rates will be applicable in case of STP/ TTP is shut down for following %ages:

1. If STP is shut down upto 10%: Liquidated damages will be 50% of the cost of water.

2. If STP is shut down upto 10%-20%: Liquidated damages will be 75% of the cost of water.
3. If STP is shut down more than 20%: Liquidated damages will be 100% of the cost of water.

ARTICLE 8

EVENTS OF DEFAULT AND TERMINATION

8.1 Events of Default

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

(a) Concessionaire Event of Default

Any of the following events shall constitute an event of default by the Concessionaire ("**Concessionaire Event of Default**") unless such event has occurred as a result of one or more reasons set out in **sub- article 5.11 of Article 5**;

- (i) The Concessionaire has failed to adhere to the Construction Requirements and the Implementation Schedule and such failure, in the reasonable estimation of the Engineer-in-Charge, is likely to delay achievement of COD beyond 06 months of the Scheduled Project Completion Date.
- (ii) The Concessionaire has failed to achieve COD within 06 months from the Scheduled Project Completion Date.
- (iii) The Concessionaire is in Material Breach of O&M Requirements.
- (iv) Any representation made or warranties given by the Concessionaire under this Agreement is found to be false or misleading.
- (v) The Concessionaire has created any Encumbrance on the Project Site in favour of any Person save as otherwise expressly permitted under this Agreement.
- (vi) The Concessionaire has failed to ensure minimum shareholding requirements specified in **sub-article 5.8 of Article 5**.
- (vii) A resolution has been passed by the shareholders of the Concessionaire for the voluntary winding up of the Concessionaire.
- (viii) Any petition for winding up of the Concessionaire has been admitted and liquidator or provisional liquidator has been appointed or the Concessionaire has been ordered to be wound up by Court of competent jurisdiction except for the purpose of amalgamation or reconstruction with the prior consent of NDMC, provided that, as part of such amalgamation or reconstruction, the property, assets and undertaking of the Concessionaire are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the obligations of the Concessionaire under this Agreement and the Project Agreements, and provided further that:
 - a) the amalgamated or reconstructed entity has the technical capability and operating experience necessary for the performance of its obligations under this Agreement and the Project Agreements;
 - b) the amalgamated or reconstructed entity has the financial standing to perform its obligations under this Agreement and the Project Agreements and has a credit worthiness at least as good as that of the Concessionaire as at Commencement Date and
 - c) each of the Project Agreements remains in full force and effect.
- (x) A default has occurred under any of the Financing Documents and any of

the Lender(s) has recalled its financial assistance and demanded payment of the amounts outstanding under the Financing Documents or any of them as applicable.

- (xi) The Concessionaire has abandoned the Project Facilities.
- (xii) The Concessionaire has repudiated this Agreement or has otherwise expressed an intention not to be bound by this Agreement.
- (xiii) The Concessionaire has suffered an attachment levied on any of the assets located or comprised in the Project Site/Project Facilities, causing a Material Adverse Affect on the Project and such attachment has continued for a period exceeding 90 days.
- (xiv) The Concessionaire has otherwise been in Material Breach of any of its other obligations and terms and conditions under this Agreement and the RFP.
- (xv) The concessionaire is not able to run all the STP's/ TTP's minimum to 90 % of its capacity at all the times or otherwise as specified by Engineer – in- charge.
- (xvi) To resolve the dispute for termination of contract and assess the cost of establishment, NDMC shall pay a lump-sum amount of Rs.50 lacs, depreciable as per passing of time.
- (xvii) In case, concessionaire fails to provide minimum 2/3rd quantity of treated water on fortnightly average basis or fails to maintain quality of treated water continuously for 15 days, concessionaire will be at fault and his agreement shall be terminated without issuance of any notice to him.

(b) NDMC Event of Default

Any of the following events shall constitute an event of default by NDMC ("**NDMC Event of Default**"), unless caused by a Concessionaire Event of Default or a Force Majeure Event:

- (i) NDMC is in breach of any of its obligations under this Agreement and has failed to cure such breach within 30 (thirty) days of receipt of notice thereof issued by the Concessionaire.
- (ii) NDMC has repudiated this Agreement or otherwise expressed its intention not to be bound by this Agreement.
- (iii) NDMC is unable to continue this Concession for any reason whatsoever including but not limited to (a) acts of expropriation, compulsory acquisition or takeover by any Government Agency of the Project Site/Project Facilities, and (b) any judgement or order of a court of competent jurisdiction or statutory authority in India made against the Project or the Concessionaire which is not a consequence of an omission of the Concessionaire, is non-collusive and duly prosecuted by the Concessionaire.
- (iv) NDMC has unreasonably withheld or delayed grant of any approval or permission, which the Concessionaire is obliged to seek under this Agreement, and thereby caused Material Adverse Effect.
- (v) Any representation made or warranties given by NDMC under this Agreement has been found to be false or misleading.

8.2 Termination due to Events of Default

(a) Termination for Concessionaire Event of Default

- (i) Without prejudice to any other right or remedy which the NDMC may have in respect thereof under this Agreement, upon the occurrence of a

Concessionaire Event of Default, the NDMC shall subject to the provisions of the Substitution Agreement, be entitled to terminate this Agreement as hereinafter provided.

- (ii) If NDMC decides to terminate this Agreement pursuant to preceding **sub-article 8.2 (a) (i)**, it shall in the first instance issue Preliminary Notice to the Concessionaire. Within 30 days of receipt of the Preliminary Notice, the Concessionaire shall submit to NDMC in sufficient detail, the manner in which it proposes to cure the underlying Event of Default (the "**Concessionaire's Proposal to Rectify**"). In case of non submission of the Concessionaire's Proposal to Rectify within the said period of 30 days, NDMC shall be entitled to terminate this Agreement by issuing Termination Notice, and to appropriate the Performance Security, if subsisting.
- (iii) If the Concessionaire's Proposal to Rectify is submitted within the period stipulated therefore, the Concessionaire shall have further period of 30 days to remedy / cure the underlying Event of Default (Cure Period). If, however the Concessionaire fails to remedy/cure the underlying Event of Default within such further period allowed, NDMC shall be entitled to terminate this Agreement by issue of Termination Notice and to appropriate the Performance Security if subsisting.

(b) Termination for NDMC Event of Default

- (i) Without prejudice to any other right or remedy which the Concessionaire may have in respect thereof under this Agreement, upon the occurrence of NDMC Event of Default, the Concessionaire shall be entitled to terminate this Agreement as hereinafter provided.
- (ii) If the Concessionaire decides to terminate this Agreement pursuant to preceding **sub-article 8.2 (b) (i)** it shall in the first instance issue Preliminary Notice to NDMC. Within 30 days of receipt of Preliminary Notice, NDMC shall forward to the Concessionaire its proposal to remedy/cure the underlying Event of Default the "**NDMC's Proposal to Rectify**". In case of non-submission of NDMC's Proposal to Rectify within the period stipulated therefore, Concessionaire shall be entitled to terminate this Agreement by issuing Termination Notice.
- (iii) If NDMC's Proposal to Rectify is forwarded to the Concessionaire within the period stipulated therefore, NDMC shall have further period of 30 days to remedy/cure the underlying Event of Default. If, however NDMC fails to remedy/cure the underlying Event of Default within such further period allowed, the Concessionaire shall be entitled to terminate this Agreement by issuing Termination Notice.

(c) Termination Notice

If a Party, having become entitled to do so decide to terminate this Agreement pursuant to the preceding **sub article 8.2 (a) or (b)**, it shall issue Termination Notice setting out:

- (i) in sufficient detail the underlying Event of Default;
- (ii) the Termination Date which shall be a date occurring not earlier than 60 days from the date of Termination Notice;

- (iii) the estimated Termination Payment including the details of computation thereof and;
- (iv) any other relevant information.

(d) Obligation of Parties

Following issue of Termination Notice by a Party entitled to do so, 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 continuity of service to the users of the Project Facilities,
- (ii) the Termination Payment, if any, payable by NDMC is paid to the Concessionaire on the Termination Date and
- (iii) the Project Facilities are handed over to NDMC by the Concessionaire on the Termination Date, free from any Encumbrance.

(e) Withdrawal of Termination Notice

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

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

8.3 Termination Payments

Upon Termination of this Agreement, the Concessionaire shall be entitled to receive Termination Payment as under;

- (a) Prior to COD
If the Agreement is terminated due to NDMC Event of Default (including Early Determination referred to in **Article 8.6**), the Concessionaire shall receive from NDMC, Termination Payment equal to prevailing Book Value of the Project Facilities.
- (b) After COD
 - (i) If the Agreement is terminated due to Concessionaire Event of Default, NDMC shall receive from Concessionaire Termination Payment equal to 100% of the Book Value of the Project Facilities, as on the Termination date.
 - (ii) If the Agreement is terminated due to NDMC Event of Default (including Early Determination referred to in **Article 8.6**), the Concessionaire shall receive from NDMC, Termination Payment equal to 110% of Book Value of the Project Facilities.

Provided that NDMC shall be entitled to deduct from the Termination Payment any amount due and recoverable under this Agreement by NDMC, from the Concessionaire as on the Termination Date.

8.4 Rights of Authority on Termination

Upon Termination of this Agreement for any reason whatsoever, NDMC shall upon payment of the Termination Payment to the Concessionaire have the power and authority to:

- (i) Enter upon the Project Site and take over the Project Facilities, subject to the provisions of the Substitution Agreement;

- (ii) prohibit the Concessionaire or any Person claiming through or under the Concessionaire from entering upon/dealing with the Project Site / Project Facilities;
- (iii) step in or nominate any person to step in without the necessity of any further action by the Concessionaire, to the interests of the Concessionaire under such of the Project Agreements, as NDMC may in its discretion deem appropriate with effect from such date as NDMC may specify;
Provided any sums claimed by counter party to any such Project Agreements as being due and owing for work or services performed or accruing on account of any act, omission or event prior to such date specified by NDMC for step in shall and shall always constitute debt between the Concessionaire and such counter party and NDMC shall in no way or manner be liable or responsible for such sums. The Concessionaire shall ensure that the Project Agreements contain provisions necessary to give effect to the provisions of this **sub-article 8.4**;
- (iv) Notwithstanding anything contained in this Agreement, NDMC shall not, as a consequence of Termination or otherwise, have any obligation whatsoever including but not limited to obligations as to compensation for loss of employment, continuance or regularization of employment, absorption or re-employment on any ground, in relation to any person in the employment of or engaged by the Concessionaire in connection with the Project, and the handback of the Project Site/facilities by the Concessionaire to NDMC shall be free from any such obligation.

Notwithstanding anything contained in this Agreement, the right of NDMC to vacant and peaceful possession of the Project Facilities, upon Termination is absolute. If the Concessionaire fails to deliver vacant and peaceful possession of the Project Facilities as contemplated in this provision, the Concessionaire shall be liable to pay to NDMC and NDMC shall be entitled to recover from the Concessionaire, an amount that represents a genuine estimate of the losses, damages and costs suffered by NDMC by way of liquidated damages. The parties agree that the said liquidated damages shall be calculated at the rate of 200% of the applicable Concession Fee for the year when the Concession is Terminated plus the costs incurred by NDMC for recovery of the Project Facilities. Such liquidated damages shall be recoverable from the Termination Date to the date when NDMC receives vacant and peaceful possession of the Project Facilities. Provided, the recovery of liquidated damages shall be without prejudice to the rights and remedies available to NDMC against the Concessionaire who shall be deemed to be a trespasser in illegal and unauthorized possession and occupation of the Project Site and Project Facilities, upon Termination.

8.5 Rights of Parties

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

8.6 Early Determination

Notwithstanding anything inconsistent contained anywhere in this agreement, in the event of early determination of this Agreement by NDMC without the consent of the Concessionaire or in the absence of any default by the Concessionaire, the procedure for Termination prescribed in the preceding sub articles shall not apply. In such an event, the Concessionaire shall be entitled to receive from NDMC, Termination Payment specified in the preceding **sub article 8.3**, as if and on the basis that this Agreement was terminated for NDMC's Event of Default.

ARTICLE 9 CHANGE IN LAW

9.1 Change in Law

(a) Change in Law shall mean the occurrence or coming into force of any of the following, after the Appointed Date:

- i. the enactment of any new Indian law;
- ii. the repeal, modification or re-enactment of any existing Indian law including Rules and Regulations there under;
- iii. A change in the interpretation or application of any Indian law by a court of record.
- iv. All tendered rates shall be inclusive of all taxes and levies payable under respective statutes. However, if any further tax or levy or cess is imposed by Statute, after the last stipulated date for the receipt of tender including extensions if any and the contractor thereupon necessarily and properly pays such taxes/levies/ cess, the contractor shall be reimbursed the amount so paid, provided such payments, if any, is not, in the opinion of the Engineer-in Charge (whose decision shall be final and binding on the contractor) attributable to delay in execution of work within the control of the contractor

Provided that Change in Law shall not include:

- i. Coming into effect, after the Appointed Date, of any provision or statute which is already in place as of the Appointed Date,
- ii. Any new law or any change in the existing law under the active consideration of or in the contemplation of any government as of the Appointed Date which is a matter of public knowledge,
- iii. Any change in the rates of the Taxes.

(b) Subject to Change in Law resulting in Material Adverse Effect and subject to the Concessionaire taking necessary measures to mitigate the impact or likely impact of Change in Law on the Project, if as a consequence of a Change in Law, the Concessionaire is obliged to incur Additional Costs, the Parties may by mutual consent modify the terms of the Agreement, including but not limited to by way of extension in the Concession Period, so as to mitigate the impact of Change in Law.

(c) Upon occurrence of a Change in Law, the Concessionaire may, notify NDMC of the following:

- i. the nature and the impact of Change in Law on the Project

- ii. in sufficient detail, the estimate of the Additional Cost likely to be incurred by the Concessionaire on account of Change in Law
 - iii. the measures, which the Concessionaire has taken or proposes to take to mitigate the impact of Change in Law, including in particular, minimizing the Additional Cost
 - iv. the relief sought by the Concessionaire
- (d) Upon receipt of the notice of Change in Law issued by the Concessionaire pursuant to preceding **sub-article 9.1(c)**, NDMC and the Concessionaire shall hold discussions and take all such steps as may be necessary as to determine the quantum of relief to be provided by NDMC to the Concessionaire.

NDMC shall within 30 days from the date of determination of quantum of Additional Cost, provide relief to the Concessionaire in the manner as mutually agreed upon by the Parties.

ARTICLE 10

HANDBACK OF PROJECT SITE

10.1 Vesting

Without prejudice and subject to the Concession, the Project Site and the Project Facilities, including all improvements made therein by the Concessionaire, shall at all times vest in NDMC. Further the provisions of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 shall apply to the Project Site.

10.2 Obligations of Parties

(a) Concessionaire's Obligations

- i. The Concessionaire shall on the date of expiry of the Concession Period, hand back vacant and peaceful possession of the installed Project Facility to NDMC free of cost and in good operable condition.
- ii. At least 6 months before the expected expiry of the Concession Period, a joint inspection of the Project Facility shall be undertaken by Concessionaire, Engineer-in-Charge, NDMC and Independent Third Party (if any), shall, within 45 days of such inspection prepare and furnish to the Concessionaire a list of works/jobs ("Installed STPs and its operating Hand back Requirements"), if any, to be carried out so as to conform to the Construction Requirements and O&M Requirements. The Concessionaire shall promptly undertake and complete such works/jobs at least three months prior to the expected expiry of the Concession Period and ensure that the installed Project Facility continues to meet such requirements until the same are handed back to NDMC.
- iii. Engineer-in-Charge shall, within 45 days of the joint inspection undertaken under preceding **sub-article 10.2 (a) (ii)** prepare and furnish to the Concessionaire a list of items, if any, with corresponding distinctive descriptions, which are to be compulsorily handed back to NDMC along with the installed Project Facility.
- iv. The Concessionaire hereby acknowledges NDMC's rights specified in **Article 8.6** enforceable against it upon Termination and its corresponding obligations arising

there from. The Concessionaire undertakes to comply with and discharge promptly all such obligations.

- v. At least 06 months prior to the expiry of the Concession period, the Concessionaire shall, for due performance of its obligations relating to hand back of the installed Project Facility, submit to NDMC a bank guarantee, in the form as set forth in **Schedule 6** ("Hand back Guarantee"), from a bank acceptable to NDMC. The Hand back Guarantee shall be kept valid for a period of Twelve (12) months.

(b) NDMC's Obligations

NDMC shall, subject to NDMC's right to deduct amounts towards;

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

10.3 Default in Hand back

Notwithstanding anything contained in this Agreement, the liability of the Concessionaire to handover possession as stipulated in **Article 10.2(a)** is absolute. Without prejudice to anything contained hereunder, if the Concessionaire fails to deliver vacant and peaceful possession of the Project Facilities as contemplated in this provision, the Concessionaire shall be liable to pay to NDMC and NDMC shall be entitled to recover from the Concessionaire, an amount that represents a genuine estimate of the losses, damages and costs suffered by NDMC by way of liquidated damages. Such liquidated damages shall be recoverable from the Termination Date to the date when NDMC receives vacant and peaceful possession of the Project Facilities. Provided, the recovery of liquidated damages shall be without prejudice to the rights and remedies available to NDMC against the Concessionaire who shall be deemed to be a trespasser in illegal and unauthorized possession and occupation of the Project Site and Project Facilities, upon expiry of the License Period.

ARTICLE 11 DISPUTE RESOLUTION

11.1 Amicable Resolution

- (a)** Save where expressly stated to the contrary in this Agreement, any dispute, difference or controversy of whatever nature between the Parties, howsoever arising under, out of or in relation to this Agreement (the "Dispute") shall in the first instance be attempted to be resolved amicably.

"The Bidding Process / Agreement / Concession Agreement / Contract entered into between both the parties shall be governed by, and construed in accordance with the laws of India. The courts at New Delhi only shall have the sole and exclusive jurisdiction to try and decide all disputes / differences arising under, pursuant to and/or in connection with the Bidding Process / Agreement / Concession Agreement / Contract entered into between both the parties".

ARTICLE 12 REPRESENTATIONS AND WARRANTIES, DISCLAIMER

12.1 Representations and Warranties of the Concessionaire

The Concessionaire represents and warranties to NDMC that:

- (a)** it is duly organized, validly existing and in good standing under the laws of India;
- (b)** it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- (c)** it has taken all necessary corporate and other action under Applicable Laws and its constitutional documents to authorize the execution, delivery and performance of this Agreement;
- (d)** it has the financial standing and capacity to undertake the Project;
- (e)** this Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- (f)** the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under or accelerate performance required by any of the terms of the Concessionaire's Memorandum and Articles of Association or any Applicable Laws or any covenant, agreement, understanding, decree or order to which it is a party or by which it or any of its properties or assets are bound or affected;
- (g)** there are no actions, suits, proceedings or investigations pending or to the Concessionaire's knowledge threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may constitute Concessionaire Event of Default or which individually or in the aggregate may result in Material Adverse Effect;
- (h)** it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Agency which may result in Material Adverse Effect;

- (i) it has complied with all Applicable Laws and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have Material Adverse Effect;
- (j) subject to receipt by the Concessionaire from NDMC of any amount due under any of the provisions of this Agreement, in the manner and to the extent provided for under the applicable provisions of this Agreement all rights and interests of the Concessionaire in and to the Project Site/STPs shall pass to and vest in NDMC on the Termination Date free and clear of all Encumbrances without any further act or deed on the part of the Concessionaire or NDMC;
- (k) no representation or warranty by the Concessionaire contained herein or in any other document furnished by it to NDMC or to any Government Agency in relation to Applicable Permits contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;
- (l) no bribe or illegal gratification has been paid or will be paid in cash or kind by or on behalf of the Concessionaire to any person to procure the Concession.
- (m) Without prejudice to any express provision contained in this Agreement, the Concessionaire acknowledges that prior to the execution of this Agreement, the Concessionaire has after a complete and careful examination made an independent evaluation of the Project Site, and the information provided by NDMC, and has determined to its satisfaction the nature and extent of risks and hazards as are likely to arise or may be faced by the Concessionaire in the course of performance of its obligations hereunder.

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

12.2 Representations and Warranties of NDMC

NDMC represents and warrants to the Concessionaire that:

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

12.3 Obligation to Notify Change

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

ARTICLE 13 MISCELLANEOUS

13.1 Assignment and Charges

- (a) The Concessionaire shall not assign in favor of any person this Agreement or the rights, benefits and obligations hereunder, save and except with prior consent of NDMC.
- (b) The Concessionaire shall not create nor permit to subsist any Encumbrance over the Project Site/Project Facilities, except with prior consent in writing of NDMC, which consent NDMC shall be entitled to decline without assigning any reason whatsoever.
- (c) Restraint set forth in **sub-articles 13.1 (a) and (b)** above shall not apply to:
 - i. liens/encumbrances arising by operation of law (or by an agreement evidencing the same) in the ordinary course of business of the Concessionaire;
 - ii. Pledges/hypothecation of goods/ moveable assets, revenue and receivables as security for indebtedness, in favor of the Lenders and working capital providers for the Project;
 - iii. assignment of Concessionaire's rights and benefits under this Agreement and other Project Agreements to or in favor of the Lenders as security for financial assistance provided by them.

13.2 Interest and Right of Set Off

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

Provided the stipulation regarding interest for delayed payments contained in this **Article 13.2** shall neither be deemed or construed to authorize any delay in payment of any amount due by a Party nor be deemed or construed to be a waiver of the underlying breach of payment obligations.

13.3 Governing Law and Jurisdiction

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

13.4 Waiver

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

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

13.5 Survival

Termination of this Agreement:

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

13.6 Amendments

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

13.7 Notices

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

If to NDMC:

_____ (designation of authorized officer)

Fax No. _____

If to the Concessionaire:

The Managing Director,

_____ Limited,

Fax No. _____

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

- i. in the case of any communication made by letter, when delivered by hand, by recognized international courier or by mail (registered, return receipt requested) at that address, and
- ii. in the case of any communication made by telex or facsimile, when transmitted properly addressed to such telex number or facsimile number.

13.8 Severability

If for any reason whatsoever any provision of this Agreement is or becomes invalid,

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

13.9 No Partnership

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

13.10 Language

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

13.11 Exclusion of Implied Warranties etc.

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

13.12 Counterparts

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

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

SIGNED SEALED AND DELIVERED

For and on behalf of NDMC by:

(Signature)

(Name)

(Designation)

In the presence of :

1)

For and on behalf of CONCESSIONAIRE by:

(Signature)

(Name)

(Designation)

2)

SCHEDULE 1:
PROJECT SITE, FACILITIES, DEVELOPMENT & DESIGN CONTROL NORMS

1 PROJECT AREA

1.1 Location

1. Inside Bapu Dham Housing Complex: 250 KLD,
2. At Horticulture Nursery NDMC opposite INA Metro Station: 500 KLD,
3. At island existing at the intersection of Rajendra Prasad Road & Ashoka Road: 500 KLD.,
4. At Bharti Nagar Sewerage Pumping Station: 500 KLD,
5. At Nehru Park: 500 KLD.

1.2 Project Site

The Project Site shall cover the available as shown in following Table:

S. No.	Locations of proposed STP	Capacity	Area
1	Bapu Dham Housing Complex	250 KLD	As per availability
2	Horticulture Nursery NDMC opposite INA Metro Station	500 KLD	As per availability
3	At island existing at the intersection of Rajendra Prasad Road & Ashoka Road	500 KLD	As per availability
4	Bharti Nagar	500 KLD	As per availability
5	Nehru Park	500 KLD	As per availability

FIXED PARAMETERS

2. The acceptable parameter of the treated water to be supplied are as under:-

1. Parameter of treated water From STP

Minimum standard of water acceptable to the department

Sr. No.	Para meter	Permissible Limit
1	Turbidity (NTU)	<2
2	SS	10
3	TDS	2100
4	pH	6.5 to 8.3
5	Temperature C	Ambient
6	Oil & Grease	10
7	Minimum Residual Chlorine	1
8	Total Kjeldahl Nitrogen as N	10
9	BOD	10
10	Chemical Oxygen Demand (COD)	AA
11	Dissolved Phosphorous as P	2
12	Nitrate Nitrogen as N	10
13	Faecal Coliform, MPN/100 mL	100
14	Helminthic Eggs/litre	AA
15	Colour	Colourless
16	Odour	Aseptic which means not septic and not foul odour

Note:-All units in mg/l unless specified. AA- as arising when other parameters are satisfied.
A tolerance of plus 5% is allowable when yearly average values are considered

Storage capacity of treated water at-least 100% daily capacity of plants.

Note:- * Here it should be ensured by the bidder that the STP are working all the time during working hours and annual repair/maintenance etc shall be taken during rainy season only i.e. between 15th July to 15th Sept.

** Only raw sewage shall be supplied free of cost, rest all expenses shall be borne by the Concessionaire.

SCHEDULE 2 CONSTRUCTION REQUIREMENTS

1. CONSTRUCTION REQUIREMENTS FOR STP.

1.1 GENERAL

- i. The capacity of the storage tank of treated water should be equal and more than 100% of daily capacity of the plant
- ii. The STP should be underground and height in no case should be more than 2 feet above the ground level.
- iii. All the component/unit of plant should be protected from the vigorous variation of environment.
- iv. The operating unit (i.e panel of electric and electronic devices) should be in a pucca structure.
- v. The storage tank of the treated water should be within 2 feet above the ground level.
- vi. The tankers have a capacity of 10,000 ltr. Should be filled within 20 minutes i.e. the discharge capacity of supplying the treated water at a head of 3.5 meter should not be less than 8.50 lps.
- vii. The flow meter should be installed separately for STP for measuring the quantity of treated water to be installed at delivery pipe connected either to existing network of the system or overhead pipe for feeding in to water tanker.
- viii. The cost of laying feeder line upto any length for carrying sewerage water from existing manhole/barrel/intake to STP is inclusive in the agreement.
- ix. The arrangement of the delivery point for supplying the treated water by over head in to water tanker should be on pucca portion easily accessible to the tanker.

Provided that the Concessionaire shall ensure that the technology chosen is

- (a) Appropriate to the site and ground situation.
- (b) Has a precedent for use in a project of similar nature and size.
- (c) Supported by the technology/service provider for design, supply, implementation and on going maintenance
- (d) Addresses all issues of safety, including fire safety, operational safety, and environmental safety
- (e) Construction period is kept as 6 months from the date of Lol.

Table 2.1- Covenants

- (i) The Concessionaire may adopt appropriate designs conforming to Approved Development Control norms for the STP and approved in accordance with the Schedule 1.

1.2.1 Other Facilities

1.2.1.1 Lighting

The Concessionaire shall provide adequate lighting system at STP.

1.2.1.2 Signage

The Concessionaire shall provide signage in accordance with prescribed Norms at STP and its all units.

The scheme for signage shall be finalized in consultation with the Engineer-in-charge.

1.2.1.3 Drainage

The Concessionaire shall design and implement drainage facilities in such a manner that there is no stagnation of water in the Project Site. The internal drainage system shall be connected to main common drain at an appropriate location in accordance with the approved drawings.

1.2.1.4 Worker Amenities

The Concessionaire shall provide worker/employee amenities in accordance with Good Industry Practice and the applicable labour laws in Delhi.

1.2.1.5 Safety Barriers

The Concessionaire shall provide, at appropriate locations, safety barriers to effectively manage pedestrian and vehicular traffic.

1.3 CODES AND STANDARDS

- a) The codes and standards applicable for the design of the Project/STP/TTP are given in Table 2.3 below :

Table 2.3

Building Works and Electrical System	Road/Pedestrian Path Works
i. Central Public Works Department Specifications (CPWD); ii. Bureau of Indian Standards (BIS); iii. National Building Codes (NBC); and iv. CPWD Specifications on fire fighting and fire alarm systems v. CPHEEO manual	i. Indian Road Congress (IRC) Codes and Standards ii. Delhi Building Byelaws, 2016 and Delhi Master Plan 2041

- b) Electrical system shall be provided as per the following applicable codes:

SI. No.	Code No.	Application Details
1	IS-10118 (Part I), 1982	Code of practice for selection, installation and maintenance of switch gear & control gear
2	IS-3646 (part-I), 1992 (Rev.-I) & part-II	Guide for interior illumination
3	IS-732, 1989 Rev. 3	Electrical wiring system
4	IS-3043, 1987	Code of practice for earthing
5	IS-13032, 1992 (Rev. 2)	MCB distribution boards for voltage up to and including 1000V AC

6	IS-12640, 1988	Residual current operated circuit breakers
7	IS-649, 1990 (Rev. -3)	PVC insulated cables for working voltage upto and including 1100 V AC.
8	IS-9537 (Part-I), 1980	Conduits for electrical installations-general requirements
9	IS-10322 (Part-I), 1982	General requirements of luminaries
10	IS-13118, 1991	Circuit breakers-general requirements
11	IS-13947 (Part-III), 1993	Air break switches for voltage not exceeding 1000V AC or 1200 V DC
12	IS-1248 (All parts), 1983, 1984, 1993	Electrical direct acting instruments
13	IS-2147, 1962	Degree of protection provided by enclosures for LV switch gear and control gear
14	National Electrical Code Part 4 Appendix	Recommended values of illumination and limiting values of Glare Index-Industrial Building (Parking Space Indoor and Outdoor)

c) Where the aforesaid are silent on any aspect, the following standards in order of preference shall be adopted in consultation with the Engineer-in-Charge, unless otherwise specified in this Schedule:

- (i) European standards for odour.
- (ii) American standards for odour.
- (iii) Suitable specification/standard devised by the Engineer-in-charge.
- (iv) Any other standard proposed by the Concessionaire and approved by the Engineer-in-charge.

1.4 OVERALL DESIGN PARAMETERS

Fixed Parameters: The Concessionaire cannot alter the fixed parameters. The fixed parameters for the project are given in **Schedule 1**.

1.4.1.1 Fire Safety

Fire safety measures as recommended in applicable codes (Indian as well as International) listed in **Article 1.3** shall be implemented.

1.4.1.2 Accessibility for Maintenance

The STP Structure and Project Facilities shall be designed such that maintenance personnel has access to all storage spaces, machinery and electrical and electronic components in a safe manner.

SCHEDULE 3 OPERATIONS AND MAINTENANCE REQUIREMENTS

General

- (a) The Concessionaire shall comply with the O&M Requirements set out in this Schedule. In doing so, the Concessionaire shall ensure that the STP are maintained as per the O&M Manual for the Project.

- (b) In the planning and implementation of all works and functions associated with the operation and maintenance of the Project Facilities, the Concessionaire shall take all such actions and do all such things (including without limitation, organising itself, adopting measures and standards, executing procedures including inspection procedures, and engaging contractors) in such manner, as will:
 - (i) Ensure the safety of personnel deployed on and users of the STP or part thereof;
 - (ii) Keep the STP from undue deterioration and wear;
 - (iii) Permit unimpaired performance of statutory duties and functions of any party in relation to the Project.
- (c) During the Concession Period, the Concessionaire shall ensure that the place of supply of treated water:
 - (i) is kept free from undue deterioration and undue wear;
 - (ii) The facility shall be open and available to users twenty-four hours;
 - (iii) applicable and adequate safety measures are taken;
 - (iv) members of the public are treated with due courtesy and consideration by its employees/ agents;
 - (v) users are provided with adequate information and forewarned of any event or any other matter affecting the Parking Facility to enable them to control/minimise any adverse consequences by such event or matter;
 - (vi) a complaint register to record grievances of any member of the public in relation to the operations and maintenance.
 - (vii) all materials used in the maintenance, repair and replacement of any of the STP shall meet the Construction Requirements.
 - (viii) the personnel assigned by the Concessionaire have the requisite qualifications and experience and are given the training necessary to enable the Concessionaire meet the O & M Requirements.

1. Operation and Maintenance Manual and O& M Plans

- (a) As provided in **Article** of this Schedule, prior to making application for the Completion certificate for the Project the Concessionaire shall finalise O & M Manual in consultation with the Engineer in charge.
- (b) Six weeks prior to the anniversary of COD each year, the Concessionaire shall submit an annual O&M Plan for the next year of operations.

2. Operation Requirements

The operations of the STP shall include the following:

- (a) Supply of treated water to.
 - (i) The NDMC tanker of capacity of 10,000 litre, which should be filled within 15-20 minutes.
 - (ii) Entry and Exit Area management : Directional/destination demarcation of Entry and Exit Areas for tankers taking the treated water and monitoring the same
 - (iii) Monitor Vehicle arrival and departures
- (b) Security
 - (i) Provision of round-the-clock security of sewer treatment plant.

3. Maintenance Requirements

A. Routine Maintenance Activities

- (a) In order to ensure smooth and uninterrupted use of the STP during normal operating conditions for all 24 hours of a day, routine maintenance of the STPS shall include but not be limited to:
- (i) repairs to equipment, pavement, building and other civil works which are part of the Project Facilities;
 - (ii) replacement of equipment/consumables,
 - (iii) maintenance of the STP area should be in accordance with Good Industry Practice and the guidelines issued by the government as well as under CPHEEO manual;
 - (iv) keeping the STP area in a clean, tidy and orderly condition free of litter and debris;
 - (v) removing and disposing of in accordance with all Applicable Laws and Applicable Permits, all rubbish, debris, etc. including any and all equipment, supplies, materials and wastes brought or produced by the Concessionaire/Contractor;
 - (vi) taking all practical measures to prevent damage to the STP Project Facilities;
 - (vii) undertaking maintenance works in accordance with the O & M Plan and O&M Manual;
 - (viii) preventing, with the assistance of concerned law enforcement agencies where necessary, any unauthorized entry to and exit from and any encroachments on the Project Facilities;
 - (ix) taking all reasonable measures for the safety of all the workmen, material, supplies and equipment brought to the Project Site. Explosives, if any, shall be stored, transported and disposed of by the Concessionaire in accordance with Applicable Laws/Applicable Permits.
- (b) The Concessionaire shall regularly carry out the necessary preventive maintenance activities for the STP to ensure adherence to the Construction Requirements throughout the Concession Period.
- All maintenance activities shall be planned and coordinated in such a way that all the STP (in a pocket) are working all the time and annual repair/maintenance etc shall be taken during rainy season only i.e. between 15th July to 15th September.
- (c) that the maintenance works shall generally be done during nights and holidays (if unavoidable) or major maintenance work/repair should be planned in the monsoon season so as to cause least disturbance.

4. Inspections & Frequency

The Concessionaire shall plan inspection programme for the STP for its smooth operations as follows:

4.1 Visual Inspection

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

4.2 Close Inspection

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

4.3 Thorough Inspection

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

4.4 Frequency of Inspections

The type of inspection and related frequency of various items of STP have been indicated in the Table 1 below. The frequency of inspection can be suitably revised in consultation with the Engineer-in-Charge, if the situation so warrants.

Table 4.1

Asset	Daily	Monthly	Quarterly	Before and after Rainy Season
Equipment and Machineries	V	C	T	T
Leakages of Pipes and valves	V	C	T	T
Cleanliness of tanks		V	C	T

LEGEND :

V : Visual inspection

C : Close inspection

T : Thorough inspection

5. Reporting Requirements

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

5.1 Inspection Reports and Remedial Measures

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

5.2 Monthly O & M Report

During the Concession Period, within 3 days of the end of each fortnight, the Concessionaire shall upload following information on NDMC website:

- (i) Daily production of treated water (to be authenticated by flow meter, installed by the concessionaire).
- (ii) Water Quality Test Report.

5.3 O & M Manual

- (a) The O&M Manual prepared by the Concessionaire in consultation with the Engineer-in-Charge shall set out the operations and maintenance standards and details of the operations and maintenance activities to be undertaken during the Concession Period, so that the STP shall at all times conform to the Design Requirements/ specifications.
- (b) The O&M Manual should have separate sections for operations and maintenance.
- (c) The Manual should include without limitation the following aspects:
 - (i) Organization structure with responsibilities of key personnel;
 - (ii) STP operation Facilities Management and scheme for measurement of supplying treated water.
 - (iii) Safety Management Programme including the Emergency Response Protocol;

- (iv) Inspection Procedures;
- (v) Maintenance Standards (including Maintenance Intervention Levels);
- (vi) Maintenance Programme;
- (vii) Management information system;
- (viii) Report Formats.

6. Miscellaneous

- (a) Inventory
 - (i) The Concessionaire shall maintain an inventory of all items comprised in the STP (the "Inventory"), in a format to be developed in consultation with the Engineer-in-Charge.
 - (ii) Throughout the Concession Period the Concessionaire shall keep the Inventory updated to take account of works carried out and other changes made to the Project Facilities.
 - (iii) A copy of the Inventory shall be submitted by the Concessionaire to the Engineer-in-Charge within fifteen (15) days of receipt of a request for the same.

Table 1 : Penalty Structure for Operation & Maintenance Requirements

Operation Requirement	How/ When measured	Measure	Performance Target	Tolerance	Penalty	Issue of Notice to Remedy by IE
Minimum Operation Hours of the supply of treated water from STP 8 hours per day	Each Calendar Month. By the Engineer-in-charge 2 Random inspections of the each STPs (Site and/ or Logbook)	regularly-	Supplying of treated water is to be continued during the period	Nil	Rs 2,000 for non compliance for a day default Payable Monthly	<u>Issue of Notice to remedy by the IE/ Engineer-in-Charge upon penalty payments for 15 days, failing which the agreement shall be terminated and assets shall be taken over by NDMC as per termination Clause.</u>
Housekeeping / Maintenance of Project facility	Each Calendar Month. By the Engineer-in-Charge.	No. of ratings as Satisfactory or Non-Satisfactory	Minimum 4 "Satisfactory" AND Not more than 1 "Non-	- 1 Satisfactory + 0 Non-	Rs 1 lakh for non compliance at the end of 6	As above

	Rating of Monthly O&M Report into : <ul style="list-style-type: none">• Satisfactory• Non-Satisfactory	y in the 6 month period	Satisfactory'	Satisfact ory	Months (Payable – Half yearly)	
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Table 2 : Penalty Structure for not achieving targets as per Agreement.

% of Target Achieved	Penalty for the Month, payable Monthly	Action by IE/ Engineer-in-Charge
<u>> or = 95%</u>	<u>Nil</u>	<u>-</u>
<u>90-95%</u>	<u>Rs. 25000/-</u>	<u>Issue of Notice to remedy by the IE/ Engineer-in-Charge upon penalty payments for 15 days, failing which the agreement shall be terminated and assets shall be taken over by NDMC as per termination Clause.</u>
<u>85-89%</u>	<u>Rs 50,000</u>	
<u>80-84%</u>	<u>Rs 80,000</u>	
<u>75-79%</u>	<u>Rs 1,35,000</u>	
<u>70-74%</u>	<u>Rs 1,80,000</u>	
<u>< or = 69%</u>	<u>Nil</u>	<u>Issue of Notice To remedy by the IE/ Engineer-in-Charge.</u>

SCHEDULE 4
PERFORMANCE SECURITY
 (PROFORMA OF BANK GUARANTEE)⁵

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

In favour of

Secretary, New Delhi Municipal Council, represented by _____ (*designation of authorised officer*), New Delhi Municipal Council and having its office at Palika Kendra, Sansad Marg, New Delhi - 110001, hereinafter referred to as "NDMC", which expression shall, unless repugnant to the context or meaning thereof include its administrators, successors or assigns.

WHEREAS

- A. By the Concession Agreement entered into between NDMC and _____⁶, a company incorporated under the provisions of the Companies Act, 1956/firm, having its registered office/ permanent address at _____, ("the Concessionaire"), the Concessionaire has been granted the Concession to implement the Project.
- B. In terms of **Article 5.1** of the Concession Agreement, the Concessionaire is required to furnish to NDMC, an unconditional and irrevocable bank guarantee for an amount of Rs. 10,00,000 (Rupees Ten Lac only) as security for due and punctual performance/discharge of its obligations under the Concession Agreement, relating to achieving of COD by the Concessionaire.
- C. At the request of the Concessionaire, the Guarantor has agreed to provide bank guarantee, being these presents guaranteeing the due and punctual performance/discharge by the Concessionaire of its obligations relating to the Project.

NOW THEREFORE THIS DEED WITNESSETH AS FOLLOWS :

1. Capitalised terms used herein but not defined shall have the meaning assigned to them respectively in the Concession Agreement.
2. The Guarantor hereby irrevocably guarantees the due and punctual performance by M/s. _____ (hereinafter called "the Concessionaire") of all its obligations relating to the Project and in connection with achieving COD by the Concessionaire in accordance with the Concession Agreement.
3. The Guarantor shall, without demur, pay to NDMC sums not exceeding in aggregate Rs. 40,00,000/- (Rupees Forty Lacs only), within five (5) calendar days of receipt of a written demand therefor from NDMC stating that the Concessionaire has failed to meet its obligations under the Concession Agreement. The Guarantor shall not go into the veracity of any breach or failure on the part of the Concessionaire or validity of demand so made by NDMC and shall pay the amount specified in the demand, notwithstanding any direction to the contrary given or any dispute whatsoever raised by the Concessionaire or any other Person. The Guarantor's obligations

⁵ To be issued by a Scheduled Bank in India

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

hereunder shall subsist until all such demands are duly met and discharged in accordance with the provisions hereof.

4. In order to give effect to this Guarantee, NDMC shall be entitled to treat the Guarantor as the principal debtor. The obligations of the Guarantor shall not be affected by any variations in the terms and conditions of the Concession Agreement or other documents or by the extension of time for performance granted to the Concessionaire or postponement/non exercise/ delayed exercise of any of its rights by NDMC or any indulgence shown by NDMC to the Concessionaire and the Guarantor shall not be relieved from its obligations under this Guarantee on account of any such variation, extension, postponement, non exercise, delayed exercise of any of its rights by NDMC or any indulgence shown by NDMC, provided nothing contained herein shall enlarge the Guarantor's obligation hereunder.
5. This Guarantee shall be irrevocable and shall remain in full force and effect until _____⁷unless discharged/released earlier by NDMC in accordance with the provisions of the Concession Agreement. The Guarantor's liability in aggregate be limited to a sum of Rs.10,00,000/- (Rupees Ten Lacs only),
6. This Guarantee shall not be affected by any change in the constitution or winding up of the Concessionaire/the Guarantor or any absorption, merger or amalgamation of the Concessionaire/ the Guarantor with any other Person.
7. The Guarantor has power to issue this guarantee and discharge the obligations contemplated herein, and the undersigned is duly authorized to execute this Guarantee pursuant to the power granted under _____.

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

SIGNED AND DELIVERED

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

⁷ 06 months from the date of signing the Concession Agreement

FORMAT FOR LETTER OF AUTHORISATION*(To be given on NDMC letterhead)***To Whomsoever It May Concern**

This is to confirm that pursuant to the Concession Agreement dated _____, entered into between the Chairperson, New Delhi Municipal Council and _____ ("the Concessionaire"), the Concessionaire has been authorized **Public Private Partnership (PPP) project to develop additional water resources by installing 250 KLD STP to 500 KLD STP at various location in NDMC area and run for 12 years.** _____ *(mention Name of the site)* _____-and for that purpose, to apply for and obtain all approvals, licenses and permits required therein and to avail the utilities such as power, water, telecommunication and any other incidental utilities or services required in connection therewith.

Yours faithfully,

Engineer-in-Charge
New Delhi Municipal Council

SCHEDULE 6
HAND BACK GUARANTEE
 (PROFORMA OF BANK GUARANTEE)

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

In favour of

New Delhi Municipal Council, represented by the Chairperson, having its office at Palika Kendra, Sansad Marg, New Delhi - 110001, hereinafter referred to as "NDMC", which expression shall, unless repugnant to the context or meaning thereof include its administrators, successors or assigns.

WHEREAS

- A. By the Concession Agreement entered into between NDMC and _____⁸, a company incorporated under the provisions of the Companies Act, 1956/firm having its registered office at _____ ("the Concessionaire") the Company/firm had been granted the Concession to implement the Project, as defined under the Concession Agreement mentioned hereinabove.
- B. In terms of **Article 10.2 or Article 10.3** as the case may be, of the Concession Agreement, the Concessionaire is required to furnish to NDMC, an unconditional and irrevocable bank guarantee for an amount of Rs.10,00,000/- (Rupees Ten Lacs only), as security for due and punctual performance/discharge of its obligations under the Concession Agreement, relating to hand back of the installed project facility⁹.
- C. At the request of the Concessionaire, the Guarantor has agreed to provide guarantee, being these presents, guaranteeing the due and punctual performance/discharge by the Concessionaire of its obligations under the Concession Agreement relating to hand back of the installed project facility.

NOW THEREFORE THIS DEED WITNESSETH AS FOLLOWS :

1. Capitalised terms used herein but not defined shall have the meaning assigned to them respectively in the Concession Agreement.
2. The Guarantor hereby irrevocably guarantees the due and punctual performance by M/s. _____ (hereinafter called "the Concessionaire") of all its obligations relating to hand back of the installed project facility.
3. The Guarantor shall, without demur, pay to NDMC sums not exceeding in aggregate Rs.40,00,000/- (Rupees Forty Lacs only), within five (5) calendar days of receipt of a written demand therefore from NDMC stating that the Concessionaire has failed to meet its performance obligations relating to hand back of the installed project facility. The Guarantor shall not go into the veracity of any breach or failure on the part of the Concessionaire or validity of demand so made by NDMC and shall pay the amount specified in the demand notwithstanding any direction to the contrary given or any dispute whatsoever raised by the Concessionaire or any other Person.

⁸ In case of Consortium any members would be included as Parties to the Agreement and collectively referred to as 'the Concessionaire/Consortium' as the context may require.

The Guarantor's obligations hereunder shall subsist until all such demands are duly met and discharged in accordance with the provisions hereof.

4. In order to give effect to this Guarantee, NDMC shall be entitled to treat the Guarantor as the principal debtor. The obligations of the Guarantor shall not be affected by any variations in the terms and conditions of the Concession Agreement or other documents or by the extension of time for performance granted to the Concessionaire or postponement/non exercise/ delayed exercise of any of its rights by NDMC or any indulgence shown by NDMC to the Concessionaire and the Guarantor shall not be relieved from its obligations under this Guarantee on account of any such variation, extension, postponement, non exercise, delayed exercise of any of its rights by NDMC or any indulgence shown by NDMC, provided nothing contained herein shall enlarge the Guarantor's obligation hereunder.
5. This Guarantee shall be irrevocable and shall remain in full force and effect until _____¹⁰ unless discharged/released earlier by NDMC in accordance with the provisions of the Concession Agreement. The Guarantor's liability in aggregate be limited to a sum of Rs.10,00,000/- (Rupees Ten Lacs only).
6. This Guarantee shall not be affected by any change in the constitution or winding up of the Concessionaire/the Guarantor or any absorption, merger or amalgamation of the Concessionaire /the Guarantor with any other Person.
7. The Guarantor has power to issue this guarantee and discharge the obligations contemplated herein, and the undersigned is duly authorised to execute this Guarantee pursuant to the power granted under _____.

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

SIGNED AND DELIVERED

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

¹⁰ 30 months from the date of issue of the Handback Guarantee in accordance with Article 10.2 and 10.3 of the Concession Agreement