

MUNICIPAL CORPORATION OF GREATER MUMBAI

Chief Engineer (SWM) Project Department

Vol-I

Request for Proposal

for

**Collection, Transportation, Processing & Disposal of
Construction & Demolition (C&D) Waste in Mumbai.**

Bid No. :- 7100207838

Start Date :- 25.05.2021

End Date :- 02.08.2021

Tender Data Sheet

Tender No./Bid No.	7100207838	
Organization Name	Municipal Corporation of Greater Mumbai	
Department Name	Chief Engineer (Solid Waste Management) Project	
Scope of Work	Collection, Transportation, Processing & Disposal of Construction & Demolition (C&D) Waste in Mumbai	
Tender Type	Open	
Bidder Nationality	Indian or International	
Product	C&D Waste Collection, Transportation, Processing & Disposal Facility	
Bidding Currency	Rupees	
Joint Venture	Allowed	
Schedule of E-Tender	Website	www.mcgm.gov.in
	Document downloading and bid start date & time	25.05.2021, 11.00 am
	Last date & time of online Bid submission	02.08.2021, 16.00 Hrs
	EMD and mode of payment	Rs.50,00,000/- by online payment gateway
	Pre-bid meeting	15.06 .2021, 16.00 Hrs to be held Physically or online. Venue for physical pre-bid meeting :- Municipal Head Office, 2 nd Floor, Mahapalika Marg, Fort, Mumbai-400001. For link of Online pre-bid meeting or any other query :- Please contact Shri. Santosh Chavan, S.E.(SWM-Project) - 9320859565 on or before 14.06.2021 during the office hours.
	Opening of Bid (Online) Packet A & B	06.08.2021 after 16.00 Hrs
	Opening Packet of C (Online)	After 07.09.2021 , 16.00 Hrs
	Bid validity period	180 Days

Payment Details	Tender Fee	Rs. 8500 + (2.5% CGST + 2.5% SGST)
	EMD	Rs.50,00,000/-
Eligibility Criteria	As Per RFP Document	
General Terms & Conditions	As Per RFP Document	
Other Details	As Per RFP Document	
Information for Online participation	<p>Information for online participation</p> <ol style="list-style-type: none"> 1. Internet site address for e-Tendering activities will be http://www.mcgm.gov.in. Tenders can be downloaded from “Tenders & Quotations” tab under “Quick Links” on homepage or from “Tenders -> Tenders & Quotations -> Major Projects” tab. 2. Interested bidders can view detailed tender notice and download tender documents from the above mentioned website. 3. Bidders who wish to participate in this tender need to procure Digital Certificate as per Information Technology Act-2000 using that they can digitally sign their electronic bids. Bidders can procure the same from any of the CCA approved certifying agencies. Bidders who already have a valid Digital Certificate need not to procure the same. 4. Bidders who wish to participate in e-Tender need to fill data in predefined forms of EMD and Quote form only. 5. Bidder should upload scan copies of reference documents in support of their eligibility of the bid. <p>Earnest Money Deposit:</p> <p>a) Tender must be accompanied by a Receipt of online</p>	

	<p>payment of Rs. 50,00,000/- (Rs. Fifty Lakhs Only) paid through Online Payment Gateway towards the Earnest Money Deposit (EMD) in packet "A". No interest will be paid on EMD.</p> <p>b) The successful Tenderers EMD will be refunded only after submission of Performance bank guarantee as per tender conditions.</p> <p>c) After the award had been finalized, the EMD of unsuccessful Tenderer(s) will be returned.</p> <p>d) Tender document can be downloaded from MCGM's website at free of cost. However, bidders who want to participate in the tender have to pay the tender fee.</p>
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Acronyms

CFC	Citizen Facilitation Center
C&DW	Construction & Demolition Waste
DLB	Directorate of Local Bodies
Gol	Government of India
ICDWMS	Integrated Construction and Demolition Waste Management System
ITB	Instructions to Bidders
LM	Lead Member
LOA	Letter of Award
MCGM	Municipal Corporation of Greater Mumbai
MIS	Management Information System
RFP	Request for Proposal
SWM	Solid Waste Management
SLF	Engineered Sanitary Landfill Facility
TPD	Tonnes per Day
ULB	Urban Local Body

MUNICIPAL CORPORATION OF GREATER MUMBAI

Chief Engineer (SWM) Project Department

REQUEST FOR PROSOSAL

Collection, Transportation, Processing & Disposal of Construction & Demolition
(C&D) Waste in Mumbai.

1. Municipal Corporation of Greater Mumbai (MCGM), propose to award a works contract for a period of 21 years for Construction & Demolition Waste Management Project for MCGM area.
2. Brief scope of work is as follows:
 - (i) Collection & Transportation of Construction & Demolition Waste and Processing of Construction & Demolition Waste using mechanized process into useful products and its sale into the market.
 - (ii) Disposal of inerts to the disposal site.

The performance of the above activities collectively will be referred to as the "Project". The detailed Scope of Work is given in the RFP.

The payment of Tender Fee should be made as per E-tender procedure by online mode.

- (iii) The last date for submission of Bids is 1600 hrs on 02 /08 /2021 ("Bid Due Date").
- (iv) The interested Bidders submit their Bids online ,by e –tender method as per procedure and details mentioned in tender document
- (v) For submission, evaluation and selection of the Selected Bidder, a 'Three Packet System i.e. Pre-qualifying requirements, Technical Proposal and Financial Proposal(Online Bid Submission) has been adopted by MCGM.. The interested Bidders are required to submit their Proposal in Two-PART., i.e. Pre-qualifying requirements and Technical Proposal, Online Financial Bid.

(vi) MCGM will not be responsible for any delay, loss or non-receipt of RFP document and reserves the rights to accept/reject any or all applications without assigning any reason thereof.

Disclaimer

1. The information contained in this Request for Proposal document (“RFP”) or subsequently provided to Bidder(s), whether verbally or in documentary or any other form by or on behalf of the “Authority/MCGM”, Government of MAHARASHTRA (“GoM”) or any of their employees or advisors, is provided to Bidder(s) on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.
2. This RFP is not an agreement and is neither an offer by the MCGM to the prospective Bidders or any other party. The purpose of this RFP is to provide interested parties with information that may be useful to them in making their technical & financial offers pursuant to this RFP (the “Proposal”). This RFP includes statements, which reflect various assumptions and assessments arrived at by the MCGM in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority/MCGM its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in this RFP, may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFP and obtain independent advice from appropriate sources.
3. Information provided in this RFP to the Bidder(s) is on a wide range of matters, some of which depends upon interpretation of law. The information given is not an exhaustive account of statutory requirements and should

not be regarded as a complete or authoritative statement of law. Authority/MCGM accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

4. Authority/MCGM, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way in this Proposal Stage.
5. Authority/MCGM, its employees and advisors also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this RFP.
6. Authority/MCGM may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this RFP.
7. The issuance of this RFP does not imply that Authority/MCGM is bound in any manner whatsoever to select a Bidder or to appoint the Selected Bidder for the Project and Authority/MCGM reserves the right to reject all or any of the Bidders or Proposals without assigning any reason whatsoever.
8. The Selected Bidder may be required to acknowledge in the Agreement that he has not relied on or been induced to enter into such agreement by any representation or warranty, save as expressly set out in such an agreement.
9. The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Proposal including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by Authority/MCGM or any other costs incurred in connection with or relating to its Proposal. All such costs and expenses shall be borne by the Bidder and Authority/MCGM shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder in preparation or submission of the Proposal, regardless of the conduct or outcome of the Bidding Process.

10. Authority/MCGM, its employees and its advisors undertake no obligation to provide the Bidder(s) with any additional information or update this RFP and reserve the right, at any time and without notice, to change or modify the procedure for bidding, terminate or negotiate on any part of or the entire Bidding Process.
11. This RFP has not been filed, registered or approved in any jurisdiction. Bidder(s) of this RFP, should inform themselves of, observe and comply with all applicable legal requirements.
12. Authority/MCGM, and its representatives reserves the right to accept or reject any or all proposals without assigning any reasons whatsoever. The bidding process shall be governed by the laws on the subject of award of contract, arbitration and conciliation and other laws applicable in India. The matters related to this Project and incidental thereto shall be adjudicated in the courts of competent jurisdiction at MUMBAI,

Definitions

"Authority" shall mean Municipal Corporation of Greater Mumbai ("MCGM").

"Authorization" means the consent given by the Maharashtra Pollution Control Board to the "Operator of a Treatment/Disposal Facility".

"Bid Security" shall mean the Security furnished by the Bidder as mentioned in Clause 2.3 of this document.

"City" means the city of Mumbai

"Collection" means lifting and removal of Construction & Demolition Wastes from residential and non-residential premises, roads/streets/lanes/bye lanes or any other collection point that may be prescribed by the Authority.

"Contractor" shall mean the Selected Bidder/ Successful Bidder / Consortium which enters into the Contract Agreement with Authority pursuant to issuance the LOA.

"Contract Agreement" shall mean the agreement entered between the Authority and the Contractor, pursuant to this RFP.

"Contract Period" is as defined in 1.5 of this RFP.

"Consortium" shall mean two or more parties coming together for submission of Bid in response to "this RFP" pursuant to Memorandum of Understanding signed between them.

"Damages" shall mean the damages payable by either Party to the other of them, as set forth in the RFP.

"Disposal" means final disposal of C&D waste inerts/rejects at a disposal site finalised by the selected bidder adhering to relevant Govt. norms for receiving such materials.

"Document" or **"Documentation"** means documentation in printed or written form, or in tapes, discs, drawings, computer programmes, writings, reports, photographs, films, cassettes, or expressed in any other written, electronic, audio or visual form in relation to this Project.

"Fee" or **"Tipping Fee"** means the amount payable by the Authority to the Contractor per metric tonne of C&D Waste for providing services in terms of RFP.

"Financial Bid" shall mean a document quoting the Fee per metric tonne of C&D Wastes by the Bidders in response to the RFP including clarifications and/or amendments, if any.

"Letter of Acceptance" or **"LOA"** means the letter issued by the Authority to the Selected Bidder/Consortium whose Bid has been accepted by the Authority pursuant to this RFP for undertaking and executing the Project in conformity with the terms and conditions as set forth in this RFP.

"Liquidated Damage" shall mean any loss/losses caused or sustained by MCGM/Authority due to non-performance of any act as per the Scope of Work of this RFP or performance or carrying out of any act expressly or impliedly prohibited by the MCGM/Authority as per the terms and conditions of this RFP or otherwise in good faith by the Contractor. Such losses shall be recoverable from the Contractor to the extent of the default of the Contractor.

"Municipal Authority" means Municipal Corporation of Greater Mumbai (MCGM) or any other local body constituted under the State Laws or relevant Statutes.

"Municipal Solid Waste" shall include "Garbage", "Waste" and vice versa.

"Nominated Sub Contractor" shall mean the subcontractor nominated by main contractor and named with the permission from the Employer/ Authority to carry out the works as per the conditions of the sub contract.

"Operation & Maintenance" means the operation and maintenance of the Project and includes all matters connected with or incidental to such operation and maintenance, provision of services and facilities in accordance with the provisions of this RFP;

"Operation & Maintenance Period" means the period commencing from the date of Commissioning of the plant and ending on the last day of the Contract Period or Termination of the Contract Agreement, whichever is earlier;

"Operator of a Facility" means the Contractor or his authorised representative duly approved by the Authority, who owns or operates a facility or undertakes the operations of Collection, Segregation, Transportation, Processing and disposal of C&D Waste.

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

"Performance Security" means the guarantee for performance of its obligations to be procured by the Contractor in accordance with Clause 2.3.3 of this document.

"Processing" means the process by which C&D Waste is mechanically segregated, crushed, washed(wherever required) and is transformed into new usable, environmentally safe products;

"Project" means all the activities envisaged to be carried out under this RFP;

"Request for Proposal" or "RFP" means invitation of bids setting forth technical and commercial terms and conditions, of the bid & includes this document, the Contract Agreement and all the Annexures and Appendices attached to the RFP; and Addendums issued by MCGM.

"Specifications and Standards" means the specifications and standards relating to the quality, quantity, capacity and other requirements for the Project and any modifications thereof, or additions thereto expressly approved by, the Authority.

"Storage" means the temporary containment of Construction & Demolition Wastes in covered containers/ storage site in a manner so as to prevent littering.

"Selected Bidder" shall mean the Contractor/Successful Bidder/Consortium to whom the LoA has been issued.

"Taxes" means any Indian Taxes including GST, Service Tax, Excise Duties, Customs Duties, Value Added Tax, Sales Tax, Local Taxes, Cess and any Impost or Surcharge of like nature (whether Central, State or Local) on the goods, materials, equipment and services incorporated in and forming part of the Project charged, levied or imposed by any Government, or Municipal Authority but excluding any interest, penalties and other sums in relation thereto imposed on any account whatsoever. For the avoidance of doubt, Taxes shall not include Taxes on Corporate Income;

"Termination" means termination of this Contract Agreement pursuant to Termination Notice or otherwise in accordance with the provisions of the Contract Agreement but shall not, unless the context otherwise requires, include the expiry of the Contract Agreement due to efflux of time in the normal course;

"Transportation" means conveyance of C&D Waste from various places / locations in MCGM limits to processing plant through especially designed/mandated transport system so as to prevent littering, unsightly conditions and traffic jams.

Interpretation

In the interpretation of this RFP, unless the context otherwise requires:

- i. The singular of any defined term includes the plural and vice versa, and any word or expression defined in the singular has the corresponding meaning used in the plural and vice versa;
- ii. A reference to any gender includes the other gender;
- iii. A reference to any agreement is a reference to that agreement and all annexes, attachments, exhibits, schedules, appendices and the like incorporated therein, as the same may be amended, modified, supplemented, waived, varied, added to, substituted, replaced, renewed or extended, from time to time, in accordance with the terms thereof;
- iv. The terms "include" and "including" shall be deemed to be followed by the words "without limitation", whether or not so followed;
- v. Any reference to a person shall include such person's successors and assignees;
- vi. A reference to a "writing" or "written" includes printing, typing, lithography, scanned and other means of reproducing words in a visible form;
- vii. Any date or period set forth in this RFP shall be such date or period as may be extended pursuant to the terms of this RFP;
- viii. The terms "hereof", "herein", "hereto", "hereunder" or similar expressions used in this RFP mean and refer to this RFP and not to any particular Article,
- ix. In case of any inconsistency between the terms mentioned in the RFP and the literary term, the meaning best construed in furtherance of the objectives of this RFP shall prevail.
- x. Where there is a discrepancy between amount in figures and in words, the latter shall prevail.

1 INTRODUCTION & INVITATION OF BIDS

1.1 Background of the Project

The area of the Municipal Corporation of Greater Mumbai is 437.37 sq. km. Approximately 1200 tons of C&D waste per day (TPD) is being generated in the 24 wards of Mumbai from 'debris on call' service & unclaimed debris. One of the reasons for unauthorized dumping of C&D Waste is lack of option. The project envisages providing a viable and cost effective solution to public and C&D waste generators to be able to legally and properly dispose their C&D waste which they can avail. Once the option / Solution is made available to the public it is much easier and tenable for MCGM to initiate actions against defaulters (i.e. who dump illegally) to prevent unauthorized dumping and force the generators to utilize the available service.

MCGM proposes to develop an economically viable and environmentally sustainable system for processing and recycling of Construction and Demolition (C&D) Waste. Contractor is required to assist MCGM in reducing illegal dumping and maximize the penalties from the violators / defaulters. For this purpose contractor shall at its own cost collect information about persons doing illegal dumping of C&D waste along with evidences against them so that MCGM can take necessary legal action.

MCGM is intending to provide construction and debris waste from all its 24 wards in 2 slices (Slice A: City and Eastern Suburbs, Slice B: Western Suburbs). Bidders should do their own due diligence regarding the hourly capacity of the C&D Waste recycling plant for Slice A and B. However, the plant should have minimum processing capacity of 70 Tons per Hour (TPH) and process minimum 600 Tons per Day (TPD). The plant should be designed, commissioned and operated in such a way that it adheres to the guidelines / regulations stipulated by MPCB/any regulatory authority.

Bidder shall have land (owned/ in lawful possession/ rented/ leased/ concession/ Memorandum of Understanding with land owner suitable for the project for entire contract period of 21 years or extended period as the case may be) for at least 5 Acres for each slice. Bidder will have to provide Proof of Valid Documents of land

ownership/ lease/ Concession/ Memorandum of Understanding with land owner for use of land for project. The identified land shall adhere to guidelines notified for C&D Waste Processing Plant and Consultants & MCGM officials shall visit and inspect the land as per the land documents submitted by the bidder before technically qualifying the bidder. In case the land is not found suitable by MCGM during inspection, the bid of such bidder will be technically disqualified. Bidders should ensure that the identified site adheres to Schedule I- Criteria for Site Selection for Storage and Processing or Recycling Facilities for Construction and Demolition Waste of C&D Waste Management Rules 2016.

1.2 Two Stage bidding process

1.2.1. For selecting the Bidder to undertake the above Project, MCGM has issued this RFP document and interested Bidders are requested to submit Proposal in two parts, viz: BY ON LINE METHOD (e-tendering).

Part 1: Technical Proposal

Part 2: Financial Proposal

The Bid Security should be submitted along with the Technical Proposal and in the manner prescribed hereinafter.

All Bidders are required to submit their Proposal (Technical Proposal and Financial Proposal) in accordance with the guidelines set forth in this RFP. In order to enable the Bidders to prepare Proposal in a consistent manner and to minimize misunderstandings regarding how Bidders' Proposals will be interpreted by MCGM in the format in which Bidders will specify the fundamental aspects of their Proposals as has been broadly outlined in this RFP.

1.2.2. The evaluation of the Proposals would be carried out based on Techno-Financial Parameters. The evaluation of the Technical and Financial Proposal shall be based on criteria mentioned in this RFP.

1.2.3. MCGM will issue a Letter of Acceptance (LoA) to the Selected Bidder.

1.2.4. In this RFP, the term "Selected Bidder" refers to the Preferred Bidder selected by MCGM after evaluation of Technical and Financial Proposals.

- 1.2.5. MCGM reserves the right not to follow up this RFP and terminate the entire selection process without any obligation or liability to any of the Bidders, of any kind whatsoever.
- 1.2.6. A prospective Bidder having any comments on the draft RFP may notify MCGM in writing. Bidders should send in their comments in writing latest by the Last Date for Receiving Queries as given in the Schedule of Bidding Process. However, it is not binding for MCGM to accept any such comments.
- 1.2.7. The Contractor would ensure compliance of the applicable laws, rules, legislations and guidelines required to be met for the Project. Any default to the compliance requirements would be default on part of the Selected Bidder/ Contractor and could lead to termination of the agreements.
- 1.2.8. The confirmation and cross checking of the information related to Project shall be sole responsibility of the Bidders and MCGM and/or any of its officers/representatives shall not be held responsible for the same in any manner whatsoever.
- 1.2.9. Within forty five (45) days from the issue of LoA, the Selected Bidder would be required to submit **Performance Bank Guarantees (PBG) per Slice** in the following way-
- I. Submit PBG-1 of Rs. 3.00 Crores with a validity of 1 year and shall be extended till Mobilization Period.
 - II. Submit PBG-2 of 5% of first 5 years of Operation and Maintenance (O&M) Cost calculated on the basis of tipping fee quoted in BOQ with validity for 5 years.
 - III. Submit PBG-3 of 1.2 times of PBG-2 for next 5 years of O&M with validity of 5 years.
 - IV. Submit PBG-4 of 1.2 times of PBG-3 for next 5 years of O&M with validity of 5 years.
 - V. Submit PBG-5 of 1.2 times of PBG-4 for last 5 years of O&M with validity of 5 years.
 - VI. The earlier PBG will be returned only after the submission of PBG for the subsequent period.
- 1.2.9.1. The PBG-5 shall remain valid and in custody of MCGM till the contract period and will be returned only after fulfilling all contractual obligations by

the Contractor. If required, validity of PBG-5 shall be extended further as directed by MCGM.

1.2.9.2. The Selected Bidder shall also be required to fulfil the requirements for signing the Agreement within Sixty (60) days from date of issuance of LoA.

1.2.9.3. The Selected Bidder shall be required to achieve Financial Close within 180 days of issuance of LoA.

1.2.10. Bid document

This RFP and any addenda/corrigenda issued subsequent to this RFP Document before the Bid Due Date will be deemed to form part of the Bid document.

1.2.11. Contents of RFP

This RFP comprises the Disclaimer set forth herein above, and the contents as listed below: -

1. Notice for Invitation of Bids
2. Introduction & Invitation of Bids
3. Instructions to the Bidder
4. Evaluation of Bids
5. Fraud and Corrupt Practices
6. Pre Bid Meeting minutes, if any & addenda/corrigenda, if any
7. Special conditions
8. Instructions to the Successful Bidder/ Contractor
9. Annexures

Relevant MCGM's Registration Rules which are available on MCGM website shall be applicable for this project.

"Standard General Conditions of Contract for Construction Works 2016" (GCC) which are available on MCGM website shall be part of this RFP. The specific conditions of this RFP regarding the same matter shall prevail over GCC.

1.2.12. Careful study of RFP

The Bidders are advised to examine and study the RFP in great detail, and to carry out, at their own cost, such studies as may be required for submitting their respective Bids for the Project.

1.2.13. Clarifications

- a. Bidders requiring any clarification on the RFP may notify the MCGM in writing at the following address:

Address: Office of the Chief Engineer (SWM)Project,

4th Floor, Municipal School Bldg.,
Padmabai Thakkar Marg, Kotwadi, Mahim (Shivaji Park),
Mumbai – 400016.

Phone : 02224320665

e-mail id : che.swmproject@mcgm.gov.in

Contact Persons –

1. Shri. Sanjay Sohoni, E.E.(SWM-Project) - 9850909648
2. Shri.Ratnakar Anerao, A.E. (SWM Project) - 9702850915
3. Shri. Santosh Chavan, S.E.(SWM-Project) - 9320859565

- b. The Bidder should send their queries at least 2 days before the Pre-Bid meeting in the following format in editable/ spread-sheet & non-editable format.

Name of Applicant :
Address of Applicant :
Tel:
Email:
Bid No:

Sr. No.	RFP Page No.	RFP Clause No.	Clause Title	Queries/ Clarification	Justification by Applicant if any.

- c. Modification in the RFP conditions as required pursuant to the queries will be published on MCGM website. No verbal response by MCGM/Authority will in any way be binding to MCGM/Authority with respect to this RFP.
- d. No liability whatsoever will be admitted by MCGM, nor will any claim be entertained, with respect to errors or ambiguities contained in the RFP, which the Bidder may request MCGM/Authority to rectify.
- e. The MCGM may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and

interpretations issued by the MCGM shall be deemed to be part of the RFP and shall be complied with by the Bidders. Verbal clarifications and information given by MCGM/Authority or its employees or representatives shall not in any way or manner be binding on the MCGM/Authority.

1.2.14. Pre Bid Meeting

A pre bid meeting will be convened by MCGM to clarify issues with respect to the Project and the terms and conditions of the RFP. MCGM may hold the pre bid meeting(s) as per the schedule mentioned in Tender Data Sheet, of this RFP. Prior to the pre bid meeting, the Bidders are requested to submit a list of queries and suggested deviations, if any from the terms and conditions set out in the RFP document

1.2.15. Amendment of RFP

- a. At any time prior to the deadline for submission of Bid, MCGM may, for any reason, whether at its own initiative or in response to clarifications requested by any Bidder, modify the RFP Document by the issuance of an Addendum/Corrigendum.
- b. Any Addendum/Corrigendum thus issued will be published on e-tender process and shall form part of this RFP.

1.2.16. Validity of the Bid

The interested Bidder should submit the Bid which shall be valid for a period of 180 (One hundred and Eighty days) days from the 'Bid Due Date' (as specified in the Schedule of Bidding Process).

1.2.17. E.M.D.

Bidders are required to submit along with its Bid Documents a Bid Security of Rupees Rs.50,00,000/-(Rupees Fifty Lakhs only) through Online Gateway.

1.2.18. Bid due date

Bids must be uploaded online in the manner specified in this RFP document. MCGM shall not be responsible for any delay in receiving the Bids and reserves the right to accept/reject any or all Bids without assigning any reason thereof.

The key dates and other particulars relating to the RFP are given in this RFP document. MCGM may at its discretion alter the schedule anytime during the process by giving due notice to all concerned.

1.2.19. Negotiation with Preferred Bidder

The Selected Bidder/Consortium may, if necessary, be invited for negotiations. The negotiations generally may be for reducing the price of the proposal and reconfirming the obligations of the Selected Bidder/Consortium.

1.2.20. Award of Contract

If MCGM is satisfied with the negotiations, it shall issue the LOA to the Most Preferred Bidder (hereinafter called the "Selected Bidder") and 21 years Contract would be awarded to the Selected Bidder.

1.2.21. Signing of Contract Agreement

Contract Agreement shall be signed between Authority and the Contractor / Consortium/Joint Venture. The Contract Agreement shall contain the detailed terms and conditions of the RFP.

1.3 Scope of work

The detailed scope of work is listed in Annexure-1.

1.4 Internal Performance Monitoring

The Contractor shall propose Internal Performance Monitoring mechanism for effectiveness in project implementation covering all areas of service delivery including efficient redressal of complaints, and monitoring the performance of workforce etc.

1.5 Contract Period

The contract period shall be 21 years inclusive of mobilization period and construction period. The following phases for the execution of the project are as follows-

Phase I – Mobilization Period-Six Months

To obtain all the necessary clearances & approvals from relevant authorities from the date of LOA.

Phase II –Construction Period- Six Months

Complete the construction and commissioning of the C&D Waste Processing Facility in terms of the Agreement within 6 months from obtaining the required clearances and development of Collection & Transportation facilities as well as fleet of adequate, suitable vehicles through procurement/ hiring/ owned within 12 months from the date of LOA. In case of delay due to unforeseen circumstances, the period may be further extended with prior approval of Hon. MC.

Phase III- Operation and Maintenance (O&M) Period- 20 Years

20 years of Operation and Maintenance from the Commercial Operation Date. Further extension of 5 years of O&M may be given based on Independent Engineer's recommendation and approval of competent authority of MCGM.

Within 45 days of the issue of LoA, the Selected Bidder/Consortium shall submit to the Authority its program in keeping with time frame prescribed to undertake the works in the form of a PERT Chart for his review and take his approval. The approved PERT chart shall be diligently and strictly followed with a view to complete the works as per schedule. The progress & planning of works shall be reviewed from time to time and he may modify the same depending upon the exigencies of the work and stage of the works.

Extension of time may be granted by the Authority on genuine grounds only if delay is for the reasons beyond the control of the Contractor

After successful completion of Contract Period,

- i. Ownership of Plant & Machinery and all other assets at the site shall remain with the Contractor.
- ii. The Contractor shall carry out various activities described in Phase I to II simultaneously to ensure completion of the task assigned on time.

1.6 Joint Venture

The Selected Bidder in case of Consortium shall be required to form an appropriate Joint Venture, incorporated under the Indian Companies Act, 1956/2013, with the sole purpose to execute the Project in terms of the this RFP.

1.7 Signing of Agreement

Agreement shall be signed within 60 days from the issuance of the LoA between the Authority and the Contractor. In case where the Selected Bidder requires additional time for signing of the Agreement, such request should be conveyed to the Authority in writing with reasons for such request for extension of time. The Authority shall grant extension of time for signing of the Agreement if the Authority considers the request made by the Selected Bidder/Consortium reasonable.

In case the Selected Bidder/Consortium fails to perform its obligation with respect to signing of the Contract Agreement with the Authority within the time specified or any extension granted herein after the issuance of LOA, the LOA shall be cancelled, Bid Security/Performance Security, as the case may be, shall be forfeited.

1.8 Permits & Clearances

Permits and clearance shall be obtained as per Applicable Law which includes but not limited to C&D Waste Management Rules 2016, The Environment Protection Act 1986, The Air (Prevention and Control) Pollution Act 1981 and Water (Prevention and Control) Pollution Act 1974 as amended from time to time.

The projects relating to C&D Waste may require a number of clearances including but not limited to the following:

- Prior Environmental Clearance.
- Authorization from State Pollution Control Board for the C&D Waste Processing Facility and Landfill Facility
- Clearance from Airport Authority of India (if the Landfill Facility is within 20 kms from the airport).
- Clearance from Development Authority.
- Traffic Police clearance for vehicular movement in the city.

The Contractor shall be solely responsible for taking various statutory and non-statutory clearances for the Project from all concerned authorities. The Authority may assist the Contractor in procuring the clearances required for the Project.

This being a green initiative, may be entitled to Carbon Credits. The Contractor may be required to apply for availing the carbon credits, and can avail the same.

2 INSTRUCTIONS TO THE BIDDER

2.1 General Instructions

2.1.1 General terms of Bidding

- a. Bidder shall carefully study the RFP document and fully acquaint himself of all the terms and conditions. If the Bidder finds discrepancies or omissions in the documents or has any doubt, he may seek clarification by submission of his observations at least one day prior to Pre-bid meeting.
- b. The Bidder is advised to carefully study the City specific information i.e. growth of City, climatic conditions, geographical terrains and other limitations likely to impact in execution of the Contract Agreement.
- c. Bidder is expected to study carefully the RFP. Failure to furnish any information as required in the tender document or submission of incomplete Bid may result in rejection of the bid.
- d. At any time prior to the deadline for submission of Bids, the MCGM may, for any reason, whether at his own initiative or in response to clarification requested by prospective bidder modify the RFP.
- e. In order to give prospective bidders' reasonable time for preparing their Bids after the issue of addenda if any, the MCGM may at his discretion extend the deadline for the submission of Bids.
- f. The Bid shall be submitted in English language only and all the correspondence and documents relating to the Bid shall be written in English language. Supporting documents and printed literature may be furnished by the Bidder with his Bid in another language provided an appropriate translation of the same into English language is kept with the

Bid document. The failure to comply with this condition may cause rejection of the Bid. For the purpose of interpretation of the bid, the text in the English language shall prevail.

- g. No conditional Bid shall be accepted.
- h. The rates/prices for the performance of the Agreement shall be quoted by the Bidder only in Indian Rupees. All payments to the Contractor shall be made only in Indian Rupees (Rs.).
- i. In exceptional circumstances, prior to expiry of the original Bid validity period, the MCGM may request the Bidders for extension in the period of Bid validity. The request and the response thereto shall be made in writing. The Bidders agreeing to the request will not be permitted to modify their Bids. The provision regarding discharge and forfeiture of Bid Security shall remain valid during the extended period of Bid validity.
- j. If the Bid is to be submitted by a Public or Private Ltd company or Trust, Society or Partnership Firms or any other entity, it shall be signed by a duly authorized person holding the authorization letter/Power of Attorney for signing the Bid. A certified copy of the Power of Attorney/Authorization letter shall accompany the Bid.
- k. All witnesses and sureties shall be persons of status and probity and their full names, occupations and addresses shall be stated below their signatures.
- l. To facilitate the evaluation on Bid, the MCGM may ask Bidders individually for clarification of their Bids including breakdown of unit rates/prices. The request for clarification and the response to the same shall be in writing. No change in the Bid prices or their sub component shall be sought, offered or permitted.
- m. MCGM reserves the right to reject any or all of the Bids, without assigning any reason whatsoever and their decision shall be final and binding. No Bidder shall raise any claim arising out of such rejection.
- n. Bids determined to be substantially responsive will be checked for any arithmetical errors in computation and submission. Error will be corrected by the authorized representative of the MCGM. Where there is a discrepancy between amount in figures and in words, the latter shall be taken into consideration.

- o. The Bid shall be accompanied by a letter of association/MOU/JV with the associates of the Lead Member expressing their willingness to undertake the work entrusted to them and to stand guarantee for the same.
- p. The Bid document shall be neatly typed and shall be signed by the Bidder or a person or persons duly authorized to sign on behalf of the Bidder. He shall sign all pages of the tender document and make initials all corrections made therein.
- q. Incomplete Bids or Bids not fulfilling any of the conditions specified above are liable to be rejected without assigning any reason whatsoever.
- r. Bidder is advised to read carefully all chapters and give complete information regarding his proposals, substantiating the same with calculations, drawings literature, with clear reference to any standards adopted (which are not mentioned in the Bid documents), in such manner that there is no ambiguity or nothing is left to chance. All relevant information, so as to make the proposal understandable shall be given. Vague remarks and remarks like "will be given later" are not acceptable. If in the opinion of the MCGM, the proposal is grossly incomplete, this will form sufficient reason for complete rejection of the Bid on technical grounds.

2.1.2 Composition of Consortium

Looking at the variety of activities involved in the Project design and execution requiring expertise and experience in different subjects a Joint venture/Consortium of maximum 3 members is allowed. All partners shall be jointly liable and their roles and responsibilities shall be clearly spelt out in the document.

In case a Consortium is to be formed, for the purpose of evaluation of Technical Bid, experience and financial standing of members having committed minimum 20% stake (Paid up capital) in the Consortium shall only be considered. The Lead Member of the Consortium shall have minimum 51% stake in the Consortium.

The Proposal should include a description of the roles and responsibilities of individual members of the Consortium;

2.1.3 Change in composition of the Consortium

By submitting the Bid, the Bidder shall be deemed to have acknowledged and agreed that:

- a. There shall be no change in the members of the Consortium after submission of the Bids except with the prior written approval of the MCGM/Authority;
- b. In case an Consortium is formed, the Bidder who shall be the Lead Member of the Consortium shall hold not less than 51% of the total paid up equity share capital of the Contractor and each of the remaining entities comprising the Consortium shall hold not less than 20% of the issued and paid up equity share capital of the Contractor throughout the entire Contract Period as per the terms of this RFP. The Bidder further acknowledges and agree that the aforesaid obligation shall be the minimum, and shall be in addition to such other obligations as may be contained in the Agreement, and a breach hereof shall, notwithstanding anything to the contrary contained in the Contract Agreement, be deemed to be a breach of the Contract Agreement and dealt with as such there under.

2.1.4 Conflict of Interest Clause:

A Bidder shall not have a conflict of interest that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified.

A Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:

- (i) The Bidder, its Member or Associate (or any constituent thereof) and any other Bidder, its Member or any Associate thereof (or any constituent thereof) have common controlling shareholders or other ownership interest with another Bidder; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of an Bidder, its Member or an

Associate thereof (or any shareholder thereof having a shareholding of more than 26% (twenty six per cent) of the paid up and subscribed share capital of such Bidder, Member or Associate, as the case may be) in the other Bidder is less than 26% (twenty six per cent) of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund, non-banking financial institution licensed by the Reserve Bank of India, or a public financial institution referred to in section 4 A of the Companies Act, 1956. Indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the "Subject Person") shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause (bb) if the shareholding of such person in the intermediary is less than 51% (fifty one per cent) of the subscribed and paid up equity shareholding of such intermediary; or

- (ii) A constituent of such Bidder is also a constituent of another Bidder; or
- (iii) Such Bidder, or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, or any Associate thereof or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member or any Associate thereof; or
- (iv) Such Bidder has the same legal representative for purposes of this Application as any other Bidder; or;
- (v) Such Bidder, or any Associate thereof has a relationship with another Bidder, or any Associate thereof, directly or through common third party/ parties, that puts either or both of them in a position to have access to each others' information about, or to influence the Application of either or each other;

(vi) Such Bidder has participated as a consultant to the MCGM in the preparation of any documents, design or technical specifications of the Project.

For purposes of this RFP, "Associate" means, in relation to the Bidder/Consortium Member, a person who controls, is controlled by, or is under the common control with such Bidder/ Consortium Member (the "Associate"). As used in this definition, the expression "control" means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person, whether by operation of law or by contract or otherwise.

For the purposes of this RFP, "Member" means a member of the consortium.

2.1.5 Cost of the Bidding

The Bidders shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the Bidding Process. The MCGM will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

2.1.6 Private Land and Verification of Information

- a. Both the plants for Slice A and Slice B, are envisaged to be set up on Private Land. It is desirable that each Bidder submits its Application after inspecting the sites; and ascertaining the location, surroundings, access, transport, right of way or any other matter considered relevant by it.
- b. Bidder has to provide Proof of Valid Documents of land ownership/ lease/ Concession/ Memorandum of Understanding (MoU) with land owner for use of land for project. In Case of MoU, the document should mention that a Lease Agreement will be signed for entire Contract Period of 21 Years.
- c. Bidder should ensure that Plant will be in lawful possession for entire contract period.
- d. The Bidder can also plan for Intermittent Storage site for C&D Waste which is a suitable location and in an appropriate manner as per the

methodology and rules of the receiving area and with approvals from competent authority.

- e. MCGM shall assess the documents and suitability at Technical Qualification Stage.
- f. The Selected Bidder will not be permitted to change the location of the land for which documents and verifications were done and accepted by MCGM at Technical Qualification Stage.
- g. Any change in the location of the plant may be allowed provided it optimises the overall cost of collection, transportation and processing. The said benefit may be shared with MCGM and a transaction, legal and other charges of Rs 50 Lakhs per change needs to be paid to MCGM.
- h. Site visit shall be facilitated by the Bidder. The Authority will intimate the days on which site visits shall be facilitated.

2.1.7 Assumption on submission of the Bid

It would be deemed that by submitting the Bid, Bidder has:

- i. Made a complete and careful examination/study of RFP document,
- ii. Satisfied himself about all matters, things and information in relation to this RFP necessary and required for submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations there under;
- iii. Acknowledged and accepted the risk of inadequacy, error or mistake in the information provided in the RFP Documents or furnished by or on behalf of the MCGM/ Authority in relation to the RFP;
- iv. Acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to in this RFP hereinabove shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the MCGM/ Authority, or a ground for Termination of the Agreement; and
- v. Agreed to be bound by the undertakings given by him under and in terms hereof.

- vi. Acknowledged that and agreed that MCGM/ Authority shall not be liable for any omission, mistake or error on the part of the Bidder in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RFP, the Bidding Documents or the Bidding Process, including any error or mistake therein or in any information or data given by the MCGM/ Authority.

2.1.8 Verification and Disqualification

MCGM reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFP or the Bidding Documents and the Bidder shall, when so required by MCGM, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification, by the MCGM shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the MCGM there under.

The MCGM reserves the right to reject any Bid and appropriate the Bid Security if:

- a. At any time, a material misrepresentation is made by a Bidder or uncovered by the Authority, or
- b. The Bidder does not provide, within the time specified by the MCGM, the supplemental information sought by the Authority for evaluation of the Bid. Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium and each Member may be disqualified/ rejected. If such disqualification / rejection occurs after the Financial Bids have been opened and the lowest Bidder gets disqualified/ rejected, then the MCGM reserves the right to:
 - i. Take any such measure as may be deemed fit in the sole discretion of the MCGM, including annulment of the Bidding Process.

In case it is found during the evaluation or at any time before signing of the Agreement or after its execution and during the period of subsistence thereof, including the Contract thereby granted by the Authority, that one

or more of the pre-qualification conditions have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Contractor either by issue of the LOA or entering into of the Agreement, and if the Selected Bidder has already been issued the LOA or has entered into the Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority to the Selected Bidder or the Contractor, as the case may be, without the Authority being liable in any manner whatsoever to the Selected Bidder or Contractor. In such an event, the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and, or otherwise, including the Blacklisting to the said Selected Bidder or Contractor.

2.2 Preparation and Submission of Bids

2.2.1 Format and Signing of Bid

- a. The Bidder shall provide all the information in the format given in this RFP. MCGM would evaluate only those Bids that are received in time and in the required format, complete in all respects in accordance with this RFP.
- b. The Bid and its duplicate copy shall be typed or written in indelible ink. All the corrections and alterations, made to the Bid shall be initialled by the person(s) signing the Bid. Any non-adherence of these instructions shall make the Bid liable to rejection. No correction, erasures or overwriting shall be permissible in the Financial Bid.

2.2.2 Cost of document & Processing Fee

As mentioned in e- tender procedure.

2.2.3 Bid Due Date

As mentioned in e- tender procedure.

2.2.4 Contents of Bid

3 Packet System

The Bid shall be submitted as under:

Packet A

The Packet 'A' shall contain scanned certified copies of the following documents-

Scrutiny of this packet will be done with reference to only the scanned copies of documents to be uploaded online in packet 'A'

- (i) Scanned copies of online tender fee payment & EMD payment.
- (ii) Valid Registration Certificate.
- (iii) Original / attested copy of solvency certificate of Rs. 1.5 Crores from approved Bankers not more than one year old on the date of submission of e-tender, shall be scanned & uploaded.
- (iv) A document in support of Registration under GST Act 2017. Those not registered shall submit an undertaking to the effect that if they are successful tenderer, they shall submit GST registration within 15 days of issue of work order, failing which payment for the work executed will not be released.
- (v) Certified copies of valid 'PAN' documents and photographs of the individuals, owners, Karta of Hindu undivided Family, firms, private limited companies, registered co-operative societies, partners of partnership firms and at least two Directors, if number of Directors are more than two in case of Private Limited Companies, as the case may be. However, in case of Public Limited companies, Semi Government Undertakings, Government Undertakings, no 'PAN' documents will be insisted.
- (vi) Latest Partnership Deed in case of Partnership firm duly registered with Chief Accountant (Treasury) of MCGM.

The bidders shall categorically provide their Email-ID in packet 'A'.

NOTE:

- If the tenderer(s) withdraw tender offer during the tender validity period, his entire E.M.D shall be forfeited.
- If it is found that the tenderer has not submitted required documents in Packet “A” then, the shortfalls will be communicated to the tenderer through e-mail only and compliance required to be made within the stipulated time period otherwise they may be treated as non-responsive.

Packet B – Technical Bid

The Technical Proposal shall comprise of the following:

- i. Letter of Bid submission duly signed by the authorized representative of the Bidder (Annexure 3-A)
- ii. Bidder Details as per the format specified in Annexure 2-A
- iii. Technical Capacity details as per the formats specified in Annexure 2-B to 2- C
- iv. Proof of Valid Documents of land ownership/ lease/ Concession/ Memorandum of Understanding with land owner for use of land for project.
- v. Key Personal to be deployed as per Annexure 2-D
- vi. Approach, Methodology and Monitoring Mechanism as per as per Annexure 2-E
- vii. Information regarding Litigation of each member of the Consortium during last Five years as per Annexure 2-F
- viii. Letter for Proposal Submission as per Annexure 2-G
- ix. Affidavit as per Annexure 2-H
- x. Power of Attorney for signing of Bid in the prescribed format (Annexure 3-B)
- xi. If applicable, the Power of Attorney for Lead Member of Consortium in the prescribed format (Annexure 3-C)
- xii. Memorandum of Understanding (MOU) between the Consortium Members(Annexure 3-D);
- xiii. Anti-Collusion Certificate (Annexure 3-E);
- xiv. Any other documents / certificates required as per the eligibility criteria. xv. Addenda/Corrigenda, if any

NOTE:

- If it is found that the tenderer has not submitted required documents in Packet “B” then, the shortfalls will be communicated to the tenderer through e-mail only and compliance required to be made within the stipulated time period otherwise they may be treated as non-responsive.
- During the scrutiny of bids received if any clarification is required, MCGM will communicate the clarifications required and the same shall be complied by the bidder within stipulated time, failing which bid may be treated as non-responsive and 10% EMD shall be forfeited.

Packet C- Financial Bid

The Financial Bid shall be submitted online only as per the given RFP by online procedure.

- The bidder shall quote tipping fee (Per Metric Ton) for the first year for Collection, Transportation, Processing, Disposal of C&D Waste and Operation & Maintenance of C&D Waste facility as per Annexure 4.
- In case for C&D waste bulk generator the Contractor for this project will make arrangement for Collection, Transportation, Processing & Disposal of C&D waste from bulk generators. Bulk generator will make payment to MCGM. In such case, MCGM will make 100% tipping fee to the contractor in monthly bills.
- The bidder shall quote tipping fee for first year and there is adjustment in tipping fee from 2nd year onward as per the Annexure 4-A.
- Tax- G.S.T. and other state levies/cess which are not subsumed under GST will be applicable. The tenderer shall quote inclusive of all taxes. It is clearly understood that MCGM will not bear any additional liability towards payment of any Taxes & Duties.

Wherever the services to be provided by the tenderers, falls under Reverse Charge Mechanism, the price quoted shall be exclusive of GST, but inclusive of Taxes/Duties/Cess other than GST, if any.

Rates accepted by MCGM shall hold good till completion of work and no additional individual claim shall be admissible on account of fluctuations in market rates; increase in taxes/any other levies/tolls etc. except that payment /recovery for overall market situation shall be as per Price Variation.

Chapter XXI-Miscellaneous, section 171(1) of GST Act, 2017 governs the 'Anti Profiteering Measure (APM)'. As per provisions of this section, "Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices".

Accordingly, the contractor should pass on the complete benefit accruing to him on account of reduced tax rate or additional input tax credit to MCGM. Further, all the provisions of GST Act will be applicable to the tender.

E-TENDERING ONLINE SUBMISSION PROCESS

The terminology of e-Tendering is solely depending upon policies in existence, guidelines and methodology adopted since decades. The SRM is only change in process of accepting and evaluation of tenders in addition to manual. The SAP module to be used in this E-tendering is known as Supplier Relationship Module (SRM).SRM is designed and introduced by ABM Knowledge ware Ltd. who will assist MCGM in throughout the tendering process for successful implementation.

NOTE: This tendering process is covered under Information Technology ACT & Cyber Laws as applicable

(1) In e-tendering process some of the terms and its definitions are to be read as under wherever it reflects in online tendering process.

Start Date read as "Sale Date"

End Date read as "Submission Date"

Supplier read as "Operator/bidder"

Vendor read as "Operator/bidder"

Vendor Quotation read as "Operators Bid/Offer"

Purchaser read as "Department/MCGM"

- i. Before entering in to online tendering process, the operators should complete the registration process so as to get User ID for E-tendering links. For this, the operators can access through Supplier registration via MCGM Portal.
There are two methods for this registration :(II and III)
- ii. Transfer from R3 (registered operators with MCGM) to SRM
 - Operators already registered with MCGM will approach to Vendor Transfer cell.
 - Submit his details such as (name, vendor code, address, registered Email ID, pan card etc.)to Vendor transfer cell.
 - MCGM authority for Vendor Transfer, transfers the Vendor to SRM application from R3 system to SRM system.
 - Transferred Vendor receives User ID creation link on his supplied mail Id.
 - Vendor creates his User ID and Password for e-tendering applications by accessing link sent to his mail ID.
- iii. Online Self Registration (Temporary registration for applicant not registered with MCGM)
 - Vendor fills up Self Registration form via accessing MCGM portal.
 - Vendor Transfer cell (same as mentioned above) accesses Supplier Registration system and accepts the Vendor request.
 - Accepted Vendor receives User ID creation email with Link on his supplied mail Id.
 - Vendor creates his User ID and Password for e-tendering application.
- iv. OPERATORS BIDDING: Applicant will Quote and Upload Tender Documents
 1. Access e-tender link of SRM Portal
 2. Log in with User ID and Password
 3. Selects desired Bid Invitation (he wants to bid)
 4. To download tender documents operators will have to pay online Tender fee. The same can be done by accessing Pay Tender Fees option. By this one will be able to pay Tender fee through Payment Gateway-If transaction successful, Operators can register his interest to participate. Without Registration one cannot quote for the Bid/Tender.
 5. Applicant will download Tender Documents from Information from purchaser tab by accessing Purchaser document folder through collaboration 'C' folder link.

6. Applicant will upload Packet A related and Packet B related Documents in Packet A and Packet B folder respectively by accessing these folders through “My Notes” Tab and collaboration folder link.
7. All the documents uploaded have to be digitally signed and saved. Operators can procure their digital signature from any certified CA's in India.
8. Bid security deposit/EMD and ASD, if applicable, should be paid online as mentioned in tender.
9. For commercial details, operators will fill data in Item Data tab in Service Line Item via details and quotes his ‘item rate’ or “Percentage Variation” (i.e.% quoted) figure. (If entered ‘0’ it will be treated as at par. By default the value is zero only.
10. Applicants to check the bid, digitally signs & save and submit his Bid Invitation.
11. Applicants can also save his uploaded documents/commercial information without submitting the BID for future editing through ‘HOLD’ option.
12. Please note that “Hold” action do not submit the Bid.
13. Applicants will receive confirmation once the Bid is submitted.
14. Bid creator (MCGM) starts Bid Opening for Packet A after reaching End Date and Time and Bid Evaluation process starts.

As per Two Packet system, the document for Packet A & B are to be uploaded by the tenderer in 'Vendor's document' online in Packet A & B. Before purchasing/ downloading the tender copy, tenderer may refer to post-Qualification criteria mentioned in e-Tender Notice.

The tenderer shall pay the EMD/Bid Security through payment gateways before submission of Bid and shall upload the screenshot of receipt of payment in Packet ‘A’ instead of paying the EMD at any of the CFC centers in MCGM Ward Offices.

The e-tender is available on MCGM portal, <http://portal.mcgm.gov.in>. The tenders duly filled in should be uploaded and submitted online on or before the end date of submission. The Packet ‘A’ & Packet ‘B’ and Online Financial

Bid of the tenderer will be opened as per the time-table shown in the Header Data in the office of Ch Eng.(SWM-Project).

The Municipal Commissioner reserves the right to reject all or any of the e-Tender(s) without assigning any reason at any stage. The dates and time for submission and opening the tenders are as shown in the Header Data. If there are any changes in the dates the same will be displayed on the MCGM Portal (<http://portal.mcgm.gov.in>).

SPECIAL INSTRUCTIONS TO BIDDERS PARTICIPATING IN e-TENDERING OF MCGM

E-Tendering

1. The Municipal Commissioner for and on behalf of the Municipal Corporation of Greater Mumbai, hereinafter referred to as 'the Commissioner', invites online e-tenders from eligible bidders Qualified as per Eligibility Conditions (Criteria) in the Tender for the Supply / Work as detailed in the tender documents. This invitation is open to any tenderer subject to fulfilment of eligibility criteria prescribed. Prospective bidders can download the blank tender copy from MCGM's portal (<http://portal.mcg.gov.in>) free of cost. However, for participation in the tender Bidder has to pay Tender Fee by adopting e-tendering process under section "Payment of Tender Fees".
2. Tenderers should note that the word bidder is an alternative word for tenderer and bid is an alternative word for the tender and that the meaning of both these words are the same. Also the word 'vendor' is used for the word 'prospective bidder/tenderer'.
3. All interested tenderers, whether already registered or not registered with MCGM, are mandated to get registered with MCGM for e-tendering process and obtain login credentials to participate in the online bidding process. The details of the same are available on the above mentioned portal under "Tenders -> Tenders & Quotations -> Tender Manuals" tab.
4. Please read carefully the document 'Article of Agreement, Instructions to the Tenderers, General Conditions of Contract' available in e-Procurement section of the respective tender on MCGM Portal. As MCGM switched to e-Tendering, all the references in this document to traditional bidding process like packets A, B, etc. may please be ignored. All documents that are required to be submitted as part of technical bid need to be uploaded and commercial bid need to be filled online.
5. This document (Instructions to Bidders) and the 'Article of Agreement, Instructions to the Tenderers / General Conditions of Contract' of the respective tender, which are available in 'MCGM documents' of e-Tendering section of MCGM Portal, are part of all tender documents unless stated otherwise in the tender document.

6. Affixing of digital signature at any one place in the bid document while submitting the bid shall be deemed to mean acceptance of the terms and conditions contained in the tender document as well as confirmation of the bid/bids offered by the Bidder which shall include acceptance of special directions / terms and conditions if any, incorporated.
7. All the documents and data submitted by bidder online will be digitally signed by the system by prompting for digital signature certificate. Thus, it is mandatory for the Bidders willing to participate in e-Tendering to procure digital signature certificate of class-2 /class-3 and 'Company' Type.
8. For registration enrolment for digital signature certificates and user manual, tenderers shall refer to respective links provided in e-tendering tab. They can get digital signature from any one of the Certifying Authorities (CA)'s licensed by Controller of Certifying Authorities namely Safescrypt, IDRBT, National Informatics Center, TCS, CUSTOMS, MTNL, GNFC and e-Mudhra CA.
9. In order to participate in an e-Tender, the registered vendors need to follow the steps given below:-
 - a) Open the e-Tendering application by clicking the link available in Business -> 'e- Tendering' section of MCGM portal.
 - b) Download the 'Browser Settings' document and carry out the necessary settings and root certificates installation as mentioned in the document. Please note that the computer user should have administered rights to be able to work with e-Tendering application.
 - c) Login to the application with your credentials and follow the instructions given in the document 'User Manual for Vendors – Bidding Process' which is available in the "Tenders -> Tenders & Quotations -> Tender Manuals" section of MCGM Portal.
 - d) Make payment of tender fee online and download the tender document.
 - e) Please refer to FAQs in the e-Procurement section of MCGM portal for additional information.
 - f) Note that entire set of bid documents is available on making payment as stated in e- tender notice.
 - g) Note that all documents requiring physical signature are to be modified to digital signature now.

- h) Note that no manual offers sent by post / Fax or in person shall be accepted, and that if any such offer happened to have been delivered would be treated as invalid and rejected without assigning any other reason.
 - i) Note that bidder has to download all the documents, take out the print, fill up the required information and sign, scan them and upload the same in folder named "Bidders Documents"
 - j) Verifying correctness of the documents uploaded by downloading the same, and again uploads properly.
 - k) Submit the commercial bid by filling in the values on the screen itself. All the inputs given on this screen need to be digitally signed.
 - l) Submit technical and commercial bids only in the bidder's folder online and before the date and time mentioned for submission of bids.
 - m) Note that bid can be modified till the end date and time for bid submission. n) Delete the old version, if a new version of a document is to be uploaded.
 - n) Ensure that your bid is submitted by verifying the 'Bid Status' of the bid in the initial bids listing screen is 'Bid submitted'.
 - o) Note that it is bidder's responsibility to maintain computer used for submitting his bid free of viruses.
10. In e-tendering process some of the terms and their meaning are to be read as under wherever reflected in online tendering process –
- a) Start Date read as "Sale Date".
 - b) End Date read as "Submission Date".
 - c) Supplier read as "Operator/bidder".
 - d) Vendor read as "Operator/bidder".
 - e) Vendor Quotation read as "Operator's Bid/Offer"
 - f) Percentage Variation read as "Percentage Quoted". g) Purchaser read as "Department/MCGM".
11. No tender submission is possible after the deadline prescribed as system will automatically close the acceptance of tender.
12. It is the responsibility of the vendors to maintain their computers, which are used for submitting their bids, free of viruses, all types of malware etc. by

installing appropriate anti-virus software and regularly updating the same with anti-virus etc.

13. Intimations about shortfalls in submission will be informed to Bidders/Operators by e-mail on their mail ID. The bidders should also send information in reply by e-Mail to respective offices where the bid is being scrutinized.
14. The tenderer shall bear all costs associated with the downloading, preparation and uploading of his Tender, and the M.C.G.M. will in no case be responsible and liable for those costs.
15. MCGM has opened a help desk at

Office of the Chief Engineer (SWM) Project,
4th Floor, Municipal School Bldg,
Padmabai Thankkar Marg, Kotwadi,
Mahim (Shivaji Park), Mumbai – 400016.
Phone : 02224320665

e-mail id : che.swmproject@mcgm.gov.in

Contact Persons –

1. Shri. Sanjay Sohoni E.E.(SWM-Project) - 9850909648
2. Shri.Ratnakar Anerao, A.E. (SWM Project) - 9702850915
3. Shri. Santosh Chavan, S.E.(SWM-Project) - 9320859565

For any help in the e-Tendering process, please call help-desk number 022-6182252 Extn. 105 / 022-24811275 from 11.30 AM to 5.00 PM on all working days of MCGM.

16. Bidders may note that Municipal Commissioner shall reject the tender if the bidder submits the conditional tender, stipulates hedging condition/own conditions and also stipulates the validity period less than what is stated in the tender.
17. After satisfying that all the pre-requisite conditions are fulfilled and the required documents are attested and inserted in the respective cover, intending tenderer must upload them in the vendor folder only as per the guidelines given in the tender documents.
18. Tenderers are requested to submit and upload the tenders in time on or before stipulated day so as to avoid rush at the closing hours. MCGM

will not be responsible for poor connectivity of network/internet services/connectivity of servers/snag in system/breakdown of network/or any other interruptions. If any online information uploaded but not received by Bid Creator (MCGM) within stipulated time limit, MCGM will not be held responsible at any cost and such bids cannot be validated. Any online intimation/information asked to be submitted by Bidders/Operators or sent to Bidders/Operators, if not received or bounced back at the receiving end due to any problem in server or connectivity, MCGM will not be held responsible. Intimation about shortfalls in submission may be informed to Bidders/Operators by e-mail on their mail ID.

19. Schedule of Program: As per Tender Data Sheet
20. If there are any changes in the dates or there is any addendum/corrigendum to this tender, the same will be given publicity by uploading on MCGM portal. Prospective bidders shall take note of such changes.

2.2.5 Modification/Substitution/Withdrawal of Bids

Any correspondence after the Bid Due Date conveying any modifications of Bid or stipulating any conditions for acceptance of the Bids by Bidder shall be summarily rejected. In such a case, the Bidders original Bid will be considered ignoring any such correspondence or modification.

2.2.6 Rejection of Bids

- a. Notwithstanding anything contained in this RFP, the MCGM reserves the right to accept or reject any Proposal and to annul the Bidding Process and reject all Proposals, at any time without any liability or any obligation for such acceptance, rejection or annulment, without assigning any reasons whatsoever.
- b. The MCGM reserves the right to reject any Proposal if:
 - i. At any time, a material misrepresentation is made or uncovered, or
 - ii. Such misrepresentation/improper response would lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium would be disqualified or rejected.

- iii. The Bidder does not respond promptly and thoroughly to requests for supplemental information required for the evaluation of the Proposal.

2.2.7 Validity of Bids

- a. The Bid submitted by a Bidder shall be valid for minimum period of 180 (One hundred and eighty) days from the Bid Due Date. No conditional validity in whatsoever form shall be accepted by the MCGM.
- b. No Bidder shall submit more than one Bid for the Project. A Bidder bidding individually or as a Member of a Consortium shall not be entitled to submit another Bid either individually or as a Member of any other Consortium, as the case may be.
- c. In exceptional circumstances, prior to expiry of the original Bid validity period, the MCGM may request the Bidder(s) for a specified extension in the period of validity of the Bid. The request and the response there-to shall be made in writing. A Bidder agreeing to the request will not be permitted to modify his Bid on his own but will be required to extend the validity of his Bid and Bid Security correspondingly. All the provision of RFP including provisions, discharge and forfeiture of Bid Security shall continuously apply during the extended period of Bid validity.

2.2.8 Confidentiality

Information relating to the examination, clarification, evaluation and recommendation for the Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising the MCGM in relation to or matters arising out of, or concerning the Bidding Process. The MCGM will treat all information, submitted as part of the Bid, in confidence and will require all those who have access to such material to treat the same in confidence. The MCGM may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the MCGM or as may be required by law or in connection with any legal process.

2.2.9 Correspondence with the Bidder

Save and except as provided in this RFP, the MCGM shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Bid.

2.3 EMD/ Bid Security

2.3.1 EMD/Bid Security

- a. Proposal submitted in response to the RFP Document shall be accompanied with Bid Security of Rs.50,00,000/- (Rupees Fifty Lakhs only) as per the E-tendering procedure to be paid online.
- b. The Bid Security of the successful Bidder will be discharged when the Bidder has signed the Agreement and furnished the required Performance bank Guarantee.
- c. The Bid Security of those Bidders who do not qualify based on evaluation of Technical Proposal will be returned within a period of 1 (one) month from the date of intimation of such rejection with 10% deduction of EMD.
- d. The Bid Security/EMD of L-2 and other higher bidders (L-3, L-4, etc.) shall be refunded immediately after opening of financial bid.
- e. In case, the successful bidder becomes non-responsive or successful bidder withdraws the bid or is unwilling to extend the bid validity period, in such circumstances, if L-2 bidder is agreeable to extend the bid validity period and ready to deposit the requisite amount of bid security/EMD to the department within the stipulated time period i.e. 15 days, the department will process further as per normal procedure.
- f. The Bid Security of Selected Bidder will be returned, without any interest, upon the Selected Bidder signing the Agreement and providing the Performance Security in the form of Bank Guarantee in accordance with the provisions of the Agreement.
- g. In addition to the above, MCGM will within 60 days release all Bid Securities in the event MCGM decides to terminate the bidding proceedings or abandon the Project.

2.3.2 Forfeiture of EMD/Bid Security Deposit:

- a. The EMD/Bid Security shall be forfeited if the Selected Bidder does not deposit Performance Security in the form of Bank Guarantee within the stipulated time period.
- b. If the Selected Bidder fails to execute the Contract Agreement within 60 days from time period specified in the LoA or by the MCGM, In this case, EMD/Bid Security deposit will be forfeited and LoA will be cancelled. Notwithstanding any such action will not limit the right of the Authority to seek further remedy or to take further action against the Selected Bidder/Consortium in accordance with law, including initiating the blacklisting process against the Selected Bidder/ Consortium.
- c. When Selected Bidder withdraws its Bid before signing of the Agreement.
- d. If the Bidder/Consortium has concealed material facts about the Bid.
- e. If the Bidder/Consortium submits a non-responsive Bid, 10% EMD shall be forfeited;
- f. If the Bidder/Consortium withdraws its Bid during the period of its validity as specified in this RFP;
- g. If the Bidder/Consortium is found to have a Conflict of Interest as specified in the RFP; and
- h. If the Selected Bidder/Consortium is found to be in contravention of any of the provisions of this RFP document.
- i. MCGM requires the hard copies of the RFP documents (Packet A & B) after opening of online Packet A&B and if the bidder does not submit the same within three working days during office hours or within stipulated period given by MCGM or does not submit any other clarifications sought by MCGM within stipulated period, his bid may be treated as non-responsive & 10% EMD shall be forfeited.
- j. No rejections and forfeiture shall be done in case of curable defects. For non-curable defects the 10% of EMD shall be forfeited and bid will be liable for rejection.

Note:

- (i) Curable Defect shall mean shortfalls in submission such as:

- a) Non-submission of following documents,
 - i. Valid Registration Certificate
 - ii. Valid Bank Solvency
 - iii. GST Registration Certificate
 - iv. Certified Copies of PAN documents and photographs of individuals, owners, etc
 - v. Partnership Deed and any other documents
 - vi. Forms & Undertakings as mentioned in the tender document.
- (ii) Non-curable Defect shall mean
 - a. In-adequate submission of EMD/ASD amount,
 - b. In-adequacy of technical and financial capacity with respect to Eligibility criteria as stipulated in the tender.
 - c. Wrong calculation of Bid capacity
 - d. No proper submission of experience certificates and other documents, etc
 - e. Inadequate submission of Valid Documents of land ownership/ lease/ Concession/ Memorandum of Understanding with land owner for use of land for project.

2.3.3 Performance Security / Contract Deposit / Performance Bank Guarantee

- a. The Contractor shall, for ensuring performance of its obligations in terms of the Contract Agreement, deliver to the Commissioner, MCGM the Performance Security as mentioned in the RFP and simultaneously execute the same.
- b. Within forty five (45) days from the issue of LoA, the Selected Bidder would be required to submit **Performance Bank Guarantees (PBG) per slice** from any Nationalized Bank or banks approved by MCGM in the following way-
 - I. Submit PBG-1 of Rs. 3.00 Crores with a validity of 1 year and shall be extended till Mobilization Period.
 - II. Submit PBG-2 of 5% of first 5 years of Operation and Maintenance (O&M) Cost calculated on the basis of tipping fee quoted in BOQ with validity for 5 years.

- III. Submit PBG-3 of 1.2 times of PBG-2 for next 5 years of O&M with validity of 5 years.
 - IV. Submit PBG-4 of 1.2 times of PBG-3 for next 5 years of O&M with validity of 5 years.
 - V. Submit PBG-5 of 1.2 times of PBG-4 for last 5 years of O&M with validity of 5 years.
 - VI. The earlier PBG will be returned only after the submission of PBG for the subsequent period.
- c. The Performance Security shall not bear any interest and the Contractor shall not have any claim on the interest on Performance Security.
 - d. If the Agreement is terminated due to any reason other than Contractor's Default, the Performance Security shall, subject to Authority/MCGM's right to receive amounts, if any, due from Contractor under the Agreement, be duly discharged and released to the Contractor.
 - e. In the event of the encashment of the Performance Security by Authority pursuant to Encashment Notice issued, the Contractor shall within 30(Thirty) days of the Encashment Notice, furnish fresh Performance Security to the Authority, failing which the Authority shall be entitled to Terminate the Agreement in accordance with the provisions mentioned herein and in the Agreement.
 - f. The Authority shall be entitled to encash the Performance Security fully or partially as the case may be after giving notice of 30 (thirty) days if any Event of Default not being remedied by the Contractor despite notice from the Authority.
 - g. Whenever any claim against the Contractor for payment of sum of money arises out of or under the Agreement, the Authority shall be entitled to recover such sums or any sum then due or which at any time there may become due from the Contractor under the Agreement from Performance Security furnished with the Authority.
 - h. In case the Performance Security is not sufficient to cover the recoverable amount, the Contractor shall pay to the Authority on demand the balance remaining due within the time period specified by MCGM failing which MCGM may initiate legal action deemed fit which may also include blacklisting.

- i. If the Performance Security in the form of BG is not renewed & submitted on or before the expiry date, penalty of 0.05 % per day on the BG amount shall be levied till the submission of fresh BG and MCGM shall have the right to withhold payments due to the operator till submission of fresh BG.
- j. The Performance guarantee shall be submitted as per format given in Annexure No 10

2.3.4 Forfeiture of Performance Security

Forfeiture of Performance Security in full or in part at the discretion of the Authority:

- a. If the Contractor is found guilty of not following any of terms and conditions contained in this RFP in spite of giving notice to do so.
- b. If the Contractor fails to pay the damages, compensation if any, imposed upon him for breach of performance and compliance of standards as specified in the Contract Agreement.
- c. If the Agreement is terminated on account of default of the Contractor.
- d. If the Contractor withdraws/or terminates the Agreement.
- e. If the Contractor conceals material facts or inducing undue influence or indulges in corrupt practices.

2.3.5 Stamp Duty, Legal & Stationery Charges

- 1. The successful bidder shall have to pay legal & stationery charges, stamp duty charges & other charges as per the amount applicable at the time of execution of contract.
- 2. Stamp Duty charges will be as per Annexure No 11..(As per MCGM circular no. ChE/BM/17800/II Dated 07 Jan 2016)& as amended from time to time by MCGM.
- 3. In case Bank Guarantees, the successful bidder shall have to pay stamp duty of 0.5% on the BG amount.

3 Evaluation of Bids

3.1 Evaluation of Bids

The Technical Bid submitted by the Bidder shall form the base for evaluation of the capability of the firm. The evaluation shall be based on the following Technical and Financial Eligibility Criteria.

3.2 Eligibility Criteria

Technical Criteria –

1. **For Bidding of Single Slice or Both Slice**-The bidder or any member/s (in case of Joint Venture)in their own name should have satisfactorily executed the work of similar nature MCGM /Semi Govt. /Govt. & Public Sector Organizations during last seven (7) years ending last day of month previous to the one in which bids are invited as a prime Contractor or as a nominated sub-contractor, where the subcontract had involved similar nature of work as described in the Note below, provided further that all other qualification criteria are satisfied.

a) Three similar completed works or currently executing three works of similar nature each costing Rs.75 Cr.

OR

b) Two similar completed works or currently executing two works of similar nature each costing Rs.100 Cr.

OR

c) One completed work or currently executing one work of similar nature of aggregate Rs. 150 Cr.

Note: For the purpose of this clause,

Work of Similar Nature means, Collection & Transportation of Construction & Demolition Waste or Municipal Solid Waste (MSW)

OR

Sweeping, Collection & Transportation of Construction & Demolition Waste or Municipal Solid Waste (MSW)

OR

Processing of Construction & Demolition Waste or Municipal Solid Waste (MSW).

Processing of Construction & Demolition waste is prescribed under definitions "Processing" in this tender. Processing of Municipal Solid Waste (MSW) which would mean any activity like RDF generation, screening, waste to energy, waste to bricks/tiles etc. performed by the bidder post collection of MSW to reduce burden on landfill.

The value of executed works shall be brought to current costing level by enhancing the actual value of work at compound rate of 10 % per annum; calculated from the date of completion to last date of receipt of applications for tenders. In case of on-going works, the bidder must have received payment bills so as to meet this Eligibility Criteria. Bidder has to submit the client/ statutory auditor's certificate along with the bid submission so as to meet these eligibility criteria.

- 2. For Bidding of Single or Both the Slices-** The Bidder should have the experience of successful design, installation and operation of MSW/C&D waste processing plant of minimum 200 Tons Per Day capacity. The plant shall be operational and the processed quantity shall be minimum 1,00,000 MT of MSW/C&D waste in any three (3) years of last seven (7) years.

OR

The Bidder should have the experience of Collection & Transportation of MSW / C&D Waste of minimum 200 Tons Per Day and should have collected & transported minimum 1,00,000 MT of MSW/C&D waste in any three (3) years of last seven (7) years.

The necessary documentary proof for the same needs to be submitted along with the bid submission

- 3. For Bidding of Single or Both the Slices-**The bidder must have a valid tie-up with manufacturer/supplier of equipment & machines for wet processing

technology for C&D Waste processing (An indicative list of manufacturer/supplier is given in Annexure-1). The necessary documentary proof such as duly Notarized MOU/ Agreement (for assured supply of equipments spares and post supply services) for the same needs to be submitted along with bid submission.

Financial Criteria –

4. **For Bidding of Single Slice-** The bidder or Joint Venture collectively must have minimum average annual Financial Turnover of **INR 50 Crores (Rupees Fifty Crores Only)** during last 3 financial years (FY 2019-20, 2018-19, 2017-18) from waste management contracts incase bidding for one slice.
5. **For Bidding of Both the Slices-**The bidder or Joint Venture collectively must have minimum average annual Financial Turnover of **INR 62.5 Crores (Rupees Sixty Two Crores Fifty Lakhs Only)** during last 3 financial years (FY 2019-20, 2018-19, 2017-18) from waste management contracts incase bidding for both the slices.

Note for Point 4 & 5 above: For bidder who is individual member of JV, proportionate Turnover of the JV entity will be considered.

The necessary documentary proof i.e. audited balance sheet along with turnover certificate issued by Statutory Auditor for financial years 2019-20, 2018-19 and 2017-18 shall be considered. The Bidder or Lead Member of Joint Venture (in case of JV as a Bidder) shall demonstrate Positive Net Worth as of 31st March 2021. The Turnover can be enhanced by 10% every year to bring to the present level.

Other conditions –

6. Even though the bidders meet the eligibility criteria, they are subject to be disqualified if they:-
 - A. Have made misleading or false representation in the forms, statements and attachments submitted in proof of the qualification requirements;

- B. Have record for poor performance such as abandoning the works, not completed the contract, inordinate delays in completion, or financial failures or termination due to material breach of contract on the part of bidder etc.
 - C. Did not disclose litigation history with Central Government/ ULB's/ Any other statutory authority during last five years.
 - D. have been barred/blacklisted by the ULB/ Central Government or State Government or Statutory Authority or a Public Sector Undertaking, as the case may be from participating in any project and the bar or blacklisting subsists as on the date of proposal.
 - E. Even though the bidders meet the Eligibility criteria, they are subject to be disqualified if they are convicted during last 10 years and till award of tender by any judicial authority of Gol or International Authorities/ found Bankrupt by any finance authorities/ Insolvent by NCLT (National Company Law Tribunal) .
 - F. It is clarified that any of these conditions of the clauses of the RFP will be applicable to parent/ subsidiary/ group/ JV member of the bidder/ associate companies of bidder and the bidder is liable to be disqualified.
7. The joint ventures are allowed up to maximum three members, provided the lead member must have minimum 51% equity stake & other member must hold minimum 20% equity stake throughout the contract tenure. Moreover the JV members shall be severally and jointly responsible for the contract. The Composition of JV cannot be changed during first 10 years of operation of the plant. Thereafter composition of JV can be changed only with the permission of MCGM.
8. The bidder or Joint Venture collectively must have valid PF and ESIC registration along with having minimum 50 nos. manpower on their payroll. The valid latest notarized PF & ESIC submission challan shall be submitted along with proposal submission to prove the same.
9. The bidder or Joint Venture collectively must have a valid labour contract license in their name. A notarized copy for the same shall be enclosed along with proposal submission.
10. The bidder or Joint Venture collectively must have owned **or** on command of 10 number of vehicles with minimum 16 MT Gross Vehicular

Weight & above capacity. The proof for the same needs to be submits along with tender submission.

3.3 Bid Evaluation Criteria:

Financial Evaluation:

- a. The financial bid of the technically qualified bidders as per the evaluation criteria shall be considered for opening of financial bid. The date of opening of financial bids shall be intimated to the technically qualified bidders.

The Tipping Fee should be quoted in the following way

Collection, Transportation, Processing and Disposal of C&D waste for the first year of operation _____Rs./MT

Note -

- 1 Selected Bidder for each slice will be the bidder who has quoted lowest rate for the respective slice acceptable to MCGM.
- 2 Tipping Fee shall be derived by adjusting the expected revenue from the sale of products which shall be part of the rate analysis.
- 3 Selected Bidder to justify rates with proof of assumptions and through workable Financial Model as per Govt. guidelines and industry norms.
- 4 Rates quoted shall be inclusive of all taxes & duties which are not subsumed under GST. Bidders shall note all the provisions under CGST Act, 2017 including 'Anti Profiteering Measure' (APM) and its amendments/circulars from time to time are applicable. Bidder shall also submit irrevocable undertaking as per Annexure- 6.
- 5 In case of decrease or increase in C&D Waste quantity, MCGM reserves the right to increase or reduce the area of respective slice and will adjusted with the adjoining slice. Or MCGM may plan for additional plant if required.
- 6 Since the quantum of C & D waste generated in MCGM area is much more than the quantity put to this tender, MCGM reserves the right to allot the work to multiple Bidders on matching the negotiated price of L1 Bidder of Particular Slice. The Slice can be sub-divided in zones without affecting Minimum agreed quantity of 600 Tons.

- 7 After successful completion of Contract Period, Ownership of the same will remain with Contractor. Accordingly, the Bidder shall quote the rate for Project considering the value of Plant & Machinery and all other Assets at the Site after completion of Contract Period.
- 8 In case Processing Facility site is outside MCGM limits, no extra payment for lead (distance of private land from MCGM limits) will be paid by MCGM. Bidders are requested to quote accordingly.

8.1 Tests of Responsiveness

Prior to evaluation of Bids, the MCGM shall determine whether each Bid is responsive to the requirements of this RFP.

The MCGM reserves the right to reject any Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the MCGM in respect of such Bid.

Any Bidder/ Joint Venture (JV) Members or their Associates which have been barred by the Central Government or State Government or Statutory Authority or a Public Sector Undertaking, as the case may be from participating in any project and the bar subsists as on the date of proposal, the bids of such entity will not be eligible to submit a proposal either by itself or through its Associates. Bid submitted by any such entity will be held non-responsive and the Bid Security shall be forfeited.

Any Bidder or its Associate should have, during the last three years from the due date, neither failed to perform on any agreement, as evidence by imposition of a penalty by an arbitral or Judicial Authority or a Judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract Terminated by any public authority for breach on its part.

8.2 Contacting the MCGM during Bid Evaluation

Bids shall be deemed to be under consideration immediately after they are opened and until such time the MCGM makes official intimation of award/ rejection to the Bidders. While the Bids are under consideration, Bidders and/

or their representatives or other interested parties are advised to refrain, save and except as required under the Bidding Documents, from contacting by any means, the MCGM and/ or their employees/ representatives on matters related to the Bids under consideration.

9 Fraud and Corrupt Practices

The Bidders and their officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the LOA and during the subsistence of the Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the Agreement, the Authority may reject a Bid, withdraw the LOA, or Terminate the Agreement, as the case may be, without being liable in any manner whatsoever to the Bidders or the Selected Bidder or the Contractor, as the case may be, if it determines that the Bidders or the Selected Bidder or the Contractor, as the case may be, has directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as mentioned in this RFP in the Bidding Process. In such an event, the MCGM shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that maybe available to the MCGM under the Bidding Documents.

Without prejudice to the rights and remedies which the MCGM may have under the LOA or the Agreement, or otherwise if Bidder(s) or Selected Bidder or Contractor, as the case may be, is found by the MCGM to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as mentioned in this RFP during the Bidding Process, or after the issue of the LOA or the execution of the Agreement, such Bidder(s) or Selected Bidder or Contractor, as the case may be, shall not be eligible to participate in any tender or RFP issued by the MCGM during a period of 2 (two) years from the date such Bidder or Selected Bidder or Contractor, as the case may be, is found by the MCGM to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.

For the purposes of this Section, the following terms shall have the meaning as assigned to them:

- a. "Corrupt practice" means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the MCGM/Govt./Authority who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the LOA or has dealt with matters concerning the Contractor Agreement or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the MCGM/Govt./Authority, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process; or (ii) engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical adviser of the Authority in relation to any matter concerning the Project in the past but its assignment expired or was terminated 6 (six) months prior to the date of issue of RFP for the Project. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the date of signing of the Agreement;
- b. "Fraudulent practice" means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;
- c. "Coercive practice" means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the Bidding Process;
- d. "Undesirable practice" means (i) establishing contact with any person connected with or employed or engaged by the MCGM/Govt./ Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and

- e. "Restrictive practice" means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

10 Pre Bid Meeting

1. A pre bid meeting will be convened by MCGM to clarify issues with respect to the Project and the terms and conditions of the RFP. MCGM may hold the pre bid meeting (s) as per the schedule communicated to the Prospective Bidder.
2. Prior to the pre bid meeting, the Bidders are requested to submit a list of queries and suggested deviations, if any from the terms and conditions set out in the RFP document.
3. MCGM to its sole discretion, and based on the inputs provided by the Bidders or at its own motion may consider amendment to the terms and conditions of the RFP.
4. The proposal submitted by the Bidder shall have to be in conformity with the terms and conditions of the RFP. And it would be presumed that the Bidder accepts all the terms of the RFP notwithstanding any suggestion made by the Bidders in the pre bid meeting if the suggestion is not considered by MCGM.
5. Attendance of the Bidders in the pre bid meeting is not mandatory.

11 Special conditions

11.1 Increase in the scope of work.

The Contractor should plan to handle 25% additional Waste over and above 600 TPD and also plan to augment C&D Waste Processing Facility suitably during the Contract Period to meet future needs till 2036. If the C&D Waste quantity from Debris on call and Unclaimed debris exceeds 750 TPD, MCGM may appoint another contractor for respective slice.

The Contractor shall also be required to take up additional work of C&D Waste which is presently not covered in his scope so far if the Authority decides to entrust the work on the prevailing terms and conditions applicable during

the Contract Period. This additional work shall be entrusted with sufficient advance intimation to enable the Contractor to make suitable arrangements.

11.2 MCGM account

MCGM may consider to maintain a separate GL account for receipts of payments from the waste generators, penalties received from defaulters & grants, if any and for the payment to the contractor for the services under this project.

This account shall be reviewed by MCGM from time to time.

11.3 Preventing mixing of C&D Waste with Municipal Solid Waste/ Biomedical Waste

Collection of municipal Solid Waste and Bio-medical Waste is not within the purview of this Project and it is supposed to be handled as per Municipal solid waste (Management and Handling) Rules 2016 and Biomedical Waste – Management & Handling Rules. The Bidder is therefore under no obligation to collect, transport, treat, or dispose of Municipal Solid Waste and Bio-medical waste. However, in the event of finding Municipal Solid Waste and or Bio-medical waste disposed off unscientifically alongside C&D WASTE or mixed with C&D WASTE, in the wards covered in Complete Sanitation or Partial Sanitation, the Contractor shall notify the same to MCGM who shall arrange to pick up such waste in the manner as deemed appropriate. The Contractor shall not take such waste to the C&D WASTE Processing Facility /Landfill Facility as it may contaminate other product derived from the Waste.

11.4 Use of Proven Technology

The Contractor shall clearly state the technology he will use for Processing of Waste and give a brief synopsis of the technology and its operation and maintenance. The technology offered shall be proven and in use within or outside the Country under similar situations and the Contractor shall obtain necessary clearance from the State and/or Central Pollution Control Board as required at his own cost and efforts. The Contractor shall have the liberty to upscale the technology during the Contract Period with the prior approval of the Authority and clearance from State Pollution

Control Board for deriving larger benefits without causing any harm to the neighbourhood, health and environment of the City and without putting any additional burden on the Authority. The Contractor shall have to observe all the directions contained in the C&D Waste Rules as well as State Laws and Rules as amended from time to time. In the event of any major change in the legal frame work in the Country or the State, necessitating a major change in the C&D Waste Processing Facility and Landfill. Facility duly created by the Contractor following the present law and the Rules, he shall, on being asked by the Authority, comply with the new laws and the Rules at his cost and may ask for reasonable compensation which shall be determined by a technical committee that may be appointed by Government/ Authority. The Contractor shall use vehicles; equipment and machinery which meet the standard emission norms prescribed the competent authority from time to time.

11.5 Recording the Waste at C&D Waste Processing Facility

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

11.6 Monitoring Mechanism by the Authority

The Contractor is to co-operate in the monitoring mechanism by the Authority as he is expected to perform several tasks shown in the RFP and the payment is to be made for providing the services on the basis per tonne of Waste handled each day. For ensuring fairness to both sides a monitoring mechanism is devised as under to keep a day to day record and ensure that Contractor is performing his duties as per the Agreement and paid accordingly.

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

11.6.1 Monitoring by MCGM staff

a. Collection and Transportation of C&D Waste:

Each MCGM's ward staff shall supervise the work of collection of C&D waste to verify whether the work is being done as expected and may interact with citizens by rotation in different areas under him to ascertain whether Collection and Transportation of C&D Waste is being done to their satisfaction. He should report each day the areas visited and his observations in the prescribed Performa and submit to his next superior officer.

b. Verification fleet of Vehicles and Manpower:

MCGM's ward staff shall verify whether the required fleet of vehicles and man power are deployed by the contractor or there is a shortfall due to any reason.

c. Recording of weight of Waste Transported:

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

Weight figures will be compiled on a daily basis both by weigh bridge in-charge and person in-charge of C&D Waste Processing Facility separately and reported to Engineer in-charge as may be designated by the Authority on day to day basis in the prescribed Performa.

11.6.2 Periodical review Meetings

Periodical review meeting will be conducted by the Commissioner/Addl. or Deputy Commissioner in-charge of Pollution Control Cell with the Contractor or his authorized representative and concerned sanitation officials. He will review the complaints received and their timely disposal

and deficiencies noticed during field visits during the week and take stock of situation and give suitable directions for improving performance of the Contractor, if found deficient. Minutes of meeting shall be recorded and shared with the Contractor or his representative and his acknowledgement shall be obtained. Penalty due, if any, shall be communicated to the Contractor.

The Authority shall monitor the performance of the Contractor in terms of the Agreement and ensure the proper records are maintained for the work done and being done on a day to day basis so that the Contractor's performance is objectively assessed for payment and penalties. Monitoring of weight of the Waste transferred through Private Weigh Bridge

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

11.7 Bonus for Early Completion

11.7.1 For achieving early Commercial Operation Date

On early achievement of Commercial Operation Date, MCGM shall start paying complete Tipping Fee and pay a lump sum bonus amount as provided below-

Period	Bonus Amount
In six Months from date of LOA*	Rs 50 lakhs
In Nine Months from date of LOA*	Rs 25 lakhs

* Provided that no extension granted on either MCGM's or Contractor's account.

11.7.2 For Accident free operation

For every accident free quarter of operation , MCGM shall give quarterly bonus of 0.2% of Tipping Fee amount for that quarter.

12 Instructions to the Successful Bidder/ Contractor

12.1 General Instructions

1. Obtaining Clearances

Contractor shall obtain all necessary permissions and clearances from regulatory bodies required under national/state Laws, Rules, and Regulations for the work. All the expenses on getting such clearances and permissions shall be borne by the Contractor.

2. Terms of Payment

- a. The mechanism of payment shall be governed as per the terms of payment clause of this RFP.
- b. MCGM shall pay the Tipping Fees to the Selected Bidder as per the rate quoted per ton and quantity of C & D waste collected, transported, processed & disposed on monthly basis.
- c. The net quantity of C & D waste as per the weighment records at the processing plant shall be considered for payment.
- d. Monthly bills shall be submitted along with the weighment slips duly certified by MCGM officials and Project Management Consultant (PMC), Independent Engineer (IE), if any.
- e. The retention money, an amount equal to five (5) percent of every bill will be withheld from the contractor. i.e. interim / running bill.

A percentage of the retention money, over and above the actual retention money as indicated below shall be held back from payments till the finalization of final bill to be submitted as per above and will be paid within 30 days of acceptance of the final bill.

Sr. no.	Amount of Contract Cost	Min. payable amount in final bill
1	Upto rs. 5 Crs.	Rs. 10 Lacs or final bill

		amount whichever is more
2	Upto rs. 25 Crs.	Rs. 1 Cr or final bill amount whichever is more
3	Upto rs. 50 Crs.	Rs. 2 Cr or final bill amount whichever is more
4	Upto rs. 100 Crs.	Rs. 4 Cr or final bill amount whichever is more
5	More than Rs. 100 Crs.	Rs. 7 Cr or final bill amount whichever is more

- f. The Retention money shall be refunded after 1 (One) Year from successful completion of contract period.
- g. The contractor have to submit the bill for the work carried out within 15days from the date of completion of the work to the respective executing department .If the contractor fails to submit their bills to concerned executing department ,penalty or action as shown below will be taken for each delayed bill:-

After 15 days from the date of completion/running bill upto certain date, upto next 15 days ie. Upto 30 days	Equal to 5% of the bill amount
Next 15 days upto 45 days from the date of completion/running bill upto specified date	Equal to 10% of the bill amount
If not submitted within 45 days from the date of completion/R.A. bill	Bill will not be admitted for the payment

3. Presence of Contractor or his representative at the site.

On getting the work order, the Contractor shall either himself remain available at site of work or arrange for the presence of his accredited representative (legally authorized in writing) at the site of work to receive instructions from the Authority or his authorized representative and ensure prompt compliance of the instructions given.

4. Joint and Several Liabilities

In case of a Joint Venture/Consortium of two or more firms, the Lead Member shall sign the Agreement, receive all payment, take responsibility of executing work as per the Agreement and offer all guarantees etc. All members of partnership/ joint venture/ Consortium shall be jointly and severally responsible for performance of the work in terms of RFP of Contractor Agreement. The constituents of partnership/ Joint Venture/ Consortium of the Contractor shall not be changed without the express written permission of the Authority.

5. Sub-Contracting.

- a. Contractor is allowed to sub-contract maximum up to 25% of the contract price.
- b. Approval from MCGM will not be required in cases where
 - 1.the sub-contracting of any part of the Works for which the Subcontractor is named in the Contract and not otherwise;
 - 2.the provision for labour, or labour component.
 3. the purchase of Materials which are in accordance with the standards specified in the Contract.
- c. Beyond 25% if the contractor proposes sub-contracting any part of the work during execution of works, because of some unforeseen circumstances to enable him to complete the Works as per terms of the Contract, MCGM will consider the following before according approval:
 1. the circumstances warrant such sub-contracting; and
 2. the sub-Contractor so proposed for the Work possesses the experience, qualifications and equipment necessary for the job proposed to be entrusted to him.
 3. If the competent authority of MCGM grants sanction to the Contractor, then only the Contractor shall be entitled to sub-contract the contract work and not otherwise.\
 4. The Contractor shall not sub-contract the whole of the Works.
 5. The permitted subletting of work by the Contractor shall not establish any contractual relation-ship between the sub-contractor and the MCGM and shall not relieve the Contractor of any responsibility under the Contract.

12.2 Right to Terminate

MCGM reserves the right to terminate the Concession Agreement without assigning any reason to the Contractor.

Annexures

ANNEXURE 1- DETAILED SCOPE OF WORK

A. *Collection and Transportation*

1. C&D waste is divided into two categories:
 - i. Claimed C&D waste: This is generated by identified generators.
 - ii. Unclaimed C&D waste: where the generator of C&D waste is difficult to be identified, for instance the C & D waste which is mainly found dumped across road sides or in other residential, non-residential and open areas within the MCGM limits.
2. The contractor after receipt of LoA from MCGM should prepare and submit comprehensive C & D Waste Management Plan, covering storage, collection transportation, processing/ recycling, and disposal.
3. The contractor shall be responsible for the collection, storage, containment, transportation of all claimed & unclaimed C&D waste to the facility for its further processing and disposal.
4. The contractor will be responsible for lifting unclaimed waste from areas, as directed by MCGM officials, which otherwise cause nuisance to vehicular traffic, mainly on both sides of the roads and at junction points. The heaps of C&D waste dumped by road side/isolated, is to be cleared by the contractor.
5. Set a common call centre facility in consultation with the Contractor selected for other slice and GPS based, Android& iOS based interactive Mobile Application for easy access of C&D waste facility for the user (8 am to 8 pm, all 365 days) for registering a request for collection from MCGM and private parties. Contractor should attend all the sites within 48 hours.
6. The responsibility of contractor includes providing adequate number and types of vehicles for collection and transportation. These vehicles shall be in compliance with RTO rules/ regulations and all other applicable rules & regulations/ notifications by competent Authority.
7. Install GPS in all vehicles at its own cost and provide MIS data to MCGM on a monthly basis and whenever required by MCGM intermittently.
8. Provide all the MIS Data of the project to MCGM along with monthly bill as approved by MCGM at the time of execution of project.

9. For less than 1 MT of C&D Waste generator i.e Small Generator, Contractor has to provide door to door service for collection and transportation for less than 1 MT C&D Waste after confirmation of payment receipt paid to MCGM.
10. For generators of C&D waste equal or more than 1 MT & less than 20 MT i.e Medium Generators, Concessionaire shall provide door-to-door collection facility. Such generators have to book their request, make payment & store C&D waste within their premises ready for lifting.
11. For MCGM's other civil works / bulk generators having quantity equal or more than 20 MT per day or 300 MT per project per month there will be two cases-
 - i. In case the bulk generator uses MCGM's Collection and Transportation services then the Contractor for this project will make arrangement for Collection, Transportation, Processing & Disposal of C&D waste from bulk generators. Bulk generator will make payment to MCGM. In such case, MCGM will make 100% tipping fee to the Contractor in monthly bills.
 - ii. In case the bulk generator transports the waste directly to the site on his own cost then MCGM will make 50% of tipping fee to the Contractor in monthly bills.
12. If there is a difference between the payment by the waste generator and actual C&D Waste found on the site, Contractor shall inform MCGM and only collect waste corresponding to payment done by generator to MCGM, in case the generator shows online payment confirmation for remaining quantity then the contractor shall collect the C&D Waste.
13. For unclaimed debris in any ward, the contractor in the presence of MCGM's staff will take minimum Two (2) Geo-Tagged photographs of the C&D Waste Pile from different angles, which will mention its date, time and location before and after collecting the waste. Two (2) Geo-Tagged photographs each, before and after collecting the C&D Waste, shall be uploaded on the mobile application/ system and shall be submitted along with the monthly bill. Payment of unclaimed debris shall be made by MCGM as per the record. Contractor has to install Load Cells/ On-board weighing mechanism on all the vehicles deployed for the project. Specific weight at every spot of claimed and unclaimed C & D Waste shall be recorded, and contractor shall make the needful arrangement.

14. Facility for “on-demand/ on-call pickup” of C&D from claimed C&D waste generators needs to be created by the contractor. The contractor has to lift unclaimed waste and bulk generators can deliver C & D waste at the processing plant after specific approval from MCGM in cases when 600 TPD cannot be met through Debris On-call and unclaimed debris for respective slice.
15. Contractor has to market and promote its services for lifting of claimed C&D waste.
16. Give methodology of collection & transportation C & D waste which should include collection from zone, ward, complain based collection, request based collection system utilising the vehicles as mentioned.
17. Proper transportation permits should be obtained and the agency shall have the necessary permits
18. The Bidder has to dispose the inerts at the suitable location and appropriate manner as per the methodology and rules of the receiving area and with approvals from competent authority.
19. The bidder has to provide Uniforms, florescent Jacket and other Safety Gear as per C&D Waste Management Rules 2016 to its operating staff.
20. The Bidder has to provide adequate number of Supervisory staff with conveyance for mobility and communication tools for effective co-ordination of the system.
21. The Bidder has to specifically procure the assets for the C&D waste purpose and all the assets would be painted with specific colour code and number and name written on it as per direction from MCGM officials. After the compliance only the vehicles would be allowed to operate.
22. The operation involves various movements of vehicles for maintenance, transportation of vehicles from collection point to Plant site, processing of the C&D Waste and produce recycled materials, movement of vehicles from plant site to disposal site.
23. The successful bidder has to provide registration number of their vehicles to MCGM prior to start of the operation. MCGM may direct the Contractor to get audited any of the softwares/ GPS system/ VTMS system used for the project from the authorized agencies acceptable to MCGM at any time during the contract period.

24. The successful bidder has to establish control room, workshop on the processing plant site itself.
25. The contractor shall undertake a mass awareness programme, in their respective slice, so as to ensure that C&D waste being generated in its contract area is not being littered along the road side or disposed-off at existing MSW dump site(s).
26. The contractor shall carry out awareness, capacity building and ICE activities.
27. The contractor shall create a sustained system of information, education and communication for construction and demolition waste through collaborations with expert institutions and civil societies and also disseminate through their own website
28. The contractor shall device appropriate measures in consultation with expert institutions for management of C & D waste generated including processing facility and for using the recycle products in the best possible manner
29. The contractor should keep a track of the generation of construction and demolition waste within the MCGM limits and establish a database and update on a regular basis in-order to optimize its processing facility
30. The contractor shall coordinate with the MCGM periodically to understand the C & D waste generation.
31. The contractor will involve community participation and discuss with the citizen community in order to ensure a free flow of information on waste generated by individuals so as to optimize the collection, transportation, Processing and Management Facility.
32. The successful bidder shall compulsorily install Vehicle Tracking Management System (VTMS) on each vehicle used for collection & transportation of C&D waste and disposal of post processing rejects, with the necessary web based software, accessible from web, personal computer/ laptops, network links, antivirus, printer, GPS / Sim Card / Dongle and shall provide necessary training to the Municipal Staff and connect the system with Municipal server through IT department of MCGM with loading / unloading switch for vehicles transporting C&D waste/ post-processing rejects at their own cost. Please note that for payment of tipping fee, VTMS record is mandatory.

33. The successful bidder to provide Vehicle Tracking Management System (VTMS) including complete client site connectivity at different locations, Weighbridge etc. The system must be web based application including GPS based live tracking with GIS mapping and integrated map. The successful bidder must provide all necessary hardware (e.g. Computers, GPS etc.) and necessary connectivity with MCGM server. The successful bidder to comply server requirements of MCGM.
34. The successful bidder shall have to provide separate set of vehicles with VTMS installed and connected to MCGM server for this project.
35. GPS System shall be installed / fixed / provided in each vehicle deployed under this project for collection & transportation of C&D waste and shall be in working conditions always. Feed from these GPS will be integrated with MCGM websites.
36. The successful bidder shall provide the real time feed / monitoring of GPS System through Web based Technology and integrated to MCGM portal.
37. Before commencement of services under this project, the contractor shall submit detail work plan for collection, transportation, processing & disposal of C & D waste and get it approved from MCGM. This plan may be amended in future as per the project requirement; however such amendment will require prior approval of MCGM.
38. Collection of municipal Solid Waste and Bio-medical Waste is not within the purview of this Project and it is supposed to be handled as per SWM Rules 2016 and Biomedical Waste – Management & Handling Rules. The Successful Bidder is therefore under no obligation to collect, transport, treat, or dispose of Municipal Solid Waste and Bio-medical waste. However, in the event of finding Municipal Solid Waste and or Bio-medical waste disposed off unscientifically alongside C&D Waste or mixed with C&D Waste, in the wards covered in Complete Sanitation or Partial Sanitation, the Contractor shall notify the same to MCGM. The Contractor shall not take such waste to the C&D Waste Processing Facility as it may contaminate other product derived from the Waste.

B. Mobilization period -

1. The contractor shall complete all the activities such as obtaining all clearances required for the project including clearances required for land

development, mobilization / procurement of necessary equipments, vehicles, machineries & resources required for Collection, Transportation of Construction and Demolition (C&D) Waste from MCGM area and commission the contractual work within 12 months of issuance of LOA.

C. Service level benchmarking

1. The Contractor shall achieve Collection, Transportation from Commercial Operation Date in the following manner.

Sr No	Period	Benchmark
1	By Six Months from Commercial Operation Date	75%
2	By Twelve Months from Commercial Operations Date	100%

2. Ideally all the C&D Waste should be recycled/ processed leading to zero rejects. However, inert/rejects not more than 10% of total C&D Waste received at the plant shall be allowed to dispose at the authorized site.
3. The collection and transportation of C&D Waste may also be done in non-peak hours as well as in night shift to avoid disturbance / inconveniences to the residents and commuters in MCGM area.

D. Machinery & manpower

1. Depending on the requirement, the successful bidder shall deploy adequate resources in each ward and ensure that 100% C&D waste is collected as required under this project and no C&D waste is left unattended & lying on roadside or any other open space.
2. Mechanized lifting & collection of C&D waste shall be done to the extent possible so that there shall minimum physical handling of C&D waste (ideally zero). For mechanized lifting auto tippers/hook lifts/dumper placers or suitable mechanism can be used.

E. Treatment Process

1. The successful Applicant shall set up a C&D waste management facility at designated site along with required site development work(s) such as but

not limited to construction of site office, boundary wall/appropriate fencing, drainage work, electricity [inside and outside the processing unit] etc. The successful Applicant shall be expected to use a combination of technologies that includes crushing, screening, and separation etc. that will maximize waste treatment and would ensure no more than 10% of input waste is sent for disposal. The rejects shall be disposed-off by the contractor at his own cost in a suitable land and for which no separate payment shall be made. The Selected Bidder shall be required to assess the quality and quantity of the C&D waste generated for arriving at the technology selection. The total system should be compliant with the applicable rules and guidelines, framed in India, for the purpose. The successful applicant shall bear the total cost towards land, setting up the facility including design built , collection & transportation of C & D waste from the places in MCGM limits to the processing plant site, processing & disposal of C & D waste and operation & maintenance cost, charges towards all statutory requirements etc.

2. Bidder shall offer to provide proven plant equipment & machinery from the manufacturers such as
 - i. CDE Global (www.cdeglobal.com),
 - ii. Terex (www.terex.in, www.terex.com),
 - iii. Sandvik (www.mining.sandvik.com) ,
 - iv. Green Machine (www.greenmachine.com),
 - v. NFLG China (www.en.nflg.com),
 - vi. Krause Manufacturing (www.krausemanufacturing.com),
 - vii. All Mineral (www.allmineral.com/en),
 - viii. Winner Manufacturing (www.winnermanufacturing.com)
 - ix. Other similar manufacturer

Manufacturer should meet the following requirements –

- a. The bidder shall have to attach Authorization Certificate along with technical support from the manufacturer or from his authorized dealer.
- b. The technical specifications and literature of plant equipment & machinery offered must accompany the offer.

- c. Proposed plant should be based on wet processing suppressing dust and noise pollution and contains basic units, but not limited to crusher, log-washer, hydro-cyclone, filters/ separator etc.

Similar Manufacturer means the Manufacturer of processing unit should have successfully installed & commissioned minimum 10 such units which should be in satisfactorily operation for 1 year, in last 5 years .

3. The Contractor will be expected to use a combination of (mechanical processes) technologies / systems that includes crushing, screening, and separation etc.
4. Successful contractor should try to achieve zero discharge of rejects/ effluents from the proposed plant however maximum of 10% discharge of rejects/effluents will be permitted.
5. The entire C&D Waste processing and management system should be compliant with C&D Waste Management Rules 2016 (C&D Rules) or the applicable rules of the land and guidelines.
6. The Contractor shall use “Wet Process technology” must be used for processing of C&D waste to minimize nuisance due to excessive dust generated during processing activity (Provide technical specifications of the equipment).
7. Work on the Processing plant site should be carried out in shifts. However actual working hours to be decided as per the applicable laws and directions/ consent given by CPCB/MPCB for operations of the plant.
8. Dust control Plan: Suitable measures shall be taken by the Contractor to control and manage the dust generated during processing of C&D Waste and ensure that dust generation is minimal even during the dry seasons.

F. Treatment Facility

1. It will be the responsibility of the successful bidder to develop his own private land of minimum 5 Acres for each model of 70 TPH (Min. 600 TPD) capacity and adequate for storage of C&D Waste Received as per the project requirement, obtain the necessary clearances required to develop the land, level the site and any other activity related to land development.

2. The Contractor shall clearly state the technology he will use for Processing of Waste and give a brief synopsis of the technology and its operation and maintenance. The technology offered shall be proven and in use within or outside the Country under similar situations and the Contractor shall obtain necessary clearance from the State and/or Central Pollution Control Board as required at his own cost and efforts.
3. The Contractor shall have the liberty to upscale the technology during the Contract Period with the prior approval of the Authority and clearance from State Pollution Control Board for deriving larger benefits without causing any harm to the neighbourhood, health and environment of the City and without putting any additional burden on the Authority.
4. The Contractor shall have to follow all the directions contained in the C&D Waste Rules as well as State Laws and Rules or any other applicable rules/ regulations/ guidelines as amended from time to time. In the event of any major change in the legal frame work in the Country or the State, necessitating a major change in the C&D Waste Processing Facility and Landfill.
5. Facility duly created by the Contractor following the present law and the Rules, he shall, on being asked by the Authority, comply with the new laws and the Rules at his cost and may ask for reasonable compensation which shall be determined by a technical committee that may be appointed by Government/ Authority.
6. The Contractor shall use vehicles; equipment and machinery which meet the standard emission norms prescribed the competent authority from time to time.
7. The work at the site can be divided into following broad categories:
 - i. **Site development**
 - ii. **Constructing and operating of C&D waste processing system;**
 - iii. **Operation and maintenance of infrastructure and equipment**
 - i. **The Site development**

The broad scope of work to be carried out by the successful Applicant under site development is as mentioned below but not limited to clearing old structures, levelling the site and any other activity related to land development, construction of site office, boundary wall / appropriate fencing, drainage, electricity (inside and outside the processing unit) etc.

ii. Construct and Operation of C&D Waste Processing System

Responsibilities of Operator should be detailed to include the following:
Undertaking necessary geotechnical survey to assess the hydrological and flooding potential of the site

1. Construction of 70 TPH C&D Waste Processing Plant for each slice.
2. In addition to this, infrastructure such as office building, internal roads, fencing wall/ internal boundaries to restrict the entry to specific areas of site to the authorized persons only.
3. The Contractor shall also be responsible for setting up of laboratory for testing of recycled products from C&D waste.
4. Providing furniture and fixtures, lighting arrangement inside the C&D Waste processing facility as well as outside, in the premises.
5. Providing drainage system and cables, wiring with necessary electrical fixtures as necessary
6. MCGM may facilitate all forms of support to the Contractor for obtaining certification/ statutory clearances required for accessing water, electricity and telephone connection.

iii. Operation and maintenance of infrastructure and equipment

1. The successful Bidder shall be responsible for construction, operation and maintenance of tipper trucks, mechanical lifting arrangement to transfer the waste from bin into tipper truck, required infrastructure including treatment units [crushers and separators] etc. parking facilities, weighbridge, hook loaders.
2. The C&D Waste Processing Facility by the Contractor must earmark separate space for storage of C&D Waste residues or aggregates obtained after

processing for one month generation and while recycled products shall be stored for two/three – month generation

G. Awareness

This section can include the below additional details:

- i. The Successful Bidder shall undertake a mass awareness programme, in MCGM area (so as to ensure that C&D waste being generated is not being disposed off at existing MSW dump site).
- ii. New builders seeking building permits will be asked to register with the MCGM, so that the C&D waste being generated in their premises can be collected from source on demand facility /delivered by them to MCGM's processing facility only with prior MCGM's approval & subject to availability of plant capacity. The Successful Bidder shall organize and conduct public awareness programs [at least once in every month in MCGM area]. The Successful Bidder shall engage a firm for implementing the awareness program. The MCGM Officer will supervise this activity during the entire contract period. The contractor shall create awareness regarding the significance of handling the C&D waste and its proper disposal. For facilitation a help line number shall be provided so that "on demand" lifting can be arranged. The message shall be conveyed through various platforms like Resident welfare association (RWA's), Advance Locality Managements (ALMs) etc. The bulk waste generators like Builders, Government Departments like CPWD etc shall be directly contacted. The residents shall be encouraged to immediately inform about unauthorized dumping of C&D waste on toll free helpline number.
- iii. The Contractor shall mandatorily adhere to instructions and directions given by MCGM as per their policies pertaining to the Environment Management to carry out IEC activities prescribed by MCGM from time to time and shall have to display the messages prescribed by MCGM on their vehicles/ assets. These messages may be changed by MCGM whenever required.

Print media:

The entire concept of proper handling and disposal of C&D waste, including information about the designated C&D waste collection points and the uses of recycled C&D waste materials, toll free helpline number for on-demand lifting of C&D waste should be conveyed through posters, brochures, pamphlets given to each house or commercial establishment and can be displayed in prominent positions as well as local newspapers in consultation with MCGM.

Electronic media:

Local cable television channels, radio, websites shall be used by Contractor to inform citizens about the toll-free helpline numbers facilitating on-demand C&D waste collection, new C&D waste collection arrangements and advertise contact numbers of officials to call for problem solving or for reporting grievances relating to unauthorized dumping and non-removal of C&D waste.

H. Schedule of Penalties –

Penalty for Collection & Transportation of C&D Waste

S.No	Description of Event	Penalty in INR
1.	Penalty for Non-reporting of vehicle after 4 hours of breakdown of vehicle before starting of work & failure of bidder to make alternate arrangements.	Rs.500/-per hour per vehicle starting after 4 hours of breakdown.
2.	Penalty for breakdown after starting the work & Failure of bidder to make alternate arrangement within 3 hours for transferring the debris from the breakdown vehicle, the Corporation requires making necessary arrangement.	Rs.500/-per per hour per vehicle starting after 3 hours of breakdown.
3	Penalty for failure to attend any site and collect the complete C&D Waste thereat within 48 hours.	Rs.1000/-per spot
4	Penalty for failure to attend any site and collect the complete C&D Waste thereat within 72 Hours	Rs. 2000/- per spot per day

S.No	Description of Event	Penalty in INR
6.	Penalty for failure to provide “On Municipal Duty & indication of Debris vehicle” board on the vehicle.	Rs.500/-per vehicle per shift.
7.	Penalty for failure to keep the vehicles well Painted.	Rs.1000/- per vehicle per trip
8.	Lump sum penalty for not starting the work after completion of mobilization period.	Rs.20,000/- per day .
9.	Penalty for failure to provide uniform	Rs.300/- per day per staff
10	Penalty for failure to provide Hand Gloves	Rs.200/- per day per staff
11	Penalty for failure to provide face mask	Rs.100/- per day per staff
12	Penalty for failure to provide safety shoes	Rs.300/- per day per staff
13	Penalty for failure to provide I-Card	Rs.100/- per day per staff
14	Penalty for failure to provide rain coat (only in Monsoon season)	Rs.200/- per day per staff
16	Penalty for failure to providing plastic/ tarpaulin cover on dumper or is torn out on dumper/	Rs.1000/- per such dumper/
18	Penalty for damaging collection spots / roads/ Municipal property by machinery (such as JCB).	Rs.500/- per spot

Penalty for Processing & Disposal of C&D Waste

S.No.	Description of Event	Penalty in INR
1.	Processing of less than 600 TPD quantity Of C&D waste (On yearly basis)	Rs. 100 per ton of unprocessed C&D waste
2.	Violation of C&D Rules and Environmental norms	Rs. 2000 per incidence in addition to action taken by concerned authorities.

S.No.	Description of Event	Penalty in INR
3.	Violation of safety norms as per good Industry practice	Rs. 1000 per incidence per day in addition to action taken by concerned authorities.
4.	Non-Compliance of instructions given by competent authorities & MCGM regarding proper operation of the plant	Rs. 5000 per default per day in addition to Action taken by concerned authorities.
5	Malpractice regarding collection, transportation, processing & disposal of C&D waste causing losses (monetary, legal, social, environmental etc)to MCGM (This shall be applicable for collection& transportation also.)	Heavy penalty of 50% of payment of last 2 months preceding the month in which malpractice is found +liquidated damages to MCGM Note – If the malpractice is done for second time, MCGM will seriously look after the same and will initiate legal action against the contractor which may include blacklisting also.
6	Penalty for any other event of default/lapses (eg. Non-functioning of app or website for online complaint registration) Not specifically mentioned in the tender (This shall be applicable for collection & transportation also.)	Rs. 2000 per event per day

Note – 1. If the total penalty amount reaches 10% of contract cost, MCGM may consider to terminate the contract & initiate further legal action which may including blacklisting.

2. Rate of penalty will be increased by 10% every year rounding off to the nearest rupee.

ANNEXURE 2 A
Basic Information about Bidder

1)	Name and address of the Bidder	
2)	Whether individual/partnership firm/private or public ltd. company	
3)	Name/Names of Owner/Partners/Directors	
4)	Date of Registration/Incorporation of Firm/Company	
5)	Name of the authorized person signing the tender and his/her designation	
6)	Contact Details: Telephone Number : Fax Number : Mobile	
7)	Registered Office and/or Local Office in City (if any) Address: Telephone Number : Fax Number :	
8)	Is there any other firm or Company involved as Consortium Member- if ,yes give full details of Consortium Members, their addresses, contact details, with their share, roles/responsibilities	
9)	Nature of core business of the Consortium Members	
10)	Name and address of Lead Member	
11)	Is the applicant firm a Consortium? Give details of holding firms with percentage of equity	
12)	Financial Turnover of the Lead Member during last three financial years	

13)	Financial Turnover of other Consortium Members during last three financial years	
14)	Net Worth of the Lead Member as of 31 st March 2020	
15)	Net Worth of other Consortium Members as of 31 st March 2020	
16)	Name of the Bankers and their full address	
17)	Whether enlisted/registered with any Govt. or Semi Govt.	
18)	Has the Bidder, or any partner or Directors of the firm/company been involved in litigation during last 10 years for non-performance of contractual obligations with ULBs concerning with any component of	

Signature of the Bidder with company seal

Name of authorized signatory

ANNEXURE 2-B

**A. Contracts of Collection and Transportation of C&D Waste/MSW undertaken
in last 7 years**

	Name and address of employer/client	Date of award of contract	Quantity of C&D Waste/MSW Collected and Transported in the contract in the last three	Start Date	Completion Date
1					
2					
3					
4					
5					

Note: The data provided above need to be supported by the certificate issued by the competent authority in ULB or Chartered Accountant/Statutory Auditor of the Company

Signature of the Bidder with company seal

Name of authorized signatory

ANNEXURE 2-C

**Contracts undertaken for Design, Construction, Operation & Maintenance of
Construction & Demolition Wastes / MSW Processing Facilities capacity
during last 7 years**

Sr. No.	Name of the Employer /Client	Date of Award of Contract	Location and description of the project with capacity in	Value of the contract	Project Start	Completion Dates	

Note: The data provided above need to be supported by the certificate issued by the competent authority in ULB or Chartered Accountant/Statutory Auditor of the Company

Signature of the Bidder with company seal

Name of authorized signatory

ANNEXURE 2-D
List of Key Personnel to be engaged for the Project

Sr. No.	Name	Qualification	Experience	Description of specific job to be allotted	Minimum Period of Engagement on The Project

Note: The Bidder shall attach the resumes of persons to be placed on 5 Key positions stated above.

Signature of the Bidder with company seal

Name of authorized signatory

ANNEXURE 2-E
Proposed Approach & Methodology for the execution of the Project and
Internal Monitoring of the Project implementation

This may include but not limited to:

1. The Bidders understanding of the Project.
2. Manner of Possession of Land.
3. Proposed approach & methodology for implementing the Project covering all component of project such as Collection and Transportation of C&D Waste, Design, construction and management of C&D Waste Processing Facility
4. Setting up of call centre
5. Collection and Transportation system design and methodology
6. Collection of Tipping Fee Mechanism
7. Types of Vehicles including specifications
8. Weighing system including on board weighing system
9. Plant layout along with minimum land use
10. Automation plan of the whole system
11. Protection of health & environment through safe recycling and disposal or inerts.
12. Schedule of implementation of the Project.
13. Plan of Marketing of product/ tie ups if any for sustainability of the Project.
14. Details of key manpower resources to be deployed by the Contractor.
15. Mechanism of supervision & control, monitoring the delivery of service, resolution of public complaints. Etc.

Note: The Contractor may add any other aspect as deemed appropriate.

Signature of the Bidder with company seal

Name of authorized signatory

ANNEXURE 2-F

Information regarding Litigations of each Member of the Consortium during last Five Years

Sr.	Name of the project	Year of	Nature of	

Signature of the Bidder with company seal

Name of authorized signatory

ANNEXURE 2-G
FORMAT FOR COVERING LETTER FOR PROPOSAL SUBMISSION (On the Letterhead of the Bidder or Lead Member in case of a Consortium)

Date:

To:

Municipal Commissioner,

Municipal Corporation of Greater Mumbai, Mumbai

Dear Sir,

Re: Bid for Construction & Demolition Waste Management Project for _____
City.

Being duly authorized to represent and act on behalf of Lead Member (in case of consortium)/Sole Applicant, I, the undersigned, having reviewed and fully understood all of the Proposal requirements and information provided in the Request for Proposal dated [●] [("RFP"), hereby submit the Proposal for the Project referred above.

I am enclosing the Proposal, with the details as per the requirements of the RFP, for evaluation. The Proposal, including the Bid Security shall be valid for a period of One Hundred & Eighty (180) days from the Proposal Due Date i.e. [●] and the Bid Security shall be valid for at least up to forty five (45) days beyond the proposal validity period i.e. till [●].

Dated thisDay of2012

On Behalf of (Name of the Lead Member/Bidder)

Signature of the Authorised Person Name of the

Authorised Person Designation of the Authorised

Person

ANNEXURE 2-H
Affidavit

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

1. I, the undersigned, do hereby certify that all the statements made in the required attachments are correct.
2. The undersigned hereby certifies that neither our firm M/s _____ nor any of our Consortium Members have abandoned any work in India nor any contract awarded to us for Construction and Demolition Waste have been rescinded by any ULB in India during last five years prior to the date of application.
3. The undersigned further certifies that in case any information in the Bid submitted by me is found to be false or untrue at the later stage, the Bid may be cancelled and the Bid Security forfeited.

Name of the firm:

Authorized signatory of the firm

(With designation and title of the officer)

ANNEXURE 3-A
Letter comprising the Bid

Dated: dd-mm-yyyy

To,

Municipal Commissioner,

Municipal Corporation of Greater Mumbai

Sub: Bid for Construction & Demolition Waste Management Project for _____ City.

Dear Sir,

With reference to your RFP document dated dd-mm-yyyy, I/we, having examined the Bidding Documents and understood their contents, hereby submit my/our Bid for the aforesaid Project.

The Bid is unconditional and unqualified.

1. I/ We acknowledge that the Authority will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the Contractor for the aforesaid Project, and we certify that all information provided therein is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the Bid are true copies of their respective originals.
2. This statement is made for the express purpose of our selection as Contractor for the [design, construction, operation and maintenance] of the aforesaid Project.
3. I/ We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Bid.
4. I/ We acknowledge the right of the MCGM to reject our Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
5. I/ We certify that in the last three years, we/ any of the Consortium Members or our/their Associates have neither failed to perform on any contract, as

evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.

We declare that:

- a) I/ We have examined and have no reservations to the Bidding Documents, including any Addendum issued by the MCGM; and
- b) I/ We do not have any conflict of interest in accordance with provisions in the RFP document; and
- c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in the RFP document, in respect of any tender or request for proposal issued by or any agreement entered into with the ULB or any other public sector enterprise or any government, Central or State; and
- d) I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of the RFP, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice; and
- e) the undertakings given by us along with the Application are true and correct as on the Bid Due Date and I/we shall continue to abide by them.
6. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to
7. Bid for the Project, without incurring any liability to the Bidders, in accordance with the RFP document.
8. I/ We believe that we/ our Consortium satisfy(s) the Net Worth criteria and meet(s) the requirements as specified in the RFP document.
9. I/ We declare that we/ any Member of the Consortium, or our/ its Associates are not a Member of a/ any other Consortium submitting a Bid for the Project.
10. I/ We certify that we/ any Member of the Consortium or any of our/ their Associates have not been convicted by a Court of Law or indicted or adverse orders passed by regulatory authority which could cast a doubt on our ability

whatsoever nature if the Project / Contract is not awarded to me/us or our Bid is not opened or rejected.

I/ We agree and undertake to abide by all the terms and conditions of the RFP document.

{We, the Consortium Members agree and undertake to be jointly and severally liable for all the obligations of the Contractor under the Agreement till occurrence of Financial Close in accordance with the Agreement.}

I/ We shall keep this offer valid for 180 (one hundred and twenty) days from the Bid Due Date specified in the RFP.

I/ We hereby submit our Bid for undertaking the aforesaid Project in accordance with the RFP Documents and the Agreement. In witness thereof, I/we submit this Bid under and in accordance with the terms of the RFP document.

Yours faithfully, Date:

(Signature, name and designation
of the Authorized signatory)

Place: Name and seal of Bidder/Lead Member

ANNEXURE 3-B
Power of Attorney for signing of Bid

(On Rs. 500 Stamp Paper)

Know all men by these presents, We, _____ (name of the

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

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

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

For.....

(Signature, name, designation and address of person authorised by Board Resolution (in case of Firm/Company)/ Partner in case of Partnership Firm

Person identified by me/personally appeared before me/Signed before me/Attested/Authenticated * (*Notary to specify as applicable)

(Signature, Name and Address of the Notary)

Seal of the Notary

Registration Number of the Notary

Date :

In presence of,

(Name & Sign of two independent witnesses)

(1) Witness 1

(2) Witness 2

ANNEXURE 3-C
Power of Attorney for Lead Member of Consortium

(On Rs. 500 Stamp Paper)

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

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

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS

We, having our registered office at,
M/s., having our registered office at, and
M/s....., having our registered office at, (hereinafter collectively referred to as the "Principals") do hereby irrevocably designate, nominate, constitute, appoint and authorize M/s, having its registered office at....., being one of the Members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the "Attorney") and hereby irrevocably authorize the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and, in the event the Consortium is awarded the Contract/ Contract, during the execution of the Project, and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the submission of its bid for the Project, including but not limited to signing and submission of all applications, bids and other documents and writings, accept the Letter of Award, participate in bidders' and other conferences, respond to queries,

submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the bid of the Consortium and generally to represent the Consortium in all its dealings with the Authority, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium's bid for the Project and/ or upon award thereof till the Agreement is entered into with the Authority.

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

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

For

(Signature, Name & Title)

For

(Signature, Name & Title)

For

(Signature, Name & Title)

(Executants)

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

In presence of,

(Name & Sign of two independent witnesses for each party)

(For First Party)

(1) Witness 1

(2) Witness 2

(For Second Party)

(1) Witness 1

(2) Witness 2

(For Third Party)

(1) Witness 1

(2) Witness 2

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders resolution/ power of attorney in favor of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalized by the Indian Embassy and notarized in the jurisdiction*

where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention, 1961 are not required to be legalized by the Indian Embassy if it carries a conforming Appostille certificate.

ANNEXURE 3-D
Memorandum of Understanding (MoU)

(On Rs. 500 Stamp Paper)

This Memorandum of Understanding (MOU) entered into this [•] day of [•] 2011 at [•] Between [•] (hereinafter referred as "[•]") and having office at [•], India Party of the First Part

And

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

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

WHEREAS Municipal Corporation_____ has invited Request for Proposal (RFP) from entities interested in Construction and Demolition Waste Management Project at_____ in the state of_____ ("**Project**").

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

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

1. That the Parties will form a Consortium with the shareholding commitments expressly stated. The said Consortium shall not undertake any other business during the Contract Period, to domicile the Project prior to the start of implementation of the Project.
2. That the equity share holding of the Parties in the issued and paid up capital of the Consortium shall not be less than as Specified under Evaluation Criteria Mentioned in RFP Document during the Contract Period.
3. That M/s.,_____ and M/s.,_____ , who are Members of the Consortium commit to hold the following equity

stake in the Consortium which are in line with the requirements of Clause 3 of Evaluation criteria of the RFP Document at all times during the Contract Period

Name of Member	Type of Member	% of shareholding
1. M/s.		
2. M/s.		
3. M/s		

4. That any dilution in the equity holding by the Parties in the Consortium shall be as per the provisions of the Agreement that will be executed on award of the Project to us.
5. However the Parties undertake that there shall be no changes in respect of the Lead Member in case of a Consortium till the execution of the Agreement.
6. Even after execution of the agreement and till completion of the said project work, if there is any change in equity share holding of the parties and any change in the issued and paid up capital of the Consortium, prior permission of MCGM is required.
7. That the Parties shall carry out all responsibilities as Contractor in terms of the Agreement
8. That the roles and the responsibilities of each Party at each stage of the Bidding shall be as follows:

Name of Member	Type of Member	Role & Responsibility
-----------------------	-----------------------	----------------------------------

1. M/s.

2. M/s.

3. M/s

9. That the Parties shall be jointly and severally liable for the execution of the Project in accordance with the terms of the Agreement to be executed on award of the Project.
10. That the Parties affirm that they shall implement the Project in good faith and shall take all necessary steps to see the Project through expeditiously. They shall not negotiate with any other party for this Project.

11. That this MOU shall be governed in accordance with the laws of India and Courts in shall have exclusive jurisdiction to adjudicate disputes arising from the terms herein.

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

For

(Signature, Name & Title)

For

(Signature, Name & Title)

For

(Signature, Name & Title)

(Executants)

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

In presence of,

(Name & Sign of two independent witnesses for each party)

(For First Party)

(1) Witness 1

(2) Witness 2

(For Second Party)

(1) Witness 1

(2) Witness 2

(For Third Party)

(1) Witness 1

(2) Witness

ANNEXURE 3-E
Anti-Collusion Certificate

[To be submitted on the letter heads of the Bidders separately]

Date: [•]

To,

Municipal Commissioner,

Municipal Corporation of Greater Mumbai

Sub: Collection, Transportation, Processing and Disposal of C&D Waste in Mumbai. ("Project")

Sir,

We hereby certify and confirm that in the preparation and submission of this Bid, 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, restrictive or monopolistic trade practice.

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 Bid.

Dated this [•] Day of [•], 2011

Name of the Bidder

Signature of the Authorised Person

Note:

To be submitted by each Member in case of Consortium.

ANNEXURE 4

(Format is for information purpose only& No rate shall be filled in this format

Actual rate to be filled online only.

Disclosure of any financial information in Packet A&B may lead to
disqualification)

Bill of Quantities& Rates

Category	Description of line item	Tipping Fee in first year of Operation
I	Rate per MT for SLICE A–City &Eastern Suburbs	
II	Rate per MT for SLICE B–Western Suburbs	

Note -

1. Bidder/ Joint Venture can bid for single slice or both the slices.
2. Selected Bidder for each slice will be the bidder who has quoted lowest rate for the respective slice acceptable to MCGM.
3. Tipping Fee shall be derived by adjusting the expected revenue from the sale of products which shall be part of the rate analysis.
4. Selected Bidder to justify rates with proof of assumptions and through workable Financial Model as per Govt. guidelines and industry norms.
5. Rates quoted shall be inclusive of all taxes, duties & cess which are not subsumed under GST. Bidders shall note all the provisions under CGST Act, 2017 including 'Anti Profiteering Measure' (APM) and its amendments/circulars from time to time are applicable. Bidder shall also submit irrevocable undertaking as per Annexure- 6.
6. In case of decrease or increase in C&D Waste quantity, MCGM reserves the right to increase or reduce the area of respective slice and will

adjusted with the adjoining slice. Or MCGM may plan for additional plant if required.

- 7. Since the quantum of C & D waste generated in MCGM area is much more than the quantity put to this tender, MCGM reserves the right to allot the work to multiple Bidders on matching the negotiated price of L1 Bidder of Particular Slice. The Slice can be sub-divided in zones without affecting Minimum agreed quantity of 600 Tons.**
- 8. After successful completion of Contract Period, Ownership of the same will remain with Contractor. Accordingly, the Bidder shall quote the rate for Project considering the value of Plant & Machinery and all other Assets at the Site after completion of Contract Period.**
- 9. In case Processing Facility site is outside MCGM limits, no extra payment for lead (distance of private land from MCGM limits) will be paid by MCGM. Bidders are requested to quote accordingly.**

Annexure 4-A

Adjustment for Fuel and Lubricants

Price adjustment for increase or decrease in the cost POL (fuel and lubricants) shall be paid in accordance with the following formula.

$$V1 = 0.85 \times P1/100 \times R (F1-F0) / F0$$

V1 = increase or decrease in the cost of work during the month under consideration due to changes in the rates for fuel and lubricants.

F0 = the official retail price of non-branded Diesel at the existing consumer pumps of IOC at Mumbai, on the date of submission of Bids.

F1 = the official retail price of non-branded Diesel at the existing consumer pumps of IOC at Mumbai, on the last date of the quarter previous to the one under consideration to which a particular interim payment certificate is related.

P1 = Percentage of fuel and lubricants component of the work shall be 10%.

R = Total value of work done during the month.

Adjustment for Fuel (CNG)

Price adjustment for increase or decrease in the cost CNG shall be paid in accordance with the following formula.

$$V1 = 0.85 \times P0/100 \times R \times (C1 - C0) / C0$$

V1 = increase or decrease in the cost of work during the month under consideration due to changes in the rates for CNG.

C0 = the official retail price of CNG at the existing consumer pumps of MGL at Mumbai, on the date of submission of Bids.

C1 = the official retail price of CNG at the existing consumer pumps of MGL at Mumbai, on the last date of the quarter previous to the one under consideration to which a particular interim payment certificate is related.

P0 = Percentage of CNG component of the work shall be 5%. R = Total value of work done during the month.

Adjustment for Labor Component

Price adjustment for increase or decrease in the cost due to labour shall be paid in accordance with the following formula.

$$V1 = 0.85 \times PL/100 \times R \times (L1 - L0) / L0$$

V1 = increase or decrease in the cost of work during the month under Consideration.

L0 = the labour wages for unskilled workers notified by Govt. of Maharashtra for Mumbai on the bid submission date.

L1 = the labour wages for unskilled workers notified by Govt. of Maharashtra for Mumbai under consideration on the 1st day of the month.

PL = Percentage of Labour component of the work shall be 35%.

R = Total value of work done during the month.

Adjustment for Machinery & Machine Tools Component

Price adjustment for increase or decrease in the cost of machinery and machine tools procured by the Contractor shall be paid in accordance with the following formula.

$$Vp = 0.85 \times Pp/100 \times R \times (Pi - Po)/Po$$

Vp = increase or decrease in the cost of work during the month under consideration due to changes in the rates of machinery and machine tools.

Po = the all India average wholesale price index for machinery and machine tools on the date of submission as published by Economic Adviser, Govt. of India, Ministry of Commerce and Industry, New Delhi.

Pi = the all India average wholesale price index for machinery and machine tools on the last date of the quarter previous to the one under consideration to which a particular interim payment certificate is related, as published by Economic Adviser, Govt. of India, Ministry of Commerce and Industry, New Delhi.

Pp = Percentage of plants and machinery spares component of the work shall be 25% R = Total value of work done during the month.

Adjustment for Other local materials

Price adjustment for increase or decrease in the cost of local materials other than machinery and machine tools, POL and CNG procured by the Contractor shall be paid in accordance with the following formula

$$V_m = 0.85 \times P_m / 100 \times R \times (M_i - M_o) / M_o$$

V_m = increase or decrease in the cost of work during the month under consideration due to changes in the rates for local material other than machinery and machine tools, POL and CNG.

M_o = the all India average wholesale price index (all commodities) on the date of submission of Bids, as published by Economic Adviser, Govt. of India, Ministry of Commerce and Industry, New Delhi.

M_i = the all India average wholesale price index (all commodities) on the the last date of the quarter previous to the one under consideration to which a particular interim payment certificate is related, as published by Economic Adviser, Govt. of India, Ministry of Commerce and Industry, New Delhi.

P_m = Percentage of local material component (other than machinery and machine tools, POL and CNG) of the work shall be 25%

R = Total value of work done during the month.

NOTE :

- (i) The base price shall be the date of bid submission.
- (ii) Tipping fee shall be adjusted from 2nd year from Commercial Operation Date as per the price adjustment of various components mentioned in Annexure 4-A.
- (iii) Price adjustment shall be applicable on all the monthly bills passed by the Engineer-in- Charge for payment.
- (iv) The payment towards price adjustment of all monthly bills will be calculated and paid after every six months from the 2nd year of COD of the project on the rate quoted in the BOQ.

- (v) Various cost components mentioned above are pre decided and shall not be amended during entire contract period and no claim shall be entertained from the contractor in this regard.
- (vi) The adjustment may be positive or negative depending upon the rise or fall of index /prices / wages.

ANNEXURE 5

(This format is for representation purpose only. No rate shall be filled in this format. This format should only be signed & stamped and to be uploaded.)

(Actual rate to be filled in online Packet "C" only)

(.)

Date:

To:

Sub: RFP Reference No. _____ dated _____ for Construction & Demolition Waste Management Project

Dear Sir,

Having gone through this RFP document and the draft agreement and having fully understood the Scope of Work for the Project as set out by the MCGM in the RFP document.

1. We are pleased to inform that we would charge the Tipping Fees as quoted in Online for carrying out the Project envisaged under the Scope of Work indicated in this RFP document.
2. We confirm that every year tipping fee will be adjusted as per the adjustment for fuel & lubricants, fuel (CNG), Labor Component, Machinery & machine tools component, other local materials which is explained in Annexure 4-A.
3. We confirm that we will demonstrate if asked to justify the rates quoted above with proper financial model clearly mentioning the capital cost derived and the operational cost, the proceeds from the sale of the products in the market and tipping fees quoted.
4. We confirm that in case of discrepancy in Figures and Words for the Amount Quoted the [Lowest or the amount in words] will be considered.

5. We confirm that the Financial Proposal conforms to all the terms & conditions stipulated in the Request for Proposal (RFP) Document.
6. We confirm that our Financial Proposal is FINAL in all respects and contain No conditions.
7. We confirm that, the information submitted in our Financial Proposal is complete and is correct to the best of our knowledge and understanding. We would be solely responsible for any errors or omissions in our Proposal.
8. We confirm that we have studied the provisions of relevant Indian laws and regulations required to enable us to prepare this Financial Proposal for the Project.

Yours Faithfully,

Name and Designation of the Authorized Signatory

Bidder Name and Address

List of banks acceptable to MCGM

1. The following Banks with their branches in Greater Mumbai and in suburbs and extended suburbs up to Virar and Kalyan have been approved only for the purpose of accepting Banker's guarantee from 1997-98 onwards until further instructions.
2. The Bankers Guarantee issued by branches of approved Banks beyond Kalyan and Virar can be accepted only if the said Banker's Guarantee is countersigned by the Manager of a branch of the same Bank, within the Mumbai Limit categorically endorsing thereon that said bankers Guarantee is binding on the endorsing Branch of the bank within Mumbai limits and is liable to be on forced against the said branch of the Bank in case of default by the operator/supplier furnishing the bankers Guarantee.

List of approved Banks:-

1	State Bank Of India.
B	Nationalized Banks
8	Allahabad Bank.
9	Andhra Bank.
10	Bank Of Baroda.
11	Bank Of India.
12	Bank Of Maharashtra.
13	Central Bank Of India.
14	Dena Bank.
15	Indian Bank.
16	Indian Overseas Bank.
17	Punjab National Bank.
18	Punjab & Sindh Bank.
19	Union Bank Of India.
20	United Bank Of India.
21	UCO Bank.
22	Vijaya Bank.
23	Corporation Bank.
C	Scheduled Commercial Banks
25	Bank Of Madura Ltd.
26	Bank Of Rajasthan Ltd.

27	Banaras State Bank Ltd.
28	Bharat Overseas Bank Ltd
29	Catholic Syrian Bank Ltd.
30	City Union Bank Ltd.
31	Development Credit Bank.
32	Dhanalakshmi Bank Ltd.
33	Federal Bank Ltd.
34	Indsind Bank Ltd.
35	I.C.I.C.I Banking Corporation Ltd.
36	Global Trust Bank Ltd.
37	Jammu & Kashmir Bank Ltd.
38	Karnataka Bank Ltd.
39	Karur Vysya Bank Ltd.
40	Laxmi Vilas Bank Ltd.
41	Nedugundi Bank Ltd.
42	Ratnakar Bank Ltd.
43	Sangli Bank Ltd.
44	South Indian Bank Ltd.
45	S.B.I Corporation &Int Bank Ltd.
46	Tamilnadu Mercantile Bank Ltd.
47	United Western Bank Ltd.
48	Vysya Bank Ltd.
D	Schedule Urban Co-op Banks
49	Abhyudaya Co-op Bank Ltd.
50	Bassein Catholic Co-op Bank Ltd.
51	Bharat Co-op Bank Ltd.
52	Bombay Mercantile Co-op Bank Ltd.
53	Cosmos Co-op Bank Ltd.
54	Greater Mumbai Co-op Bank Ltd.
55	Janata Sahakari Bank Ltd.
56	Mumbai District Central Co-op Bank Ltd.
57	Maharashtra State Co-op Bank Ltd.
58	New India Co-op Bank Ltd.
59	North Canara G.S.B. Co-op Bank Ltd.
60	Rupee Co-op Bank Ltd.
61	Sangli Urban Co-op Bank Ltd.
62	Saraswat Co-op Bank Ltd.
63	ShamraoVithal Co-op Bank Ltd.

64	Mahanagar Co-op Bank Ltd.
65	Citizen Bank Ltd
66	Yes Bank Ltd.
E	Foreign Banks
67	ABM AMRO (N.Y.) Bank.
68	American Express Bank Ltd.
69	ANZ Grindlays Bank Ltd.
70	Bank Of America N.T. & S.A.
71	Bank Of Tokyo Ltd.
72	Bankindosuez.
73	BanqueNationale de Paris.
74	Barclays bank.
75	City Bank N.A.
76	Hongkong & Shanghai banking Corporation.
77	Mitsui Taiyokbe Bank Ltd.
78	Standard Chartered Bank.
79	Cho Hung Bank.

In addition to the list of banks provided above for bank guarantee, following banks in the list of RBI (Reserve Bank of India) will also be allowed. RBI's list of banks can be downloaded from <https://rbidocs.rbi.org.in/rdocs/publications/pdfs/84656.pdf>. From this list of RBI, banks under following heads with their branches in Greater Mumbai and in suburbs & extended suburbs up to Virar and Kalyan have been approved for accepting bank guarantee :-

SBI And Associates, Nationalized Banks, Other Public Sector Banks, Private Sector Banks, Foreign Banks, and Urban Co-operative Banks.

Annexure – 6
Irrevocable Undertaking

(On Rs.500/- Stamp Paper)

I Shri/Smt. aged, years Indian Inhabitant.
Proprietor/Partner/Director of M/s. resident at
..... do hereby give Irrevocable undertaking as under;

- 1) I say & undertake that as specified in section 171 of CGST Act, 2017, any reduction in rate of tax on supply of goods or services or the benefit of input tax credit shall be mandatorily passed on to MCGM by way of commensurate reduction in prices
- 2) I further say and undertake that I understand that in case the same is not passed on and is discovered at any later stage, MCGM shall be at liberty to initiate legal action against me for its recovery including, but not limited to, an appeal to the Screening Committee of the GST Counsel.
- 3) I say that above said irrevocable undertaking is binding upon me/my partners/company/other Directors of the company and also upon my/our legal heirs, assignee, Executor, administrator etc.
- 4) If I fail to compliance with the provisions of the GST Act, I shall be liable for penalty/punishment or both as per the provision of GST Act.

Whatever has been stated here in above is true & correct to my/our own knowledge & belief.

Solemnly affirmed at

DEPONENT

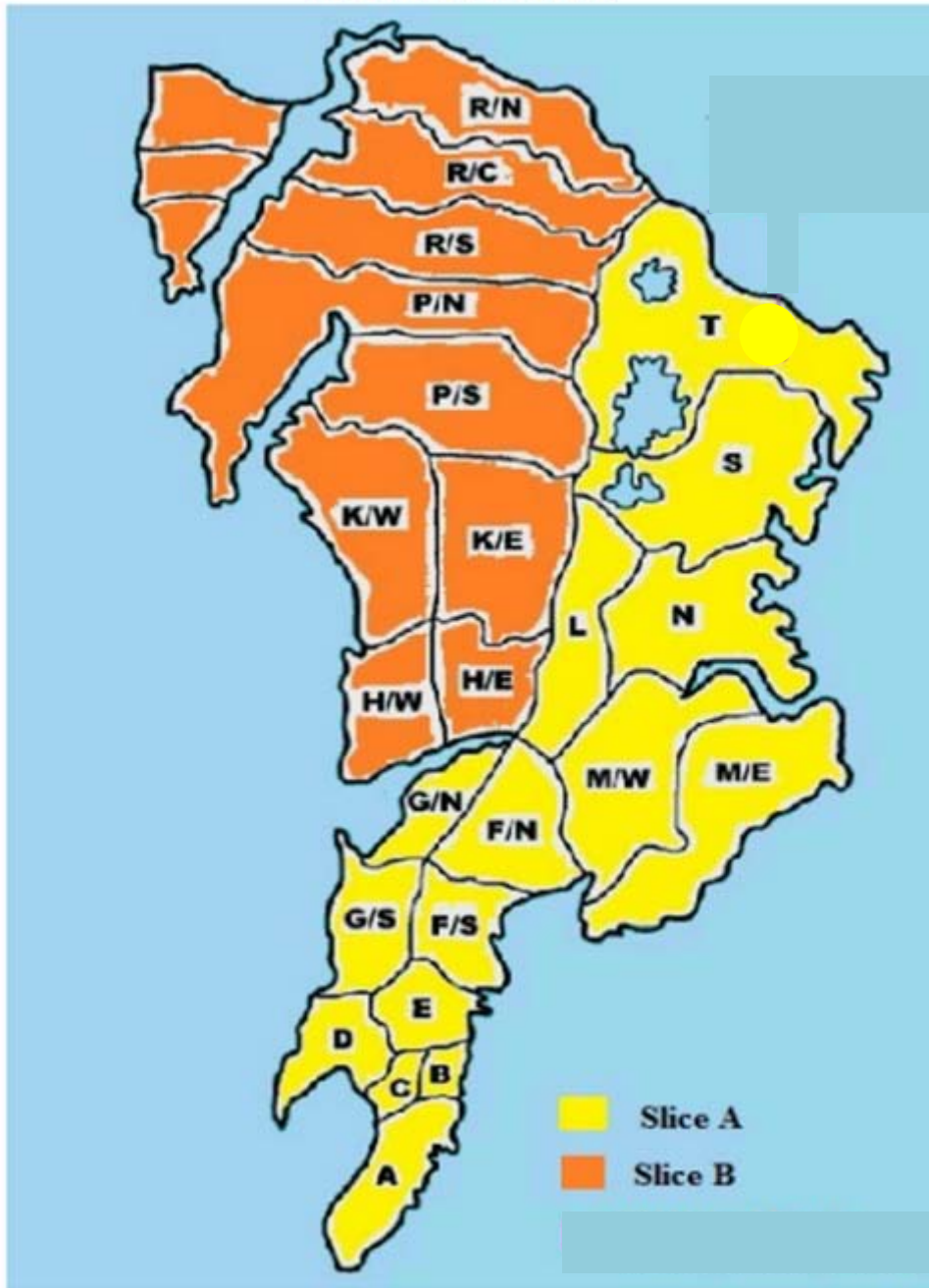
This day of

BEFORE ME

Interpreted Explained and Identified by me.

Annexure - 7

Ward-wise Map of Mumbai



k

Annexure – 8
Parent Company Guarantee

(On Rs. 500 Stamp Paper)

Name of Contract/Contract No.:

Name and address of Employer: _____ (together with
successors

and assigns).

We have been informed that _____ (*name of Contractor*) (hereinafter called the "Contractor") is submitting an offer for such Contract in response to your invitation, and that the conditions of your invitation require his offer to be supported by a parent company guarantee.

In consideration of you, the Employer, awarding the Contract to the Contractor, we (*name of parent company*) irrevocably and unconditionally guarantee to you, as a primary obligation, the due performance of all the Contractor's obligations and liabilities under the Contract, including the Contractor's compliance with all its terms and conditions according to their true intent and meaning.

If the Contractor fails to so perform his obligations and liabilities and comply with the Contract, we will indemnify the Employer against and from all damages, losses and expenses (including legal fees and expenses) which arise from any such failure for which the Contractor is liable to the Employer under the Contract.

This guarantee shall come into full force and effect when the Contract comes into full force and effect. If the Contract does not come into full force and effect within a year of the date of this guarantee, or if you demonstrate that you do not intend to enter into the Contract with the Contractor, this guarantee shall be void and ineffective. This guarantee shall continue in full force and effect until all the Contractor's obligations and liabilities under the Contract have been discharged, when this guarantee shall expire and shall be returned to us, and our liability hereunder shall be discharged absolutely.

This guarantee shall apply and be supplemental to the Contract as amended or varied by the Employer and the Contractor from time to time. We hereby authorise them to agree any such amendment or variation, the due performance of which and compliance with which by the Contractor are likewise guaranteed hereunder. Our obligations and liabilities under this guarantee shall not be discharged by any allowance of time or other indulgence whatsoever by the Employer to the Contractor, or by any variation or suspension of the works to be executed under the Contract, or by any amendments to the Contract or to the constitution of the Contractor or the Employer, or by any other matters, whether with or without our knowledge or consent.

This guarantee shall be governed by the law of the same country (or other jurisdiction) as that which governs the Contract and any dispute under this guarantee shall be finally settled as per the Arbitration clause under the Contract in accordance with Indian Arbitration and Conciliation Act, 1996. We confirm that the benefit of this guarantee may be assigned subject only to the provisions for assignment of the Contract.

Signed by: _____ (signature)

_____ (name)

_____ (position in parent company)

Annexure- 9
(On Rs. 500/- Stamp Paper)

DECLARATION CUM INDEMNITY BOND

I, _____ of _____, do hereby declared and undertake as under.

1. I declare that I have submitted certificates as required to Executive engineer(Monitoring) at the time of registration of my firm/company _____ and there is no change in the contents of the certificates that are submitted at the time of registration.
2. I declare that I _____ in capacity as present Manager/Director/Partners/Proprietors of _____ has not been charged with any prohibitory and /or penal action such as banning(for specific time or permanent)/de-registration or any other action under the law by any Government and/or Semi Government and/or Government undertaking subsisting as on the date of the proposal.
3. I declare that I have perused and examined the tender document including addendum, condition of contract, specifications, drawings, bill of quantity etc. forming part of tender and accordingly, I submit my offer to execute the work as per tender documents at the rates quoted by me in capacity as _____ of _____.
4. I further declare that if I am allotted the work and I failed to carry out the allotted work in accordance with the terms and conditions and within the time prescribed and specified, MCGM is entitled to carry out the work allotted to me by any other means at my risk and cost, at any stage of the contract.
5. I also declare that I will not claim any charge/damages/compensation for non availability of site for the contract work at any time.
6. I declare that I will positively make the arrangements of the required equipment on the day of commencement or with respect to the progress of the work in phases, as per the instructions of site in charge.

Signature of Tenderer/Bidder

Annexure 10
BANKERS GURANTEE IN LIEU OF CONTRACT DEPOSIT / PERFORMANCE
SECURITY

THIS INDENTURE made this _____day of _____ BETWEEN THE _____BANK incorporated under the English/Indian Companies Acts and carrying on business in Mumbai (hereinafter referred to as 'the bank' which expression shall be deemed to include its successors and assigns)of the first part _____ inhabitants carrying on business at _____ in Mumbai under the style and name of Messer's _____(hereinafter referred to as 'the Contractor') of the second part Shri. _____

THE MUNICIPAL COMMISSIONER FOR GREATER MUMBAI (hereinafter referred to as 'the commissioner' which expression shall be deemed, also to include his successor or successors for the time being in the said office of Municipal Commissioner) of the third part and THE MUNICIPAL CORPORATION OF GREATER MUMBAI (hereinafter referred to as 'the Corporation') of the fourth part WHEREAS the Contractors have submitted to the Commissioner tender for the execution of the work of " _____and the terms of such tender /contract require that the Contractors shall deposit with the Commissioner as/contract deposit/ earnest money and /or the security a sum of Rs. _____(Rupees _____)AND WHEREAS if and when any such tender is accepted by the Commissioner, the contract to be entered into in furtherance thereof by the Contractors will provide that such deposit shall remain with and be appropriated by the Commissioner towards the Security -deposit to be taken under the contract and be redeemable by the Contractors, if they shall duly and faithfully carry out the terms and provisions of such contract and shall duly satisfy all claims properly chargeable against them there under AND WHEREAS the Contractors are constituents of the Bank and in order to facilitate the keeping of the accounts of the Contractors, the Bank with the consent and concurrence of the Contractors has requested the Commissioner to accept the undertaking of the Bank hereinafter contained, in place of the contractors depositing with the Commissioner

the said sum as earnest money and /or security as aforesaid AND WHEREAS accordingly the Commissioner has agreed to accept such undertaking NOW THIS AGRREMENT WITHNESSES that in consideration of the premises, the Bank at the request of the Contractors (hereby testified) UNDERTAKES WITH the commissioner to pay to the commissioner upon demand in writing , whenever required by him , from time to time , so to do ,a sum not exceeding in the whole Rs._____ (Rupees _____) under the terms of the said tender and /or the contract .The B.G. Is valid upto _____”Notwithstanding anything what has been stated above, our liability under the above guarantee is restricted to Rs._____ only and guarantee shall remain in force upto _____ unless the demand or claim under this guarantee is made on us in writing on or before _____ all your right under the above

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guarantee shall be forfeited and we shall be released from all liabilities under the guarantee thereafter”

IN WITNESS WHEREOF

WITNESS(1) _____ Name and _address _____

WITNESS(2) _____ Name and _____ the duly constituted Attorney Manager address _____ the Bank and the said Messer’s _____ (Name of the Bank)

WITNESS(1) _____ Name and _____ address _____

WITNESS(2)_____ Name and _____ For Messer's
_____ address _____

have here into set their respective hands the day and year first above written.

The amount shall be inserted by the Guarantor, representing the Contract Deposit in Indian Rupees.

Annexure 11
Circular Stamp Duty on Works Contract

C-93
Stamp Duty

MUNICIPAL CORPORATION OF GREATER MUMBAI

No. ChE/BM/17800/II . 07 JAN 2016

CIRCULAR

Sub : Stamp Duty on Works Contract Agreement.

As per provision of Article 63 of Schedule I of Bombay Stamp Act, 1958, all agreement executed for various Work Contracts are chargeable for proper Stamp Duty as per Maharashtra Stamp (Amendment) Act, 2015 (Mah.Act No.XX of 2015) dated 24.04.2015. Hence circular under No. CE/PD/11127/II dtd.14.01.2010 circulated by this department is modified.

Stamp Duty payable to State Govt. on Contract Agreement and Bank Guarantee in respect of agreements/documents executed for all works supply with effect from 24/04/2015.

In view of the above, all Head of the Deptt.'s, Medical Officer/Supdt. of Hospitals and Deans of Medical Colleges/Hospitals and Asstt. Commissioners are hereby informed to comply the following :-

(I) To incorporate the following conditions in the tender documents for tenders to be invite/henceforth:-

- (1) As per the provision made in Article 63 & Article 54, Schedule I of Maharashtra Stamp Act 2015, stamp duty is payable for "works contract" that is to say, a contract for works and labour or services involving transfer of property in goods (whether as goods of) (some other form) in its execution and includes a sub-contract, as under :-

for Article 54, the following Article shall be substituted, namely :-	
"54. SECURITY BOND OR MORTGAGE DEED, where such security bond or mortgage deed is executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof, or by a surety to secure the due performance of a contract, or in pursuance of an order of the court or a public officer, not being otherwise provided for by the Maharashtra Court-fees Act.	0.5 per cent, for the amount secured by such deed subject to the maximum of ten lakh rupees :- Provided that, where on an instrument executed by a person for whom a person stands surety and executes security bond or a mortgage deed, duty has been paid under article 40, then the duty payable shall be one hundred rupees."
	Exemptions -- Bond or other instrument, when executed, - (a) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable

C:\User\chaudhariA\Desktop\Stamp Duty on Works Contract Agreement (मुद्रांक शुल्कावधन) (2).odt

	<p>dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem;</p> <p>(b) under the rules made by the State Government under section 114 of the Maharashtra Irrigation Act, 1976;</p> <p>(c) by a person taking advance under the Land Improvement Loans Act, 1883 or the Agriculturists Loans Act, 1884 or by their sureties as security for the repayment of such advances;</p> <p>(d) by officers of the Government or their sureties to secure the due execution of an office or due accounting for money or other property received by virtue thereof.</p>
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Article 63 of Schedule I of Maharashtra Stamp Act.

WORKS CONTRACT, that is to say, a contract for works and labour or services involving transfer of property in goods (whether as goods or in some other form) in its execution and includes a sub-contract.	
(a) Where the amount or value set forth in such contract does not exceed rupees ten lakh.	Five hundred rupees.
(b) Where it exceeds rupees ten lakh.	Five hundred rupees plus 0.1% of the amount above rupees ten lakh subject to maximum of rupees twenty five lakhs.

Sd/-2.9.15	Sd/- 3.11.15	Sd/-5.10.15	Sd/-9.12.12	Sd/- 11.12.15
Dy.Ch.Engg. (BM)	Ch. Engg.	C.A.	Director	A.M.C.
(City)	(BM)	(Finance)	(E.S.& P.)	(WS)

Copy to :-

Copy forwarded for information & necessary action, please.

Rohan
7.1.16
Dy. Ch.Engg. (BM) City

C-95

Copy to --

P.S. to M.C.	P.S. to A.M.C. (P)	P.S. to A.M.C. (W.S.)	P.S. to A.M.C. (E.S.)
Director (E.S. & P.)	DMC (Z-I)	DMC (Z-II)	DMC (Z-III)
DMC (Z-IV)	DMC (Z-V)	DMC (Z-VI)	DMC (Z-VII)
DMC (E)	DMC (SE)	C.E.	H.E.
Health Officer	Ch.Eng.(Rds. & Tr.)	Ch.Eng. (SP)	Ch.Eng. (SO)
Ch.Eng. (CTI&RC)	Ch.Eng. (WSP)	Ch.Eng. (MSDP)	Ch.Eng. (SWM)
Ch.Eng. (CS)	Ch.Eng. (DP)	Ch.Eng. (M&E)	C.A. (Finance)
C.A. (WSSD)	C.A. (Treasury)	C.A. (Stores)	C.A. (Vigilance)
Dy.Ch.E.(BM) City	Dy.Ch.E.(BM) W.Subs.	Dy.Ch.E.(BM) E.Subs.	Dy. C.E. (S.I.C.)
Dy.Ch.E. (BM) (HIC)	Dy. Ch.E.(Rds) City	Dy.Ch.E.(Rds) E.S.	Dy.Ch.E.(Rds) W.S.
Dy.Ch.E.(SWD) City	Dy.Ch.E.(SWD) W.S.	Dy.Ch.E.(SWD) E.S.	Dy.Ch.E. (Bridges)
Dy. H.E. (Constn.)	Dy. H.E. (Maint.)	Dy. H.E. (B.C.)	Dy. H.E. (Ops.)
Dy. H.E. (P&C)	Dy.C.E.(BC) City	Dy.C.E.(BC) WS	Dy.C.E.(BC) ES
Asstt.Comm. A Ward	Asstt.Comm. B Ward	Asstt.Comm. C Ward	Asstt.Comm. D Ward
Asstt.Comm. E Ward	Asstt.Comm. F/S Ward	Asstt.Comm.F/N Ward	Asstt.Comm. G/S Wd
Asstt.Comm. G/N Ward	Asstt.Comm. H/E Ward	Asstt.Comm. H/W Wd	Asstt.Comm. K/E Wd
Asstt.Comm. K/W Ward	Asstt.Comm. P/S Ward	Asstt.Comm.P/N Ward	Asstt.Comm. R/S Wd
Asstt.Comm. R/N Ward	Asstt.Comm. R/Central Ward	Asstt.Comm. M/E Wd	Asstt.Comm. M/W Ward
Asstt.Comm. N Ward	Asstt.Comm. L Ward	Asstt.Comm. S Ward	Asstt.Comm. T Ward
Dean / KEM Hosp.	Dean / Nair Hosp.	Dean / LTMG Hosp.	Asstt. Comm./Market
Dy.Supt. of Garden	Chief Fire Officer (Mumbai Fire Brigade)	E.E. (Mon. & Regn.)	Supdt. of Licence
Ch.Insp. (Shops & Esstt.)			

10
 मुंबई महानगरपालिका
 प्रमुख लेखापालांचे कार्यालय
 12 JAN 2016
 289
 FEE AOP
 क्रमांक

A-C-CP)

Scan & Circulate

[Handwritten Signature]
 C-D-CP)

Annexure 12
Grievance Redressal Mechanism

MUNICIPAL CORPORATION OF GREATER MUMBAI

Central Purchase Department

CIRCULAR

No. D.M.C./CPD/3217 Date: 02.03.2019

Sub : To incorporate new clause of Internal "GRIEVANCE REDRESSAL MECHANISM" in the standard Bid document.

Ref: I) CA/FRD/I/05 dt. 10.05.2016
II) MGC/F/8155 dtd. 30.01.2019.

- Vide above reference, Hon'ble M.C. has granted to discontinue the existing Procurement Redressal Committee & to incorporate new clause of internal "GRIEVANCE REDRESSAL MECHANISM" as mentioned below in the bid document.

INTERNAL GRIEVANCE REDRESSAL MECHANISM

M.C.G.M. has formed a Internal Grievance Redressal Mechanism for redressal of bidder's grievances. Any Bidder or prospective Bidder aggrieved by any decision, action or omission of the procuring entity being contrary to the provisions of the tender or any rules or guidelines issued therein, in Packet 'A', 'B' & 'C' can make an application for review of decision of responsiveness in Packet 'A', 'B' & 'C' within a period of 7 days or any such other period, as may be specified in the Bid document.

While making such an application to procuring entity for review, aggrieved bidders or prospective bidders shall clearly specify the ground or grounds in respect of which he feels aggrieved.

Provided that after declaration of a bidder as a successful in Packet 'A' (General Requirements), an application for review may be filed only by a bidder who has participated in procurement proceedings and after declaration of successful bidder in Packet 'B' (Technical Bid), an application for review may be filed only by successful bidders of Packet 'A'. Provided further that, an application for review of the financial bid can be submitted, by the bidder whose technical bid is found to be acceptable / responsive.

Upon receipt of such application for review, M.C.G.M. may decide whether the bid process is required to be suspended pending disposal of such review. The M.C.G.M. after examining the application and the documents available to him, give such reliefs, as

Additional Municipal Commissioner and/or Grievance Redressal Committee, if found, come to the conclusion that any such complaint or review is of vexatious, frivolous or malicious nature and submitted with the intention of delaying or defeating any procurement or causing loss to the procuring entity or any other bidder, then such complainant shall be punished with fine, which may extend to Five Lac rupees or two percent of the value of the procurement, whichever is higher.

- All head of department are therefore requested to take a note of above and process tenders accordingly.

Sd/- 21.02.19
D.M.C(CPD)

CIRCULAR

2018-19

No. D.M.C./CPD/3217 Date: 02.03.2019

CC: to

Director(E.S&P)	D.M.C(E)	D.M.C(S.E)	D.M.C(SWM)	D.M.C(Education)
D.M.C(Vig.)	D.M.C(Z-I)	D.M.C(Z-II)	D.M.C(Z-III)	D.M.C(Z-IV)
D.M.C(Z-V)	D.M.C(Z-VI)	D.M.C(Z-VH)	D.M.C(A&C)	D.M.C(Improvement)
D.M.C(D.M)	D.M.C(Spl.)	D.M.C(M.C's Office)	D.M.C(E.R.)	Director(M.E & M.H)
Ch.M.S(Sp. Hosp.)	E.H.O Dean (LTMG Hosp. & Med. College)	P.S. to M.C. Dean (B.Y.L Nair Hosp.)	C.E. Dean (Nair Hosp. Dental College)	P.S. to AMC(P)/w/c/s/c/- H.E.
Dean (KEM Hosp.)	Ch.E.(Roads & Traffic)	Ch.E.(M.S.D.P)	Ch.E.(SWD)	Ch.E.(S.O)
Ch.E.(D.P)	Ch.E.(W.S.P)	Ch.E.(Vig.)	Ch.E.(B.M)	Ch.E.(S.W.M)
Ch.E.(S.P)	Ch.E.(M&E)	Ch.E.(C.T.I. & R.C)	Ch. L.O	Edu. Officer
Ch.E.(Bridge)	M.A	Security Officer	Law Officer	Supt. Of Garden
M.A	M.S.	C.A(E)	C.A.(T)	Supt. Of Licence
M.C.A				C.A.(W.S.S.D)

Copy submitted for information please

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15-03-2019
DY/Ch.E.(CPD)
लेखा अधिकारी (उपस्थ) 05/03/19
सह प्रमुख लेखापाल (व्यव)

Annexure 13

MUNICIPAL CORPORATION OF GREATER MUMBAI

No. CHE /BM/019919/II dated 07.01.2019.

8 JAN 2019

CIRCULAR

Sub:- Corrections in parameters i.e. similar work experience criteria for major structural repairs / maintenance works & reconstruction / new construction building works undertaken through all M.C.G.M. departments and other corrections in para of curable and non-curable defects and the Header Data of the S.B.D.

Ref:- (1) MGC/ F/8058 dated 03.01.2019

The following amendments / corrections are proposed to be made in the respective paras of the S.B.D. document for "works of carrying out major structural repairs / maintenance works and reconstruction / new construction building works" undertaken through all M.C.G.M. departments as per approval of Hon'ble M.C. u/no.MGC/ F/8058 dated 03.01.2019.

- (1) **Para-Clause 1.3 : Similar experience (for works of carrying out major structural repairs / maintenance works and reconstruction / new construction building works)**

Sr. No.	As per SBD	Proposed Amendment
1.	For assessing the technical capacity of "Regular, Routine and Maintenance works; Similar work shall mean, the completed or on-going works in Building Construction OR Building Maintenance such as repairs OR construction / repairs of asphalt / concrete roads OR laying / rehabilitation of sewer lines along with allied components OR laying / rehabilitation of water pipe lines in Cast Iron / M.S. Pipes / HDPE/MDPE pipes OR repairs/ maintenance / construction of culverts over nullah.	"For assessing the technical capacity of major structural repairs / maintenance works and reconstruction / new construction works; similar work shall mean, the completed or on-going works in Building Construction OR Building Maintenance such as repairs / retrofitting / upgradation/ structural repairs".
2.	As per Circular No.MDD/9945 of 30.01.2017 para "D", the 'Similar Experience' for 'Regular Routine and Maintenance works' shall mean "any work in any department" as mentioned hereinafter.	Not to be insisted for "major structural repairs / maintenance works and reconstruction / new construction building works".

(II) **Para-Curable and Non-Curable defects**

As per SBD		Proposed Amendment	
(i)	<u>Curable Defect shall mean shortfalls in submission such as :</u>	(i)	<u>Curable Defect shall mean shortfalls in submission such as :</u>
a)	Non-submission of following documents (i) Valid Registration Certificate (ii) Valid Bank Solvency (iii) Sales Tax Registration Certificate (VAT) (iv) Certified copies of PAN documents and photographs of individuals, owners etc. (v) Partnership Deed and any other documents. (vi) Undertaking as mentioned in the tender document.	a)	Non-submission of following documents (i) Valid Registration Certificate (ii) Valid Bank Solvency (iii) Sales Tax Registration Certificate (VAT)/Goods and Service Tax Registration certificate. (iv) Certified copies of PAN documents and photographs of individuals, owners etc. (v) Partnership Deed and any other documents. (vi) Undertaking as mentioned in the tender document.
	b) Wrong calculation of Bid Capacity	b)	- Deleted -
	c) No proper submission of experience certificates and other documents, etc.	c)	- Deleted -
(ii)	<u>Non-Curable Defect shall mean</u>	(ii)	<u>Non-Curable Defect shall mean</u>
a)	Inadequate submission of EMD/ ASD amount	a)	Inadequate submission of EMD/ ASD amount
b)	Inadequacy of technical or financial capacity with respect to eligibility criteria as stipulated in the tender.	b)	Inadequacy of technical or financial capacity with respect to eligibility criteria as stipulated in the tender.
		c)	Wrong calculation of Bid Capacity.
		d)	No proper submission of experience certificates and other documents, etc.

(III) **Para-Header Data**

As per present practice		As per proposed modification	
Tender Document No.	XXXXXXXXXXXXXX	Tender Document No.	XXXXXXXXXXXXXX
Name of Organisation	Municipal Corporation of Greater Mumbai	Name of Organisation	Municipal Corporation of Greater Mumbai
Subject	XXXXXXXXXXXXXX	Subject	XXXXXXXXXXXXXX
Cost of Tender	Rs. XXXXXXXXXXXX/- (5.5% VAT)	Cost of Tender	2.50% SGST + 2.50% CGST)

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Cost of E-Tender (Estimated Cost)	Rs.	Cost of E-Tender (Estimated Cost)	Rs.
Bid Security Deposit /EMD	Rs.	Bid Security Deposit / EMD	Rs.
Date of issue and sale of tender	..... from 11.00 Hrs.	Date of issue and sale of tender	..... from 11.00 Hrs.
Last date & time for sale of tender & <u>Receipt of Bid Security Deposit</u>	..... from 12.00 Hrs.	Last date & time for sale of tender	..... from 12.00 Hrs.
Submission of Packet A, B & Packet C online.	..... from 16.00 Hrs.	Submission of Packet A, B & Packet C online & <u>Receipt of Bid Security Deposit</u>	..... from 16.00 Hrs.
Pre-Bid Meeting	..... from 11.00 Hrs. in conference room of Ch.E.(.....)	Pre-Bid Meeting	..... from 11.00 Hrs. in conference room of Ch.E.(.....) as applicable.
Opening of Packet 'A'	..... after 16.01 Hrs.	Opening of Packet 'A'	..... after 16.01 Hrs.
Opening of Packet 'B'	..... after 15.00 Hrs.	Opening of Packet 'B'	..... after 16.10 Hrs.
Opening of Packet 'C'	..... after 15.00 PM.	Opening of Packet 'C'	..... after 15.00 PM.
Address for communication	Office of the Ch.E.(.....)'s office M.C.G.M., ----- floor, Engineering Hub Building, Dr.E.Moses Road, Worli Naka, Worli, Mumbai - 400018.	Address for communication	Office of the Ch.E.(.....)'s office M.C.G.M., ----- floor, Engineering Hub Building, Dr.E.Moses Road, Worli Naka, Worli, Mumbai - 400018.
Venue for opening of Bid	Online in Ch.Engg. (.....)'s office.	Venue for opening of Bid	Online in Ch.Engg. (.....)'s office.

D:\Sr\San\Center\SEB\members\dated 07.01.2019.doc

AGREEMENT FORM

Tender / Quotation dated 20...

Standing Committee/Education Committee Resolution No.
..... CONTRACT FOR THE WORKS
.....

This agreement made this day of
.....

Two thousand
.....

Between

inhabitants of Mumbai, carrying on business at.....
..... in Bombay under the style and name of Messrs
.....

..... (Hereinafter called "the contractor of the one part and Shri
.....

the Director(E.S.&P.) (hereinafter called "the commissioner" in which expression are
included unless the inclusion is inconsistent with the context, or meaning thereof, his
successor or successors for the time being holding the office of Director (E,S.& P)of
the second part and the Municipal Corporation of Greater Mumbai (hereinafter called
"the Corporation") of the third part, WHEREAS the contractor has tendered for the
construction, completion and maintenance of the works described above and his ten-
der has been accepted by the Commissioner (with the approval of the Standing
Committee/Education Committee of the Corporation NOW THIS

THIS AGREEMENT WITNESSETH as follows:-

1) In this agreement words and expressions shall have the same meanings as are respectively assigned to them in the General Conditions of Contract for works hereinafter referred to:-

2) The following documents shall be deemed to form and be read and constructed as a part of this agreement viz.

a) The letter of Acceptance

b) The Bid including all the Annexures.

c) Addendum to Bid; if any d) Tender Document

e) The Bill of Quantities:

f) The Specification:

g) Detailed Engineering Drawings

h) Standard General Conditions of Contracts (GCC)

i) All correspondence documents between bidder and MCGM

3) In consideration of the payments to be made by the Commissioner to the contractor as hereinafter mentioned the contractor hereby covenants with the Commissioner to construct, complete and maintain the works in conformity in all respects with the provision of the contract.

4) The Commissioner hereby covenants to pay to the Contractor in consideration of the construction, completion and maintenance of the works the contract sum, at times and in the manner prescribed by the contract.

IN WITNESS WHERE OF the parties hereto have caused their respective common seals to be herein to affixed (or have hereunto set their respective hands and seals) the day and year above written.

Signed, Sealed and delivered by the contractors

In the presence of

Trading under the name and style of

Full Name

Address

Contractors

Signed by the Director (ES&P) in the presence of Ex. City/ WS/ ES

Director (ES&P)

The Common seal of the Municipal Corporation of Greater Mumbai was hereunto affixed on the

in the presence of two members of the Standing Committee.

1.

1.

2.

2.

And in the presence of the Municipal Secretary Municipal Secretary

Municipal Corporation of Greater Mumbai

Vol-II

DRAFT CONTRACT AGREEMENT

For

**Collection, Transportation, Processing & Disposal of Construction
& Demolition (C&D) Waste in Mumbai.**

Between

1. Municipal Corporation of Greater Mumbai
- &
2. **[Contractor]**

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DISCLAIMER

General principles and clauses of the agreement

Some of the clauses are subject to the amendment as part of negotiation or on advice of senior lenders of the project to achieve the financial closure.

PART I- PRELIMINARY

Contract Agreement

Approved Notice Accepted Hon. Commissioner of MCGM on [---]

Standing committee Resolution no[--] Dated [---]

Article Agreement entered on [-----]

This Agreement is entered into this the _____, _____2020/2021 between

Municipal Corporation of Greater Mumbai a statutory authority constituted in _____, having office of the Commissioner at **Municipal Head Office, Mahapalika Marg, Fort Mumbai – 400001**, acting through the Commissioner (hereinafter referred to as “MCGM”, which expression shall include its successors and assigns) of the ONE PART; and _____, a company incorporated under the Companies Act, 1956/2013 having its registered office at _____acting through _____(hereinafter referred to as “**Contractor**”, which expression shall include its successors and assigns) of the

SECOND PART

MCGM and the Contractor are hereinafter referred to as individually as the “Party” and collectively as “Parties”.

WHEREAS

- A. Municipal Corporation of Greater Mumbai (MCGM) urban local body (local body) is under obligation to adhere the Solid Waste Management Rules, 2016 and Construction & Demolition Waste Management Rules, 2016 framed under the Environment Protection act 1986. The rules provides the regulatory frame work for management of Municipal Solid Waste generated in the urban area of the country. The rules entrust duties on local body for ensure proper management of construction and demolition waste within its jurisdiction in accordance with the provisions of these rules.

- B. The quantum of the construction and demolition debris (“C&D Waste”) generated in Mumbai has increased considerably in the recent years due to the rapid pace of development in the city.
- C. Moreover, there is no scientific method followed at the disposal sites at present, and the C&D Waste is disposed without any treatment at these sites;
- D. In addition to the adhoc and informal nature of the system, constraints of space for storage of C&D Waste and lack of availability of space for landfill sites are also important areas of concern;
- E. MCGM’s intention is to streamline and regularize the entire system in relation to the collection, transport, processing and disposal of the C&D Waste.
- F. In furtherance thereof, Municipal Corporation of Greater Mumbai has developed a project to demonstrate the potential of a scientifically managed project in relation to collection and disposal of C&D Waste. The project envisages appropriate collection and transportation mechanism for C&D Waste, and processing and disposal of the C&D Waste at the site identified by the Bidder on agreed terms. A systematic and controlled mechanism will not only ensure utilization of C&D Waste, but will also help in saving landfill space and also demonstrate the prospect of improving the low-lying lands used for land filling.
- G. Whereas the rules mandate MCGM to make arrangements and establish appropriate systems for collection of waste and remove at regular intervals, either through own resources or by appointing private operators. The MCGM has, pursuant to a competitive bid process, selected the “Contractor” to implement the proposed Project (as defined below).
- H. [For the purpose of implementation of the Project, the contractor has .____**Ha** of land *for module of 70 TPH (Min. 600 TPD) capacity* for the slice _____ that is possessed by him at the location _____. The Parties are now entering into this Agreement to record the terms and conditions on which Contractor will implement the Project for a period of 21 years, and for that purpose will be authorized to collect, transport and process the C&D Waste for the Designated Areas as per the scope mentioned in the RFP.]

1.0 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; and the words and expressions defined in the Schedules and used therein shall have the meaning ascribed thereto in the Schedules:

Access Road	the motorable approach road for the access to the site as detailed out in the Schedule 1
Accounting Year	Means the financial year commencing from the first day of April of any calendar year and ending on the thirty-first day of March of the next calendar year. It is clarified that first accounting year shall be the period commencing from the COD and ending on the thirty-first day of March of the next calendar year.
Additional Cost	the additional capital expenditure and/or the additional operating costs or both as them case may be, which the Contractor would be required to incur as a result of Change in Law or change in design in operation, management and implementation of the Project.
Adjusted Equity	<p>means the Equity funded in Indian Rupees and adjusted on the first day of the current month (the "Reference Date"), in the manner set forth below, to reflect the change in its value on account of depreciation and variations in WPI, and for any Reference Date occurring:</p> <p>a) On or before COD, the Adjusted Equity shall be a sum equal to the Equity funded in Indian Rupees and expended on the Project, revised to the extent of one half of the variation in WPI occurring between the first day of the month of Appointed Date and the Reference Date;</p> <p>b) From COD and until the 10th (Tenth) anniversary thereof, an amount equal to the Adjusted Equity as on COD shall be deemed to be the base (the "Base Adjusted Equity") and the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, revised at the commencement of each month following COD to the extent of variation in WPI occurring between COD and the Reference Date;</p> <p>c) after the 4th (fourth) anniversary of COD, the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, reduced by 0.83% (zero point eight three per cent) thereof at the commencement of each month following the 10th (Tenth) anniversary of COD and the amount so arrived at shall be revised to the extent of variation in WPI occurring between COD and the Reference Date;</p> <p>d) For the avoidance of doubt, the Adjusted Equity shall, in the event of Termination, be computed as on the Reference Date immediately preceding the Transfer Date; provided that no reduction in the Adjusted Equity shall be made for a period equal to the duration, if any, for which the Contract Period is extended, but the revision on account of WPI shall continue to be made</p>
Affected Party	shall have the meaning set forth in Clause 26.1

Agreement or Contract Agreement	means this Agreement, its Recitals, the Schedules hereto and any amendments thereto made in accordance with the provisions contained in this Agreement signed within 45 (forty five) days of the Letter of Acceptance
Applicable Laws	means all laws, brought into force and effect by GOI or the State Government including rules, regulations and notifications made there under, and judgements, decrees, injunctions, writs and orders of any court of record, applicable to this Agreement and the exercise, performance and discharge of the respective rights and obligations of the Parties hereunder, as may be in force and effect during the subsistence of this Agreement
Applicable Permits	means all clearances, licences, permits, authorisations, no objection certificates, consents, approvals and exemptions required to be obtained or maintained under Applicable Laws in connection with the construction, operation and maintenance of the Project during the subsistence of this Agreement
Application	means the Technical Proposal and Financial Offer submitted by the Contractor in response to the RFP
Appointed Date	Means the date on which Financial Close is achieved or an earlier date that the Parties may by mutual consent determine, and shall be deemed to be the date of commencement of the Contract Period. For the avoidance of doubt, every Condition Precedent shall have been satisfied or waived prior to the Appointed Date and in the event all Conditions Precedent are not satisfied or waived, as the case may be, the Appointed Date shall be deemed to occur only when each and every Condition Precedent is either satisfied or waived, as the case may be.
Arbitration Act	means the Arbitration and Conciliation Act, 2015, as amended and shall include modifications to or any re-enactment thereof, as may come in force from time to time
Associate or Affiliate	means, in relation to either Party {and/or Consortium Members}, a person who controls, is controlled by, or is under the common control with such Party {or Consortium Member} (as used in this definition, the expression “control” means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person, whether by operation of law or by contract or otherwise)
Authority/ULB	Means Municipal Corporation of Greater Mumbai (MCGM)/Urban Local Body
Authority Event of Default	shall have the meaning set forth in Clause 29.1.3
Authority Indemnified Persons	shall have the meaning set forth in Clause 34.1.1

Authority Representative	means such person or persons as may be authorized in writing by the Authority to act on its behalf under this Agreement and shall include any person or persons having authority to exercise any rights or perform and fulfil any obligations of the Authority under this Agreement
Bank	means a bank incorporated in India and having a minimum net worth of Rs. 1,000 crore (Rupees one thousand crore) or any other bank acceptable to Senior Lenders, but does not include a bank in which any Senior Lender has an interest
Bank Rate	means the rate of interest specified by the Reserve Bank of India from time to time in pursuance of section 49 of the Reserve Bank of India Act, 1934 or any replacement of such Bank Rate for the time being in effect
Bid	means the documents in their entirety comprised in the bid submitted by the {selected bidder/Consortium} in response to the Request for Proposals in accordance with the provisions thereof
Bid Security	means the security provided by the Contractor to the Authority along with the Bid in accordance with the Request for Proposals, and which is to remain in force until substituted by the Performance Security
Change in Law	shall have the meaning set forth in Clause 33.
Change in Ownership	means a transfer of the direct and/or indirect legal or beneficial ownership of any shares, or securities convertible into shares, that causes the aggregate holding of the Consortium members, together with their Associates, in the total Equity to decline below 51% (fifty one per cent) thereof during Contract Period, provided that any material variation (as compared to the representations made by the Contractor during the bidding process for the purposes of meeting the minimum conditions of eligibility or for evaluation of its application or Bid, as the case may be,) in the proportion of the equity holding of any Consortium member to the total Equity, if it occurs prior to completion of the Contract Period, shall constitute Change in Ownership;
COD or Commercial Operation Date-	shall have the meaning set forth in Clause 15.1
Company	means the company acting as the Contractor under this Agreement
Completion Certificate	shall have the meaning set forth in Clause 14.2
Completion Date	Means the completion date to be notified by the Independent Engineers, on which the Completion Certificate or the Provisional Certificate, as the case may be, is deemed to have been given to the Contractor.
Contract	shall have the meaning set forth in Clause 3.1.1
Contract Period	As per RFP Clause 1.5
Contractor	shall have the meaning attributed thereto in the array of Parties

	hereinabove as set forth in the Recitals
Contractor Event of Default	shall have the meaning set forth in Clause 29.1.2
Conditions Precedent	shall have the meaning set forth in Clause 4.1.1
Construction & Demolition (C&D) Waste	Means Waste, resulting from construction, de-construction, modelling, re-modelling, repair, renovation or demolition of structures or from land clearing activities or trenching or de-silting activities or fly ash from C&D plant. "Structures" for the purposes of this definition means buildings of all types (both residential and non-residential), utilities, infrastructure facilities and any other type of man-made structure. C & D debris include, but are not limited to bricks, concrete rubble and other masonry materials, soil, rock, wood (including painted, treated and coated wood and wood products), land clearing debris, wall coverings, plaster, drywall, plumbing fixtures, roofing, waterproofing material and other roof coverings asphalt pavement, glass, plastics, paper, gypsum boards, electrical wiring and components containing non-hazardous materials, pipes, steel, aluminium and other non-hazardous metals used in construction of structures.
Construction & Demolition Rules(C & D) Rules	Construction and Demolition Waste Rules, 2016 framed by the Government of India under the Environment (Protection) Act, 1986 (Act 29 of 1986).
Construction Period	shall mean the period beginning from the LoA and ending on the COD for Processing Facility.
Construction Requirements	Collectively construction requirements for the Processing Facility in line with minimum specifications given in Schedule 9.
Construction Works	all works and things required to be constructed by the Contractor as part of the Project Facilities in accordance with this Agreement
Cure Period	the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Party responsible for such breach or default and shall: <ul style="list-style-type: none"> a. commence from the date on which a notice is delivered by one Party to the other Party asking the latter to cure the breach or default specified in such notice; b. not relieve any Party from liability to pay Damages or compensation under the provisions of this Agreement; and c. not in any way be extended by any period of Suspension under this Agreement; provided that if the cure of any breach by the Contractor requires any reasonable action by the Contractor that must be approved by the Authority or the Independent Engineer hereunder, the applicable Cure Period shall be extended by the period taken by the Authority or the Independent Engineer to accord their approval.
Daily Reports	shall constitute the reports to be submitted daily as defined in the Schedule 15

Damages	shall have the meaning set forth in Sub-clause 1.2.1(w)
DBFO	Design-Build-Finance-Operate
Debt Due	<p>means the aggregate of the following sums expressed in Indian Rupees outstanding on the Termination Date:</p> <p>(a) the principal amount of the debt provided by Lenders under the Financing Agreements for financing the Total Project Cost (the “principal”) but excluding any part of the principal that had fallen due for repayment 6 (six) months prior to the Termination Date;</p> <p>(b) all accrued interest, financing fees and charges payable under the Financing Agreements on, or in respect of, the debt referred to in Sub-Article (a) above until the Termination Date but excluding (i) any interest, fees or charges that had fallen due 3 (three) months prior to the Termination Date, (ii) any penal interest or charges payable under the Financing Agreements to any Lender, and (iii) any pre-payment charges in relation to accelerated repayment of debt except where such charges have arisen due to Authority Default or State Government Default; and</p> <p>(c) any Subordinated Debt which is included in the Financial Package disbursed by lenders for financing the Total Project Cost; provided that if all or any part of the Debt Due is convertible into equity at the option of Lenders and/or the Contractor, it shall for the purposes of this Agreement be deemed to be Debt Due even after such conversion and the principal shall be dealt with as if such conversion had not been undertaken. For the Purposes of this Agreement, the term “Subordinated Debt” shall mean the debt provided by lenders or the Contractor’s shareholders for meeting the Total Project Cost and shall be subordinate to the financial assistance provided by Senior Lenders.</p>
Debt Service	shall mean the sum of all payments on account of principal, interest, financing fees and charges due and payable in a Financial Year/Accounting Year to the Lenders and as provided in the Financing Agreements.
Disposal	means final disposal of C&D waste inerts/rejects at a disposal site finalised by the Contractor adhering to relevant Govt. norms for receiving such materials.
Dispute	shall have the meaning set forth in Clause 36.1.1
Dispute Resolution Procedure	means the procedure for resolution of Disputes set forth in Clause 36
Document or Documentation	means documentation in printed or written form, or in tapes, discs, drawings, computer programmes, e-mails, writings, reports,

	photographs, films, cassettes, or expressed in any other written, electronic, audio or visual form
Drawings	means all of the drawings, calculations and documents pertaining to the Project
Development period	means the period from the date of this Agreement until the Appointed Date
Encumbrances	means, in relation to the Project, any encumbrances 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 any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Project, where applicable herein but excluding utilities
EPC Contractor	means the person with whom the Contractor will enter into an EPC Contract
Equity	<p>Shall mean the sum expressed in Indian Rupees representing the paid up Equity and/or preferential share capital including share premium of Contractor for meeting the equity component of Total Project Cost, and for the purpose of the agreement, shall include convertible instruments or other similar forms of capital.</p> <p>means the sum expressed in Indian Rupees representing the paid up equity share capital of the Contractor for meeting the equity component of the Total Project Cost, and shall for the purposes of this Agreement include convertible instruments or other similar forms of capital, which shall compulsorily convert into equity share capital of the Company, and any interest-free funds advanced by any shareholder of the Company for meeting such equity component</p>
Event of Default	Shall have the meaning ascribed thereto in Clause 29.1.
Excluded Waste	Waste material of the nature that the Project Facilities are not designed or authorized to receive, manage, process and dispose which includes Hazardous Waste, Bio-medical Waste, Treated Bio-medical waste, MSW.
Financial Close	means the fulfilment of all conditions precedent to the initial availability of funds under the Financing Agreements
Financial Default	shall have the meaning set forth in Schedule 18
Financial Model	means the financial model adopted by Authority as per resolution [-----] of standing committee dated[----], setting forth the capital and operating costs of the Project and revenues therefrom on the basis of which financial viability of the Project has been determined by the Authority, and includes a description of the assumptions and parameters used for making calculations and projections therein
Financial Package	means the financing package indicating the total capital cost of the Project and the means of financing thereof, as set forth in the Financial Model and approved by the Senior Lenders, and includes Equity, all financial assistance specified in the Financing

	Agreements, Debt and Equity Support, if any
Financing Agreements	means the agreements executed by the Contractor in respect of financial assistance to be provided by the Senior Lenders by way of loans, guarantees, subscription to non-convertible debentures and other debt instruments including loan agreements, guarantees, notes, debentures, bonds and other debt instruments, security agreements, and other documents relating to the financing (including refinancing) of the Total Project Cost, and includes amendments or modifications made in accordance with Clause 5.2.3
Force Majeure or Force Majeure Event	shall have the meaning ascribed to it in Clause 26.1
GoI or Government	means the Government of India
GoM	means the Government of Maharashtra
Good Industry Practice	means the practices, methods, techniques, designs, standards, skills, diligence, efficiency, reliability and prudence which are generally and reasonably expected from a reasonably skilled and experienced operator engaged in the same type of undertaking as envisaged under this Agreement and which would be expected to result in the performance of its obligations by the Contractor in accordance with this Agreement, Applicable Laws, relevant Indian Standards and Applicable Permits in reliable, safe, economical and efficient manner
Government Agency	Gol, GoM, the Authority or any State Government or governmental department, commission, board, body, bureau, agency, authority, instrumentality, court or other judicial or administrative body, central, state or local, having jurisdiction over Contractor, the Site/Project Facilities or any portion thereof, for the performance of all or any of the services or obligations of Contractor under or pursuant to this Agreement.
Government Instrumentality	means any department, division or sub-division of the Government or the State Government and includes any commission, board, authority, agency or municipal and other local authority or statutory body including Panchayat under the control of the Government or the State Government, as the case may be, and having jurisdiction over all or any part of the Project or the performance of all or any of the services or obligations of the Contractor under or pursuant to this Agreement
Hazardous Waste	shall have the meaning as defined under the Hazardous Wastes (Management and Handling) Rules, 1989
Indemnified Party	means the Party entitled to the benefit of an indemnity pursuant to Clause 34
Indemnifying Party	means the Party obligated to indemnify the other Party pursuant to Clause 34

Independent Engineer	shall have the meaning ascribed thereto in Clause 21
Indirect Political Event	shall have the meaning set forth in Clause 26.3
Inspection Report	As defined in the Schedule 16
Insurance Cover	means the aggregate of the maximum sums insured under the insurances taken out by the Contractor pursuant to Clause 24, and includes all insurances required to be taken out by the Contractor but not actually taken, and when used in the context of any act or event, it shall mean the aggregate of the maximum sums insured and payable or deemed to be insured and payable in relation to such act or event
Intellectual Property	means all patents, trademarks, service marks, logos, get-up, trade names, internet domain names, rights in designs, blue prints, programmes and manuals, drawings, copyright (including rights in computer software), database rights, semi-conductor, topography rights, utility models, rights in know-how and other intellectual property rights, in each case whether registered or unregistered and including applications for registration, and all rights or forms of protection having equivalent or similar effect anywhere in the world
Lenders	means the financing institutions, banks, multilateral funding agencies, private equity funds, real estate investment trust and/or similar bodies undertaking lending business or their trustees/agents, corporate bodies, non-banking financial companies (NBFC) including their successors and assignees, who have agreed to guarantee or provide finance to the Contractor under any of the Financing Agreements for meeting costs of all or any part of the Development Project for development and construction of the Assets and the Project Utilities.
Lenders' Representative	means the person duly authorized by the Lenders to act for and on behalf of the Senior Lenders with regard to matters arising out of or in relation to this Agreement, and includes his successors, assigns and substitutes
Material Adverse Effect	means a material adverse effect of any act or event on the ability of either Party to perform any of its obligations under and in accordance with the provisions of this Agreement and which act or event causes a material financial burden or loss to either Party
Material Breach	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
Mobilization Period	Period Starting from date of issue of Letter of Acceptance (LoA) to the Contractor to obtain all necessary clearances and approvals from relevant Authorities.
Monitoring Agency	Any agency authorized by the Authority to monitor progress or adherence to construction or Operations & Maintenance requirements. This includes the Independent Engineer.
Monthly Reports	shall constitute the reports to be submitted monthly as defined in

	the Schedule 15
Non-Political Event	shall have the meaning set forth in Clause 26.2
O&M	means the operation and maintenance of the Project and includes all matters connected with or incidental to such operation and maintenance and provision of services and facilities in accordance with the provisions of this Agreement, set forth in Clause 12.3
O&M Contract	means the operation and maintenance contract that may be entered into between the Contractor and the O&M Contractor for performance of all or any of the O&M obligations
O&M Contractor	means the person, if any, with whom the Contractor has entered into an O&M Contract for discharging O&M obligations for and on behalf of the Contractor
O&M Expenses	means expenses incurred by or on behalf of the Contractor or by the Authority, as the case may be, for all O&M including (a) cost of salaries and other compensation to employees, (b) cost of materials, supplies, utilities and other services, (c) premia for insurance, (d) all taxes, duties, cess and fees due and payable for O&M, (e) all repair, replacement, reconstruction, reinstatement, improvement and maintenance costs, (f) payments required to be made under the O&M Contract or any other contract in connection with or incidental to O&M, and (g) all other expenditure required to be incurred under Applicable Laws, Applicable Permits or this Agreement
O&M Inspection Report	shall have the meaning set forth in Clause 20.2
O&M Period	Period starting from Commercial Operation Date to end of 20 years or Termination of Contract whichever is earlier.
O&M Plan	shall mean the plan referred to in Schedule 10, Clause 10.2(a)(ii)
O&M Requirements	the requirements as to operation and maintenance of the Project Facilities set forth in the Schedule 10
Operation & Maintenance Manual or O&M Manual	shall have the meaning ascribed to it in Clause 16.2
Operation Period	means the period commencing from COD and ending on the Transfer Date
Organic Waste	such type of Waste that can be degraded by microorganisms
Panel of Chartered Accountants	shall have the meaning set forth in Clause 25.2.1
Parties	means the parties to this Agreement collectively and “Party” shall mean any of the parties to this Agreement individually
Performance Security	shall have the meaning set forth in Clause 9
Performance Standards	Standards of operations as defined in the Schedule 12
Plant	the apparatus and machinery for carrying on the activities required for the Project, fixed or movable, but excluding consumables and premises

Political Event	shall have the meaning set forth in Clause 26.4
Preliminary Notice	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
Processing	Processing of C&DW by which it is transformed into new or recycled products by using processes such as wet processing technology or any other proposed technology in accordance to the standards set forth in Schedule 12 and Applicable Law.
Processing Facility	The facilities established for collection, transportation and processing of C&D Waste in accordance with this Agreement & authority's requirement established in Annexure 1 of the Request For Proposal.
Processing Weighbridge	Weighbridge installed at the entrance of the Processing Facility
Project	the project for enabling construction of Processing Facility, processing of C&DW and for that purpose to design, develop, finance, construct, operate and maintain the Plant, under and in accordance with the terms and provisions of this Agreement.
Project Area	[Slice A- Ward A, B, C, D, E, F/S, F/N, G/S, G/N, M/W, M/E, N, L, S, T Slice B – Ward H/W, H/E, K/W, K/E, P/S, P/N, R/S, R/C, R/N]
Project Agreements	means this Agreement, the Financing Agreements, EPC Contract, O&M Contract, and any other agreements or material contracts that may be entered into by the Contractor with any person in connection with matters relating to, arising out of or incidental to the Project but does not include the Substitution Agreement
Project Assets	means all physical and other assets relating to and forming part of the Site including (a) rights over the Site in the form of License, or otherwise; (b) tangible assets such as civil works and equipment including foundations, roads and pavements, drainage works, electrical systems, communication systems and administrative offices; (c) Project Facilities situated on the Site; (d) all rights of the Contractor under the Project Agreements; (e) financial assets, such as receivables, security deposits etc.; (f) insurance proceeds; and (g) Applicable Permits and authorisations relating to or in respect of the Project
Project Completion Schedule	means the progressive Project Milestones set forth in Schedule 5 for completion of the Project on or before the Scheduled Completion Date
Project Facilities	shall mean all the amenities and facilities and (a) Collection & Transportation vehicles (b) Machinery & equipments at designated Collection Centres.(b) the Site, (c) Processing facilities.
Project Milestones	means the project milestones set forth in Schedule 5
Provisional Certificate	shall have the meaning set forth in Clause 14.3

Punch List	shall have the meaning ascribed to it in Clause 14.3.1
PPP	Public Private Partnership
RBI	means the Reserve Bank of India, as constituted and existing under the Reserve Bank of India Act, 1934, and its successors
Re., Rs., or Rupees or Indian Rupees	means the lawful currency of the Republic of India
Readiness Certificate	the certificate issued by Independent Engineer/ the Authority certifying, inter-alia, that Contractor has constructed all the facilities so as to enable receipt of Construction & Demolition Waste Processing, and the Contractor has obtained all approval necessary to receive the Construction & Demolition Waste supplied by MCGM
Request for Proposals or RFP	Request for Proposal document issued by the Authority for this Project
Residual Inert Matter	the waste matter obtained after Processing of the C&D waste by each of the relevant Processing Facilities
Safety Requirements	shall have the meaning set forth in Clause 19.1.1
Scheduled COD	COD of the Project as per the Project Milestones
Segregated C & D Waste	Means segregation of C & D waste into four streams such as concrete, soil, steel, wood and plastics, bricks and mortar
Selected Bidder/Consortium	Means the bidder/consortium that has been issued the Letter of Acceptance.
Scope of the Project	shall have the meaning set forth in Clause 2.1
Scheduled Completion Date	shall mean that date mentioned for completion of Construction Work in schedule for completion of the Project in accordance with the Project Completion Schedule as set forth in Schedule 5;
Site or Project Site	As detailed in the Schedule 1
SPCB/MPCB	State Pollution Control Board: specifically, Maharashtra State Pollution Control Board.
Specifications and Standards	means the specifications and standards relating to the quality, quantity, capacity and other requirements for the Project, and any modifications thereof, or additions thereto, as included in the design and engineering for the Project submitted by the Contractor to, and expressly approved by, the Authority
State	means the State of Maharashtra and “State Government” means the government of that State
Statutory Auditors	means a reputable firm of chartered accountants acting as the statutory auditors of the Contractor under the provisions of the Companies Act, 1956 including any statutory modification or re-enactment thereof, for the time being in force, and appointed in accordance with Clause 25.2.1
Sub-Contractor	means the person or persons, as the case may be, with whom the Contractor has entered into any of the EPC Contract, the O&M Contract, or any other agreement or a material contract for construction, operation and/or maintenance of the Project or

		matters incidental thereto, but does not include a person who has entered into an agreement for providing financial assistance to the Contractor
Substitution Agreement		Shall have meaning set forth in clause 32.3
Suspension		shall have the meaning set forth in Clause 28.1
Taxes		means any Indian taxes including excise duties, customs duties, value added tax, sales tax, local taxes, Goods & Services Taxes, cess and any impost or surcharge of like nature (whether Central, State or local) on the goods, materials, equipment and services incorporated in and forming part of the Project charged, levied or imposed by any Government Instrumentality, but excluding any interest, penalties and other sums in relation thereto imposed on any account whatsoever. For the avoidance of doubt, Taxes shall not include taxes on corporate income.
Termination		means the expiry or termination of this Agreement and the Contract hereunder, as the case may be
Termination date		the date specified in the Termination Notice as the date on which Termination occurs /comes into effect
Termination Notice		means the communication issued in accordance with this Agreement by one Party to the other Party terminating this Agreement
Termination Payment		As per set forth in clause no. 26.9 of this agreement.
Tests		means the tests set forth in Schedule 7 to determine the completion of the Project in accordance with the provisions of this Agreement
Tipping Fee		the amounts payable by the Authority to Contractor, as set out in Clause 17
TPD		tonnes per day
Total Project Cost		means the lowest of: a. the capital cost of the Project, as set forth in the Financial Model; b. the actual capital cost of the Project upon completion of the Project; c. a sum of Rs -----Crores (Rupees ----- only) provided that in the event of Termination, the Total Project Cost shall be deemed to be modified to the extent of variation in WPI in accordance with the provisions of this Agreement; provided further that in the event WPI increases, on an average, by more than 6% (six per cent) per annum for the period between the date hereof and COD, the Parties shall meet, as soon as reasonably practicable, and agree upon revision of the amount hereinbefore specified such that the effect of increase in WPI, in excess of such 6% (six per cent), is reflected in the Total Project Cost

Transfer Date	Means the date on which this Agreement and the Contract hereunder expires pursuant to the provisions of this Agreement or is terminated by Termination Notice, subject to and in accordance with this Agreement.
Waste generators	All residential, commercial establishments, institutions and other sources located within the service area of MCGM and generating C&DW as defined in C&DW Rules, 2016.
Waste Reports	shall have the meaning ascribed in the Schedule 15
WPI	means the Wholesale Price Index for all commodities as published by the Ministry of Industry, GOI and shall include any index which substitutes the WPI, and any reference to WPI shall, unless the context otherwise requires, be construed as a reference to the latest monthly WPI published no later than 30 (thirty) days prior to the date of consideration hereunder

1.2 Interpretation

1.2.1. In this Agreement, unless the context otherwise requires,

- a. references to any legislation or any provision thereof shall include amendment or re-enactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or consolidation applies or is capable of applying to any transaction entered into hereunder;
- b. references to laws of India or Indian law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, Indian Standards, bye laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted;
- c. references to a “person” and words denoting a natural person shall be construed as a reference to any individual, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and shall include successors and assigns;
- d. the table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;
- e. the words “include” and “including” are to be construed without limitation and shall be deemed to be followed by “without limitation” or “but not limited to” whether or not they are followed by such phrases;
- f. references to “construction” or “building” include, unless the context otherwise requires, investigation, design, developing, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental to the construction, and “construct” or “build” shall be construed accordingly;
- g. references to “development” include, unless the context otherwise requires,

- construction, renovation, refurbishing, augmentation, up gradation and other activities incidental thereto, and “develop” shall be construed accordingly;
- h. any reference to any period of time shall mean a reference to that according to Indian Standard Time;
 - i. any reference to day shall mean a reference to a calendar day;
 - j. references to a “business day” shall be construed as a reference to a day (other than a Sunday) on which banks in Mumbai are generally open for business;
 - k. any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;
 - l. references to any date, period or Project Milestone shall mean and include such date, period or Project Milestone as may be extended pursuant to this Agreement;
 - m. 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; provided that if the last day of any period computed under this Agreement is not a business day, then the period shall run until the end of the next business day;
 - n. the words importing singular shall include plural and vice versa;
 - o. references to any gender shall include the other and the neutral gender;
 - p. “lakh” means a hundred thousand (100,000) and “crore” means ten million (10,000,000);
 - q. “indebtedness” shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;
 - r. references to the “winding-up”, “dissolution”, “insolvency”, or “reorganization” of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganization, dissolution, arrangement, protection or relief of debtors;
 - s. save and except as otherwise provided in this Agreement, 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; provided that this Sub-clause shall not operate so as to increase liabilities or obligations of the Authority hereunder or pursuant hereto in any manner whatsoever;
 - t. any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Agreement from or by any Party or the Independent Engineer shall be valid and effective only if it is in writing under the hand of a duly authorized representative of such Party or the Independent Engineer, as the case may be, in this behalf and not otherwise;
 - u. the Schedules and Recitals to this Agreement form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;

- v. references to Recitals, Clause s, Clauses, Sub-clauses or Schedules in this Agreement shall, except where the context otherwise requires, mean references to Recitals, Clause s, Clauses, Sub-clauses and Schedules of or to this Agreement, and references to a Paragraph shall, subject to any contrary indication, be construed as a reference to a Paragraph of this Agreement or of the Schedule in which such reference appears;
- w. the damages payable by either Party to the other of them, as set forth in this Agreement, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty (the “**Damages**”); and
- x. time shall be of the essence in the performance of the Parties’ respective obligations. If any time period specified herein is extended, such extended time shall also be of the essence.

1.2.2. Unless expressly provided otherwise in this Agreement, any Documentation required to be provided or furnished by the Contractor to the Authority and/or the Independent Engineer shall be provided free of cost and in three copies, and if the Authority and/or the Independent Engineer is required to return any such Documentation with their comments and/or approval, they shall be entitled to retain two copies thereof.

1.2.3. The rule of construction, if any, that a contract should be interpreted against the parties responsible for the drafting and preparation thereof, shall not apply.

1.2.4. Any word or expression used in this Agreement shall, unless otherwise defined or construed in this Agreement, bear its ordinary English meaning and, for these purposes, the General Clauses Act 1897 shall not apply.

1.3 Measurements and arithmetic conventions

1.3.1. All measurements and calculations shall be in the metric system and calculations done to 2 (two) decimal places, with the third digit of 5 (five) or above being rounded up and below 5 (five) being rounded down.

1.4 Contract Document

1.4.1. The documents forming the contract are to be taken as mutually explanatory of one another. Unless otherwise provided in the contract, the priority of the documents forming the contract shall be as follows

1. Contract Agreement (if completed);
2. Letter of Acceptance
3. The Bid
4. Addendum to Bid if any

5. Tender Document (RFP)
6. The Bill of Quantities
7. The Specifications
8. Detailed Engineering Drawings
9. Standard General Conditions of Contract (GCC)
10. All correspondence documents between bidder/ contractor and MCGM

1.4.2. Subject to the provisions of Clause 1.4.1, in case of ambiguities or discrepancies within this Contract Agreement, the following shall apply:

- a. between two or more Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in other Clauses;
- b. between the Clauses of this Agreement and the Schedules, the Clauses shall prevail;
- c. between any two Schedules, the Schedule relevant to the issue shall prevail;
- d. between the written description on the Drawings and the Specifications and Standards, the latter shall prevail;
- e. between the dimension scaled from the Drawing and its specific written dimension, the latter shall prevail; and
- f. between any value written in numerals and that in words, the latter shall prevail.

PART II – THE CONTRACT

2.0 Scope of the Project

2.1 Identified Site

The Contractor has identified a site [-----] Hectares of land in[_____], as per prevailing rules and regulation of C&D Waste Management Rules 2016 to establish [--] TPD C&D Waste processing and recycling facility (Project Site) with capacity to handle 25% additional waste over and above [--] TPD. The contractor has agreed to use his own facilities located at [-----] developed on his own land or on land leased/ licensed by him. It shall be the sole responsibility of the contractor to obtain all permissions and licenses required to set up and operate the plant at his own cost. The MCGM shall not pay to the contractor any extra charges or any other compensation/claim on this account other than the Charges accepted by the MCGM in response to this tender.]

2.2 Scope of Work

The detailed scope of work is listed in Annexure-1 of RFP.

3.0 Grant of Contract

3.1 The Contract

3.1.1. Subject to and in accordance with the provisions of this Agreement, the Applicable Laws and the Applicable Permits, the Authority hereby grants to the Contractor the contract set forth herein including the exclusive right, license and authority to collect and transport C&D Waste from Slice [--], construct, operate and maintain the Project Facilities (the “**Contract**”) for a period of 21 years commencing from the Appointed Date, and the Contractor hereby accepts the Contract and agrees to implement the Project subject to and in accordance with the terms and conditions set forth herein:

3.1.2. Subject to and in accordance with the provisions of this Agreement, Applicable Laws and Good Industry Practice, the Contract hereby granted shall oblige or entitle (as the case may be) the Contractor to:

- a. perform and fulfill all of the Contractor’s obligations under and in accordance with this Agreement;
- b. design, operate & maintain the system for C & D waste collection, transportation and processing in the project area either itself or through such person as may be selected by it;
- c. bear and pay all costs, expenses and charges in connection with or incidental to the performance of the obligations of the Contractor under this Agreement;
- d. upon commissioning of a Project Facilities, to manage, operate and maintain the same either itself or through such person as may be selected by it, provided that the ultimate obligation and responsibility for the performance of this agreement shall continue to vest with the Contractor;
- e. After successful completion of Contract Period or on Termination, Ownership of Plant & Machinery and all other assets at the site shall remain with the Contractor, in accordance with the provisions of this Agreement;
- f. to borrow or raise money or funding required for the due implementation of the Project and mortgage, charge or create lien or encumbrance on the whole or part of the Project Facilities except the Project Site;
- g. to transport C&DW from the identified locations (Designated Dumping

Points, waste aggregators) to processing site designated by the authority as per provisions of this Agreement and Applicable Law;

- h. to obtain the utilities required for enabling the construction of the Project Facilities;
- l. Neither assign, transfer or sublet or create any lien or Encumbrance on this Agreement, or the Contract hereby granted or on the whole or any part of the Project nor transfer, license, lease or part possession thereof; save and except as expressly permitted by this Agreement..

4.0 Conditions Precedents

4.1 Conditions Precedent

- 4.1.1. Save and except as expressly provided in Clauses 4, 9, 12, 23, 26, 36 and 39, or unless the context otherwise requires, the respective rights and obligations of the Parties under this Agreement shall be subject to the satisfaction in full of the conditions precedent specified in this Clause 4.1 (the “**Conditions Precedent**”).
- 4.1.2. The Conditions Precedent required to be satisfied by the Authority shall be deemed to have been fulfilled when:
 - a. Authority has issued Letter of Acceptance to the Contractor.
 - b. Sign Contract Agreement with the Contractor. ;
 - c. the Authority shall have appointed an Independent Engineer in accordance with Clause 21
- 4.1.3. The Conditions Precedent required to be satisfied by the Contractor within Six Months post issue of Letter of Acceptance shall be deemed to have been fulfilled when the Contractor shall have:
 - a. Obtain possession of site as per the Bid Proposal through valid instrument for setting up the C&D Waste Processing Facility;
 - b. prepare detailed project report covering the adopted processing technology, detailed construction drawings, and Construction Milestones as per provisions of the Agreement and obtain approval from the MCGM/Independent engineer on the same;
 - c. obtained approval from the Authority on the detailed Construction Plan comprising of details delineating the Site for construction of Project Facilities and ensuring continued use of the Site for managing C&DW by MCGM till COD;
 - d. procured all the Applicable Permits specified in Schedule 2 unconditionally and if subject to conditions, the all such conditions required to be fulfilled by

the date specified therein shall have been satisfied in full and such Applicable Permits are in full force and effect;

- e. delivered to the Authority 3 (three) true copies of the Financial Package and the Financial Model, duly attested by a Director of the Contractor, along with 3 (three) soft copies of the Financial Model in MS Excel version or any substitute thereof, which is acceptable to the Lenders;
- f. delivered to the Authority a confirmation from the Selected Bidder / each of the Consortium member, in original, of the correctness of their representations and Warranties set forth in Clause 7.1(m), Clause 7.1 (n) and Clause 7.1 (o).

Provided that upon request in writing by the Contractor, the Authority may, in its discretion, waive any of the Conditions Precedent set forth in this Clause 4.1.3. For the avoidance of doubt, the Authority may, in its sole discretion, grant any waiver hereunder with such conditions as it may deem fit.

- 4.1.4. Each Party shall make all reasonable endeavors to satisfy the Conditions Precedent within the time stipulated and shall provide the other Party with such reasonable cooperation as may be required to assist that Party in satisfying the Conditions Precedent for which that Party is responsible.
- 4.1.5. The Parties shall notify each other in writing at least once a month on the progress made in satisfying the Conditions Precedent. Each Party shall promptly inform the other Party when any Condition Precedent for which it is responsible has been satisfied.

4.2 Deleted

4.3 Damages for delay by the Contractor

In the event that (i) the Contractor does not procure fulfillment of any or all of the Conditions Precedent set forth in Clause 4.1.3 within a period specified in respect thereof, and (ii) the delay has not occurred as a result of failure to fulfill the obligations under Clause 4.1.2 or other breach of this Agreement by the Authority or extension of time is granted by the Authority on genuine grounds for reasons beyond the control of the contractor, or due to Force Majeure, the Contractor shall pay to the Authority Damages in an amount calculated at the rate of 0.2% (zero point two per cent) of the Performance Security (PBG-1) for each day's delay until the fulfillment of such Conditions Precedent, subject to a maximum of 20% (twenty percent) of the Performance Security. Upon reaching such limit, the Authority may, in its sole discretion and subject to the provisions of Clause 9.5, terminate the Agreement.

5.0 Obligations of the Contractor

5.1 Obligations of the Contractor

- 5.1.1. Subject to and on the terms and conditions of this Agreement, the Contractor shall, at its own cost and expense, procure finance for and undertake the procurement, operation and maintenance of the vehicles, land, Processing Plant and equipment and development of support infrastructure including common control center along with required manpower and to observe, fulfill, comply with and perform all its obligations set out in this Agreement or arising hereunder.
- 5.1.2. The Contractor shall comply with all the Applicable Laws and procure all the Applicable Permits (including renewals as required) in the performance of its obligations under this Agreement.
- 5.1.3. Subject to the provisions of Clauses 5.1.1 and 5.1.4, the Contractor shall discharge its obligations as listed in clause 2 of agreement in accordance with all Indian standards, C&DW Rules 2016 with Good Industry Practice and as a reasonable and prudent person.
- 5.1.4. The Contractor shall, at its own cost and expense, in addition to and not in derogation of its obligations elsewhere set out in this Agreement:
- a. make, or cause to be made, necessary applications to the relevant Government Instrumentalities with such particulars and details as may be required for obtaining Applicable Permits (other than those set forth in Clause 4.1.3), and obtain and keep in force and effect such Applicable Permits in conformity with the Applicable Laws;
 - b. procure, as required, the appropriate proprietary rights, licenses, agreements and permissions for materials, methods, processes and systems used or incorporated into the Project;
 - c. perform and fulfill its obligations under the Financing Agreements;
 - d. make reasonable efforts to maintain harmony and good industrial relations among the personnel employed by it or its Contractors in connection with the performance of its obligations under this Agreement;
 - e. ensure and procure that its Contractors comply with all Applicable Permits and Applicable Laws in the performance by them of any of the Contractor's obligations under this Agreement;
 - f. not do or omit to do any act, deed or thing which may in any manner be in violation of any of the provisions of this Agreement;
 - h. support, cooperate with and facilitate the Authority in the implementation and operation of the Project in accordance with the provisions of this Agreement; and
 - i. transfer the Project to the Authority upon Termination of this Agreement, in accordance with the provisions thereof

5.2 Obligations relating to Project Agreements

- 5.2.1. It is expressly agreed that the Contractor shall, at all times, be responsible and liable

for all its obligations under this Agreement notwithstanding anything contained in the Project Agreements or any other agreement, and no default under any Project Agreement or agreement shall excuse the Contractor from its obligations or liability hereunder.

- 5.2.2. The Contractor shall submit to the Authority the drafts of all Project Agreements, or any amendments or replacements thereto, for its review and comments, and the Authority shall have the right but not the obligation to undertake such review and provide its comments, if any, to the Contractor within 15 (fifteen) days of the receipt of such drafts. Within 7 (seven) days of execution of any Project Agreement or amendment thereto, the Contractor shall submit to the Authority a true copy thereof, duly attested by a Director of the Contractor, for its record. For the avoidance of doubt, it is agreed that the review and comments hereunder shall be limited to ensuring compliance with the terms of this Agreement. It is further agreed that no review and/or observation of the Authority and/or its failure to review and/or convey its observations on any document shall relieve the Contractor of its obligations and liabilities under this Agreement in any manner nor shall the Authority be liable for the same in any manner whatsoever.
- 5.2.3. The Contractor shall not make any addition, replacement or amendments to any of the Financing Agreements without the prior written consent of the Authority if such addition, replacement or amendment has, or may have, the effect of imposing or increasing any financial liability or obligation on the Authority, and in the event that any replacement or amendment is made without such consent, the Contractor shall not enforce such replacement or amendment nor permit enforcement thereof against the Authority. For the avoidance of doubt, the Authority acknowledges and agrees that it shall not unreasonably withhold its consent for restructuring or rescheduling of the Debt Due.
- 5.2.4. The Contractor shall procure that each of the Project Agreements contains provisions that entitle the Authority to step into such agreement, in its sole discretion, in substitution of the Contractor in the event of Termination or Suspension (the "Covenant"). For the avoidance of doubt, it is expressly agreed that in the event the Authority does not exercise such rights of substitution within a period not exceeding 90 (ninety) days from the Transfer Date, the Project Agreements shall be deemed to cease to be in force and effect on the Transfer Date without any liability whatsoever on the Authority and the Covenant shall expressly provide for such eventuality. The Contractor expressly agrees to include the Covenant in all its Project Agreements and undertakes that it shall, in respect of each of the Project Agreements, procure and deliver to the Authority an acknowledgment and undertaking, in a form acceptable to the Authority, from the counter party(ies) of each of the Project Agreements, where under such counter party(ies) shall acknowledge and accept the Covenant and undertake to be bound by the same and not to seek any relief or remedy whatsoever from the Authority in the event of Termination or Suspension.
- 5.2.5. Notwithstanding anything to the contrary contained in this Agreement, the Contractor agrees and acknowledges that selection or replacement of any Contractor shall be

subject to the prior approval of the Authority from national security and public interest perspective, the decision of the Authority in this behalf being final, conclusive and binding on the Contractor, and undertakes that it shall not give effect to any such selection or contract without prior approval of the Authority. For the avoidance of doubt, it is expressly agreed that approval of the Authority hereunder shall be limited to national security and public interest perspective, and the Authority shall endeavor to convey its decision thereon expeditiously. It is also agreed that the Authority shall not be liable in any manner on account of grant or otherwise of such approval and that such approval or denial thereof shall not in any manner absolve the Contractor or its Contractors from any liability or obligation under this Agreement.

5.3 Environmental Compliance

The Contractor shall, at all times, ensure that all aspects of the Project Facilities and processes employed in the construction, operation and maintenance thereof shall conform with the laws pertaining to environment, health and safety aspects including rules such as C&DW Rules, policies and guidelines related thereto. The Contractor shall obtain and maintain from time to time all necessary clearances as detailed in the Schedule 2 and maintain the environmental standards as approved under the Environmental Management Plan.

5.4 Transportation of C&DW (Routing)

Contractor shall be solely responsible for transportation of C&DW from the waste generator or sites identified by MCGM to the Processing Facility and transportation of process remnants and Residual Inert Matter from the Processing Facility to the disposal site. Contractor shall adhere to the standards stipulated at Schedule 10 of this Agreement.

Contractor shall ensure that all vehicles used for transportation of C&DW shall be fitted with automatic position identification systems using appropriate technology, which can enable the automatic tracking and recording of vehicle identification and movement data. This data shall be made available to the Independent Engineer / the Authority on a weekly as well as monthly basis.

5.5 Measurement of C&D waste

- 5.5.1. For measurement of C&D Waste, Weighbridges will need to be installed at the Processing site (the “**Processing Weighbridge**”) by the Contractor.
- 5.5.2. The Contractor shall prepare Waste Reports as defined in Schedule 15 which shall be final and binding on the Parties.
- 5.5.3. Tipping Fee payment to the Contractor will be made as per the measurement at the weighbridge at the Processing Site and is detailed in the Clause 17.
- 5.5.4. The Weighbridges shall be constructed, operated and maintained by Contractor.
- 5.5.5. Each consignment to the Site shall be screened and weighed at the Weighbridge. Contractor shall also keep a record of weight and volume of each empty delivery

truck, in order to determine the net weight of the consignment.

- 5.5.6. The Authority will depute a responsible person from the Authority (the “**MCGM Representative**”) to monitor the operations of the Weighbridges.
- 5.5.7. The Weighbridges shall be monitored and inspected regularly to ensure due calibration and accuracy and any errors shall be rectified immediately.

5.6 Processing of C&DW

The technologies adopted to process the C&DW shall be those proposed by the Contractor in the detailed project report submitted to the Independent Engineer as set forth in Clause 4.1.3 (c)

5.7 Maintenance of records and Operations Plan

The Contractor shall maintain records of the quantum of C&DW as per the Schedule 15.

5.8 Sale / Distribution of recycled material or products

- 5.8.1. The Contractor may adopt such processes and methods as it considers necessary or expedient for processing of C&DW at the Project Facilities, subject to complying with the provisions of the Contract Agreement, construction requirements and operation requirements.
- 5.8.2. Subject to Clause 2.2, the Contractor is free to choose the wet processing technologies/options in line with all applicable legislations including but not limited to the Construction and Demolition Waste Management Rules 2016 and is entitled to receive the revenues so generated through the products produced out of such processing like Aggregates, recyclables etc. as per the provision of this Agreement and is entitled to have its own marketing tie up for the same.

5.9 Maintenance of records and Operations Plan

The Contractor shall maintain records of the quantum of C&DW as per the Schedule 15.

5.10 Penalty for O&M Breach

The Contractor recognizes that the services under this Agreement constitute a public health issue and concerns the wellbeing and quality of life of the citizens. Accordingly, the Contractor shall perform the services with diligence and promptness and generally manage the C&DW system of the Authority. To ensure due performance and guard against performance breaches, Schedule 12 sets out certain Damages for non-compliance to the O&M Requirements of this Agreement.

5.11 Obligations relating to Change in Ownership

- 5.11.1. The Contractor shall not undertake or permit any Change in Ownership, except with

the prior approval of the Authority.

- 5.11.2. The joint ventures are allowed up to maximum three members, provided the lead member must have minimum 51% equity stake & other member must hold minimum 20% equity stake throughout the contract tenure. Moreover the JV members shall be severally and jointly responsible for the contract. Composition of JV cannot be changed in first 10 years of operation of the plant. Thereafter composition of JV can be changed only with the permission of MCGM.

5.12 Employment of foreign nationals

The Contractor acknowledges, agrees and undertakes that employment of foreign personnel by the Contractor and/or its contractors and their sub-contractors shall be subject to grant of requisite regulatory permits and approvals including employment/residential visas and work permits, if any required, and the obligation to apply for and obtain the same shall and will always be of the Contractor and, notwithstanding anything to the contrary contained in this Agreement, refusal of or inability to obtain any such permits and approvals by the Contractor or any of its contractors or sub-contractors shall not constitute Force Majeure Event, and shall not in any manner excuse the Contractor from the performance and discharge of its obligations and liabilities under this Agreement.

5.13 Employment of trained personnel

The Contractor shall ensure that the personnel engaged by it in the performance of its obligations under this Agreement are at all times properly trained for their respective functions.

5.14 Sole purpose of the Contractor

The Contractor having been set up for the sole purpose of exercising the rights and observing and performing its obligations and liabilities under this Agreement, the Contractor or any of its subsidiaries shall not, except with the previous written consent of the Authority, be or become directly or indirectly engaged, concerned or interested in any business other than as envisaged herein.

5.15 Authorized Signatories of the Contractor

The Authority shall require the Contractor to designate and notify to the Authority and the Independent Engineer up to 2 (two) persons employed in its firm to sign for and on behalf of the Contractor, and any communication or document required to be signed by the Contractor shall be valid and effective only if signed by any of the designated persons; provided that the Contractor may, by notice in writing, substitute any of the designated persons by any of its employees.

6.0 Obligations of the Authority

6.1 Specific obligations of the Authority

- 6.1.1. All the approvals, permissions, and authorizations required for the project shall be obtained by the contractor. MCGM may assist the contractor in getting these approvals. However, sole responsibility shall vest with the Contractor and Contractor shall not be entitled to raise any claim in this regard.
- 6.1.2. a. Without prejudice to the generality of Clause 6.1.1 above, the Authority shall:
- i. Recommend and forward to the relevant authority / ministry / department, any application of Contractor to obtain any Applicable Permits,
 - ii. Assist Contractor in getting necessary clearances from the relevant authorities / ministry / departments.
- b. The Authority agrees, for the purposes of the Financing Documents, to intimate to the Lenders by such notice as required under the Financing Documents:
- i. Of the happening or likely happening of an Event of Default on the part of Contractor;
 - ii. Of the termination of this Agreement by the Authority;
 - iii. Of the occurrence, continuance and cessation of any force majeure cause;
or
 - iv. Other breach or default on the part of Contractor under this Agreement.
- c. The Authority shall provide an average 600 TPD (to be calculated yearly) C&D Waste to the contractor from Slice [---]. Quarterly review shall be taken by MCGM/ Contractor to achieve the target of yearly obligated waste quantity.
- d. The Authority shall pay Tipping Fees to Contractor as for collection, transfer, processing and disposal of C&DW. The Tipping Fee shall be paid on a monthly basis equivalent to the amount calculated as per provisions of Clause 17 and subject to necessary approval by the Independent Engineer/ MCGM.
- e. The Authority hereby agrees that if there is any financial benefits or otherwise in respect or on account of the Project (including but not limited to carbon

credits and tax benefits), 10% (ten percent) of such benefits shall be shared with the Authority. The Authority agrees to facilitate the receipt of all such benefits by Contractor, whether on its own behalf or on behalf of the Authority and for the purpose to give all needed recommendations, no-objections, authorizations, etc. However, any Tax benefits which might accrue to the Contractor during the Project shall be passed on to the Authority by the Contractor.

6.2 **General Obligations of the Authority**

6.2.1. The Authority at its own cost and expense shall undertake, comply with and perform all its obligations set out in this Agreement or arising hereunder.

6.2.2. The Authority agrees to provide support to the Contractor and undertakes to observe, comply with and perform, subject to and in accordance with the provisions of this Agreement and the Applicable Laws, the following:

- a. Upon written request from the Contractor and subject to Contractor complying with Applicable Laws, provide reasonable support and assistance to the Contractor in securing Applicable Permits required from any Government Instrumentality for implementation and operation of the Project;
- b. ensure timely payments to Contractor subject to satisfactory completion of works as per contract conditions and due certification by MCGM/ IE.
- c. not do or omit to do any act, deed or thing which may in any manner that is in violation of any of the provisions of this Agreement;
- d. support, cooperate with and facilitate the Contractor in the implementation and operation of the Project in accordance with the provisions of this Agreement; and
- e. upon written request from the Contractor and subject to the provisions of Clause 5.13, provide reasonable assistance to the Contractor and any expatriate personnel of the Contractor or its Contractors to obtain applicable visas and work permits for the purposes of discharge by the Contractor or its Contractors their obligations under this Agreement and the Project Agreements.

7.0 Representations and Warranties

7.1 Representations and Warranties of Contractor

Contractor represents and warrants to the Authority that:

- a. It is duly organized, validity 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 actions 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 in accordance with the terms of this Agreement;
- e. This Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof and its obligations under this Agreement will be legally binding, valid and enforceable obligations against it in accordance with the terms hereof;
- f. It is subject to the laws of India and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this jurisdiction or matter arising there under, including any obligation, liability or responsibility hereunder;
- g. The information furnished in the Application and as updated on or before the date of this Agreement is true and accurate in all respects as on the date of this Agreement;
- h. 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 Contractor's 'Memorandum and Clauses of Association' or any of the 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;
- i. There are no actions, suits, proceedings or investigations pending, or to Contractor's knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may constitute Contractor Event of Default or which individually or in the aggregate may result in Material Adverse Effect;

- j. 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 resulting Material Adverse Effect;
- k. 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;
- l. All its rights and interests in the Project shall cease to exist on the Transfer Date free and clear of all liens, claims and Encumbrances, without any further act of deed on its part or act of the Authority. ;
- m. Contractor agrees to indemnify and hold indemnified the Authority against all cost, expenses, and penalties arising out of:
 - i. Operations of the Project Facilities under this Agreement.
 - ii. Compliance with all labour laws and all possible claims and employment related liabilities of its staff employed in relation with the Project.
- n. It shall at no time undertake or permit any Change in Ownership except as permitted under Clause 5.11.
- o. The Consortium members and their Associates have the financial standing and the resources to fund the required Equity and to raise debt necessary for undertaking and implementing the Project in accordance with this Agreement.
- p. Each Consortium member is duly organized and validly existing under the laws of the jurisdiction of its incorporation, and has requested the Authority to enter into this Agreement with the Contractor pursuant to LOA; and has agreed to unconditionally accept the terms and conditions set forth in this Agreement;
- q. No representation or warranty by it contained herein or in any other document furnished by it to Authority or to any Government Instrumentality in relation to Applicable Permits contains or will contain any untrue or misleading statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;
- r. no sums, in cash or kind, have been paid or will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for securing the Contract or entering into this Agreement or for influencing or attempting to influence any officer or employee of the Authority in connection therewith; and

- s. all information provided by the {selected bidder/ Consortium Members} in response to the Request for Proposal or otherwise, is to the best of its knowledge and belief, true and accurate in all material respects.

7.2 Representations and warranties of the Authority

The Authority represents and warrants to Contractor that:

- a. That it is duly incorporated under the laws of India and has the power to conduct its business as presently conducted and to enter into this Agreement;
- b. That it has full power, capacity and authority to execute, deliver and perform this Agreement and has taken all necessary sanctions and approvals and followed all the procedure required to authorize the execution, delivery and performance of this Agreement;
- c. All approvals and permissions as are necessary for the execution of this Agreement have been obtained and all the required procedure for the due execution of this Agreement have been adhered to and further that this Agreement will be valid, legal and binding against it under the Indian law.

7.3 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 are given such warranty shall promptly notify the other of the same.

8.0 Disclaimer

8.1 Disclaimer

- 8.1.1. The Contractor acknowledges that prior to the execution of this Agreement, the Contractor has, after a complete and careful examination, made an independent evaluation of the Request for Proposals, Scope of the Project, Specifications and Standards, Site, existing structures, local conditions, physical qualities of ground, subsoil, and geology, C&DW waste characteristics and all information provided by the Authority or obtained, procured or gathered otherwise, and has determined to its satisfaction the accuracy or otherwise thereof and the nature and extent of difficulties, risks and hazards as are likely to arise or may be faced by it in the course of performance of its obligations hereunder. The Authority makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy, adequacy, correctness, reliability and/or completeness of any assessment, assumptions, statement or information provided by it and the Contractor confirms that it shall have no claim whatsoever against the Authority in this regard.
- 8.1.2. The Contractor acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth in Clause 8.1.1 above and hereby

acknowledges and agrees that the Authority shall not be liable for the same in any manner whatsoever to the Contractor, {the Consortium Members and their} Associates or any person claiming through or under any of them.

- 8.1.3. The Parties agree that any mistake or error in or relating to any of the matters set forth in Clause 8.1.1 above shall not vitiate this Agreement, or render it voidable.
- 8.1.4. In the event that either Party becomes aware of any mistake or error relating to any of the matters set forth in Clause 8.1.1 above, that Party shall immediately notify the other Party, specifying the mistake or error; provided, however, that a failure on part of the Authority to give any notice pursuant to this Clause 8.1.4 shall not prejudice the disclaimer of the Authority contained in Clause 8.1.1 and shall not in any manner shift to the Authority any risks assumed by the Contractor pursuant to this Agreement.
- 8.1.5. Except as otherwise provided in this Agreement, all risks relating to the Project shall be borne by the Contractor and the Authority shall not be liable in any manner for such risks or the consequences thereof.

PART III- DEVELOPMENT AND OPERATIONS

9.0 Performance Security

9.1 Performance Security for Contract Period

Within Forty Five (45) days from the date of issuance of LoA, the Selected Bidder would be required to submit Performance Bank Guarantees (PBG) in the following way-

1. Submit PBG-1 of Rs. 3.00 Crores with a validity of 1 year and shall be extended till Mobilization Period.
2. Submit PBG-2 of 5% of first 5 years of Operation and Maintenance (O&M) Cost calculated on the basis of tipping fee quoted in BOQ with validity for 5 years.
3. Submit PBG-3 of 1.2 times of PBG-2 for next 5 years of O&M with validity of 5 years.
4. Submit PBG-4 of 1.2 times of PBG-3 for next 5 years of O&M with validity of 5 years.
5. Submit PBG-5 of 1.2 times of PBG-4 for last 5 years of O&M with validity of 5 years.

The earlier PBG will be returned only after the submission of PBG for the subsequent period.

9.2 Appropriation of Performance Security during Contract Period

Upon the breach of Performance Standards or failure to meet any Conditions Precedent that leads to payment of Damages or any breach of this Agreement or upon the liability of defects and deficiencies arising after the Termination, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate the relevant amounts from the Performance Security for meeting the Damages levied or for undertaking the repairs or rectification at the Contractor's risk and cost in accordance with the provisions of Clause 31. Upon such encashment and appropriation from the Performance Security, the Contractor shall, within 30 (thirty) days thereof, replenish, in case of partial appropriation, to its original level the Performance Security, and in case of appropriation of the entire Performance Security provide a fresh Performance Security, as the case may be, and the Contractor shall, within the time so granted, replenish or furnish fresh Performance Security as aforesaid failing which the Authority shall be entitled to terminate this Agreement in accordance with Clause 29. If there is no such encashment and appropriation from the Performance security is made, the Performance Security shall be renewed annually in accordance with this Agreement, at least 30 (thirty) days before the start of the Accounting Year, failing which, the Authority shall be entitled to invoke the Performance Security.

10.0 Project Site:

10.1 The Site

The contractor has identified [----] of area [---]. The Contractor shall ensure optimum utilization of the Site and land available and shall not use the same for any purpose unconnected or which is not incidental to the Project or related activities. For avoidance of doubt, any land leased/licensed/possessed by the Contractor for this Project shall not be used for development of residential or commercial facilities or premises for rent, lease or similar. Contractor can process the recycled aggregates into precast members at his own site as suitable to him at his own cost. The Contractor shall construct a boundary wall around the entire land parcel.

10.2 Rights, Title and Use of the Site

- a. [In consideration of this Agreement, the Authority, in accordance with the terms and conditions set forth herein, hereby provides to the Contractor rights to collect, transport C&D Waste from Slice A or B to location [-----] of plant site and develop, operate and maintain the site, for the duration of the Contract Period and, for the purposes permitted under this Agreement, and for no other purpose whatsoever.]
- b. The Contractor shall not, without the prior written approval of the Authority, use the Project Facilities for any purpose other than for the purpose of the Project and purpose incidental or ancillary thereto.
- c. The Contractor shall allow access to and use of the Site for laying/ installing/ maintaining telegraph lines, electric lines, gas lines of the Gas Authority of India Limited or for such other public purposes as the Authority may specify provided that such access or use shall not result in a Material Adverse Effect to the Contractor. -

10.3 Possession of the Site

- 10.3.1. In order to confirm the possession of the Site pursuant to Clause 4.1.3, the authorized representatives of the Authority and the Contractor shall, on mutually agreed date and time, inspect the Site and prepare a memorandum containing an inventory of the Site including the unencumbered land, building, structures, road network, trees, pipelines and any other immovable property on or attached to the Site. Such memorandum shall have appended thereto an appendix (the “**Appendix--**”) specifying in reasonable detail those parts of the Site. Signing of the

memorandum, as above, by the authorized representatives of the Parties shall, subject to the provision of Clause 10.1, be deemed to constitute a valid possession of the Site with the Contractor for free and unrestricted use and development of the unencumbered Site during the Contract Period under and in accordance with the provisions of this Agreement and for no other purpose whatsoever.

10.3.2. Upon receiving the confirmation of possession of the land included in the Appendix, the Contractor shall complete the Construction Work thereon within Construction period. provided that the issue of Provisional Completion Certificate shall not be affected or delayed on account of delay in possession of any part of Site or any construction on such part of the Site remaining incomplete on the date of Tests on account of delay or denial of such possession thereto. For avoidance of doubt, it is expressly agreed that Construction Work on all the land shall be completed within the Construction Period.

10.3.3. Subject to this Sub-clauses of this Clause 10.3, the Contractor hereby warrants that:

- a. The Site has been acquired through the due process of law and belongs to and is vested in the contractor and that the contractor has full powers to hold, dispose of and deal with the same; consistent and interlaid with the provisions of this Agreement and that the Contractor shall, in respect of the Site, have no liability regarding any compensation payment on account of land acquisition or rehabilitation/ resettlement of any person affected thereby.
- b. The Contractor shall, subject to complying with the terms and conditions of this Agreement, remain in peaceful possession and enjoyment of the whole Site during the Contract Period.

10.4 Applicable Permits

The Contractor shall obtain and maintain the Applicable Permits in such sequence as is consistent with the requirements of the Project. The Authority may provide all necessary co-operation/ assistance for obtaining the permission. The Contractor shall be responsible to be in compliance with the terms and conditions subject to which Applicable Permits have been issued.

10.6 Access to the Authority and Independent Engineer

The Contractor's site hereunder shall always be subject to the right of access of the Authority and the Independent Engineer (if appointed) and their employees and agents for inspection, viewing and exercise of their rights and performance of their obligations under this Agreement.

11.0 Deleted

12.0 Development and operations of the Project

12.1 Obligations prior to commencement of construction

Prior to commencement of operations, the Contractor shall:

- a. Compliance of Conditions Precedent as per Clause 4.1.3.
- b. Submit to the Authority and the Independent Engineer(if appointed) its detailed design, construction methodology, quality assurance procedures, and the procurement, engineering and construction time schedule for completion of the Project in accordance with the Project Completion Schedule as set forth in Schedule 5;
- c. Submit to the Authority for its approval the Environment Management Plan;
- d. Appoint its representative duly authorized to deal with the Authority in respect of all matters under or arising out of or relating to this Agreement;
- e. Undertake, do and perform all such acts, deeds and things as may be necessary or required before commencement of construction under and in accordance with this Agreement, the Applicable Laws and Applicable Permits; and
- f. Make its own arrangements for procuring materials needed for the Collection and Transportation and in accordance with the Applicable Laws and Applicable Permits.

12.2 Project Implementation: Collection, Transportation and Processing of C&D

Waste

- 12.2.1. Unless otherwise permitted by the Authority, no operation shall begin until the Independent Engineer is in place and has assumed charge and has approved the concepts, proposals, drawings, construction drawings, environment management etc. submitted plan by the Contractor. Requisite building permission from planning authority shall be a must before commencing construction work.
- 12.2.2. The Contractor shall adhere to the Operation Requirements and the Project Completion Schedule and achieve COD on or before the dates specified in this Schedule 5.
- 12.2.3. The Contractor shall adhere to the standards / guidelines for construction as per BIS, C&D waste management Rules 2016, SWM Rules 2016 and other applicable

standards / guidelines.

12.2.4. The Contractor shall, before commencement of operation;

- a. Have requisite organization and designate and appoint suitable officers/representatives as it may deem appropriate to supervise the operations, to interact with the Independent Engineer / the Authority and to be responsible for all necessary exchange of information required pursuant to this Agreement
- b. Construct, provide, incur day to day office running expenditure and maintain a reasonably furnished site office accommodation for the Independent Engineer / the Authority personnel, at the Project Site.

12.2.5. The Independent Engineer / the Authority, may, by written notice, require the Contractor to suspend forthwith the whole or any part of the operations, if in its reasonable opinion the same is being carried on in a manner that is not in conformity with the Operation Requirements, in case the same is not responded to within 7 (seven) days of such notice.

12.3 Project Implementation: Operation and Maintenance

12.3.1. The Contractor shall operate and maintain the Project Facilities in accordance with the O&M Requirements as stipulated in Schedules 10, 11, 12, 13 and 14.

12.3.2. The Contractor will be allowed to utilize the Project facility for treating C&D Waste from other gram panchayats and/ or other urban local bodies, provided it has excess capacity to treat such C&D Waste after treating the C&D Waste provided by the Authority, provided further it has obtained a No Objection Certificate from the Municipal Corporation of Greater Mumbai for treating such C&D Waste.

12.3.3. The Contractor may undertake operations and maintenance of the Project Facilities by itself or after prior written consent of the Authority, through a Contractor possessing requisite technical, financial and managerial expertise / capability; but in either case, the Contractor shall remain solely responsible to meet the O&M Requirements.

12.3.4. The Contractor shall, for Operations and Maintenance

- a. have requisite organization and designate and appoint suitable officers/representatives as it may deem appropriate to supervise the Project, to deal with the Independent Engineer / the Authority and to be responsible for all necessary exchange of information required pursuant to this Agreement;
- b. Construct, provide, incur day to day office running expenditure and maintain a reasonably furnished site office accommodation for the Independent Engineer / the Authority, at the Project Site.

- 12.3.5. For the purposes of determining that the Construction Works and Project Facilities are being maintained in accordance with the Construction Requirements and O&M Requirements, the Contractor shall with due diligence carry out all necessary and periodical Tests in accordance with the instructions and under the supervision of the Independent Engineer / the Authority. The Contractor shall maintain proper record of such Tests and the remedial measures taken to cure the defects or deficiencies, if any, indicated by the Test results.
- 12.3.6. Conduct all Tests to ascertain compliance with Construction Requirements and O&M Requirements.
- 12.3.7. Suspend forthwith the whole or any part of the Operation and Maintenance activities upon receiving a written notice from the Independent Engineer / the Authority, who may require the Contractor to suspend the activities in whole or part if in the reasonable opinion of the Independent Engineer, the operations are being carried on in a manner that is not in conformity with the O&M Requirements.
- 12.3.8. In the event the Contractor has failed to operate and maintain the Project in accordance with the O&M Requirements, and such failure has not been remedied despite a notice to that effect issued by the Independent Engineer or the Authority (the “**Notice to Remedy**”), the Authority may, without prejudice to any of its other rights/remedies under this Agreement, be entitled to operate and maintain the Project or cause to repair and maintain the Project Facilities, under the supervision of Independent Engineer, at the risk and cost of the Contractor. The Contractor shall reimburse all costs incurred by the Authority on account of such operation and maintenance or repair and maintenance, and as certified by Independent Engineer, within 7 (seven) days of receipt of the Authority claim therefore.
- 12.3.9. The Contractor shall be deemed to be in material breach of O&M Requirements if the Independent Engineer acting reasonably and in accordance with the provisions of this Agreement, has determined that due to breach of its obligations by the Contractor:
- a. There has been failure / undue delay in carrying out scheduled / planned maintenance or the scheduled/planned maintenance has not been carried out in accordance with the O&M Requirements;
 - b. The maintenance of the Project Facilities or any part thereof has deteriorated to a level which is below the acceptance level prescribed by the O&M Requirements;
 - c. There has been a serious or persistent let up in adhering to the O&M Requirements and thereby the Project Facilities or any part thereof is not safe

for operations;

- d. There has been persistent breach of O&M Requirements. For avoidance of doubt, persistent breach shall mean:
 - i. Any breach of O&M Requirements by the Contractor which has not been remedied by the Contractor despite a Notice to Remedy in respect thereof issued by the Independent Engineer / the Authority;
 - ii. Recurrence of a breach by the Contractor, during the pendency of Notice to Remedy by the Independent Engineer / the Authority requiring the Contractor to remedy a breach, and
 - iii. Repeated occurrence of a breach notwithstanding that earlier breaches have been remedied pursuant to Notice to Remedy or otherwise

Upon occurrence of any breach of O&M Requirements, the Authority shall, without prejudice to and notwithstanding any other consequences provided therefore under this Agreement, be entitled to terminate this Agreement.

12.4 Equipment Specification, Work Schedule & Route Plan

12.4.1. Preparation of Work Schedule & Route Plan or Equipment specification drawings

- a. The Contractor may, subject to the Procurement operational Requirements, adopt with or without modifications the drawings, Work Schedule & Route Plan made available by the Authority, if any, or adopt its own Work Schedule & Route Plan, provided that the Contractor shall in any event be solely responsible for the adequacy of the Work Schedule & Route Plan.
- b. If the Contractor proposes any modifications to the drawings, Work Schedule & Route Plan made available by the Authority, if any, or submits alternate Work Schedule & Route Plan or plans in respect of any item for which no drawings are made available by the Authority, the same shall be subject to review by the Independent Engineer as hereinafter provided in Clause 12.4.2.

12.4.2. Review of Drawings ,Work Schedule & Route Plan

- a. The Contractor shall promptly and in such sequence as is consistent with the Procurement or Operational & maintenance Requirements, submit a copy of each of the Work Schedule & Route Plan as mentioned in the Schedule 6 to the Independent Engineer and the Authority.
- b. By forwarding the drawings, Work Schedule & Route Plan to the Independent Engineer and the Authority pursuant to the preceding Clause (a), the Contractor shall be deemed to have represented that it has verified and determined that the drawings, Work Schedule & Route Plan forwarded are in conformity with the Procurement or Operational & maintenance Requirements.

- c. Within 15 (fifteen) days of receipt of the plans or drawings, Independent Engineer shall review the same taking into account, inter-alia, comments of the Authority, if any, thereon, and convey its comments / observations to the Contractor on the conformity of drawings with Construction Requirements mentioned in Schedule 9. If the comments / observations of the Independent Engineer indicate that the plans schedule or drawings are not in conformity with the Construction Requirements, such drawings shall be revised by the Contractor to the extent necessary and resubmitted to Independent Engineer for further review. The Independent Engineer shall give its observations and comments, if any, within 15 (fifteen) days of receipt of such revised plans schedule or drawings, which shall be taken into account by the Contractor while finalizing the plans schedule or drawings.
- d. If, within the period stipulated in the preceding Clause (c), the Independent Engineer does not respond to the plans schedule or drawings submitted to it by the Contractor shall be entitled to proceed with the Construction Works on the basis of such plans schedule or drawings submitted by it to the Independent Engineer, and intimate the same to the Authority. The same should be highlighted in the periodic reporting by the Contractor.
- e. Notwithstanding any review or failure to review by or the comments / observations of the Independent Engineer or the Authority, the Contractor shall be solely responsible for the adequacy of the plans schedule or drawings and their conformity with the procurement operational and maintenance Requirements, and shall not be relieved or absolved in any manner whatsoever of any of its obligations hereunder.
- f. The Contractor shall be responsible for delays in meeting the procurement operational and maintenance Requirements caused by reason of any drawings, Work Schedule & Route Plan not being in conformity with the Construction Requirements, and shall not be entitled to seek any relief in that regard from the Authority.
- g. Within 90 (ninety) days of issue of Readiness Certificate, the Contractor shall furnish to the Authority three set of "as built" Drawings, Work Schedule & Route Plan 2 (two) hard copies and 1(one) soft copy, reflecting the Works which have been completed as on COD, in a manner as set out in Construction Requirements. The Contractor shall also submit and finalized routes and plans illustrating the layout of the collection and transportation system.

13.0 Monitoring of Construction

13.1 Monthly progress reports

During the Construction Period, the Contractor shall, no later than 7 (seven) days after the close of each month, furnish to the Authority and the Independent Engineer a monthly report on progress of the Construction Works and shall promptly give such other relevant information as may be required by the Independent Engineer.

13.2 Inspection

During the Construction Period, the Independent Engineer shall inspect the construction of the Project Facilities at least once a month and make a report of such inspection (the “**Inspection Report**”) stating in reasonable detail the defects or deficiencies, if any, with particular reference to the Scope of the Project and Specifications and Standards. It shall send a copy of the Inspection Report to the Authority and the Contractor within 7 (seven) days of such inspection and upon receipt thereof, the Contractor shall rectify and remedy the defects or deficiencies, if any, stated in the Inspection Report. Such inspection or submission of Inspection Report by the Independent Engineer shall not relieve or absolve the Contractor of its obligations and liabilities hereunder in any manner whatsoever.

13.3 Tests

- 13.3.1. For determining that the Construction Works conform to the Specifications and Standards, the Independent Engineer shall require the Contractor to carry out or cause to be carried out tests, at such time and frequency and in such manner as may be specified by the Independent Engineer from time to time, in accordance with Good Industry Practice for quality assurance. The costs incurred on the Tests shall be borne solely by the Contractor.
- 13.3.2. In the event that results of any tests conducted under this Clause 13.3 establish any defects or deficiencies in the Construction Works, the Contractor shall carry out remedial measures and furnish a report to the Independent Engineer in this behalf. The Independent Engineer shall require the Contractor to carry out or cause to be carried out tests to determine that such remedial measures have brought the Construction Works into compliance with the Specifications and Standards, and the procedure set forth in this Clause 13.3 shall be repeated until such Construction Works conform to the Specifications and Standards. For the avoidance of doubt, it is agreed that tests pursuant to this Clause shall be undertaken in addition to and independent of the tests that shall be carried out by the Contractor for its own quality assurance in accordance with Good Industry Practice. It is also agreed that a copy of the results of such tests shall be sent by the Contractor to the Independent Engineer forthwith.

13.4 Delays during construction

If the Contractor does not achieve any of the Project Milestones or the MCGM/Independent Engineer shall have reasonably determined that the rate of progress of Construction Works is such that the Project Milestone is not likely to be achieved, it shall notify the Contractor to this effect, and the Contractor shall, within 15 (fifteen) days of such notice, by a communication inform the MCGM/Independent Engineer in reasonable detail about the steps it proposes to take to expedite progress and the period within which it shall achieve the Scheduled Completion Date indicated in Project Completion Schedule.

13.5 Suspension of unsafe Construction Works

- 13.5.1. Upon recommendation of the Independent Engineer to this effect, the Authority may, by notice, require the Contractor to suspend forthwith the whole or any part of the Construction Work if, in the reasonable opinion of the Authority, such work is unsafe and potential safety hazard.
- 13.5.2. The Contractor shall, pursuant to notice under Clause 13.5.1, suspend the Construction Works or any part thereof for such time and in such manner as may be specified by the Authority and thereupon carry out remedial measure to secure the safety of suspended works. The Contractor may by notice require the Independent Engineer to inspect such remedial measure forthwith and make a report to the Authority recommending whether or not such suspension hereunder may be revoked. Upon receiving the recommendations of the Independent Engineer, the Authority shall either revoke such suspension or instruct the Contractor to carry out such other and further remedial measures as may be necessary in the reasonable opinion of the Authority, and the procedure set forth in Clause 13.5.1 shall be repeated until the suspension hereunder is revoked.

13.6 Video recording

During the Construction Period, the Contractor shall provide to the Authority for every calendar quarter, a video recording, which will be compiled into a 3 (three)-hour compact disc or digital video disc, as the case may be, covering the status and progress of Construction Works in that quarter. The first such video recording shall be provided to the Authority within 7 (seven) days of the Commercial Operation Date and thereafter, no later than 15 (fifteen) days after the close of each quarter.

14.0 Completion Certificate

14.1 Tests

- 14.1.1. At least 30 (thirty) days prior to the likely completion of the construction of Project

Facilities, the Contractor shall notify the Independent Engineer of its intent to subject the Construction Works to Tests. The date and time of each of the Tests shall be determined by the Independent Engineer in consultation with the Contractor, and notified to the Authority who may designate its representative to witness the Tests. The Contractor shall provide such assistance as the Independent Engineer may reasonably require for conducting the Tests. In the event of the Contractor and the Independent Engineer failing to mutually agree on the dates for conducting the Tests, the Contractor shall fix the dates by not less than 10 (ten) days' notice to the Independent Engineer.

- 14.1.2. All Tests shall be conducted in accordance with Schedule 7. The Independent Engineer shall observe, monitor and review the results of the Tests to determine compliance of the Construction Works with Specifications and Standards and if it is reasonably anticipated or determined by the Independent Engineer during the course of any Test that the performance of the Project or any part thereof does not meet the Specifications and Standards, it shall have the right to suspend or delay such Test and require the Contractor to remedy and rectify the defects or deficiencies. Upon completion of each Test, the Independent Engineer shall provide to the Contractor and the Authority copies of all Test data including detailed Test results. For the avoidance of doubt, it is expressly agreed that the Independent Engineer may require the Contractor to carry out or cause to be carried out additional Tests, in accordance with Good Industry Practice, for determining the compliance of the Construction Works with Specifications and Standards.

14.2 Completion Certificate

Upon completion of Construction Works and the Independent Engineer determining the Tests to be successful, it shall forthwith issue to the Contractor and the Authority a certificate substantially in the form set forth in Schedule 8 (the “**Completion Certificate**”).

14.3 Provisional Certificate

- 14.3.1. The Independent Engineer may, at the request of the Contractor, issue a provisional certificate of completion substantially in the form set forth in Schedule 8 (the “**Provisional Certificate**”) if the Tests are successful and the Project Facilities can be safely and reliably placed in commercial operation though certain works or things of a minor or nagging nature forming part thereof are outstanding and not yet complete, but do not affect commercial operation of the Project. In such an event, the Provisional Certificate shall have appended thereto a list of outstanding items signed jointly by the Independent Engineer and the Contractor (the “**Punch List**”); provided that the Independent Engineer shall not withhold the Provisional Certificate for reason of any work remaining incomplete if the delay in completion thereof is attributable to

the Authority.

14.4 Completion of Punch List items

- 14.4.1. All items in the Punch List shall be completed by the Contractor within 90 (ninety) days of the date of issue of the Provisional Certificate and for any delay thereafter, other than for reasons solely attributable to the Authority or due to Force Majeure, the Authority shall be entitled to recover Damages from the Contractor to be calculated as 0.1% (zero point one per cent) of the Performance Security and paid for each day of delay until all items are completed. Subject to payment of such Damages, the Contractor shall be entitled to a further period not exceeding 120 (one hundred and twenty) days for completion of the Punch List items. For the avoidance of doubt, it is agreed that if completion of any item is delayed for reasons solely attributable to the Authority or due to Force Majeure, the Completion Date thereof shall be determined by the Independent Engineer in accordance with Good Industry Practice, and such completion date shall be deemed to be the date of issue of the Provisional Certificate for the purposes of Damages, if any, payable for such item under this Clause 14.4.1.
- 14.4.2. Upon completion of all Punch List items, the Independent Engineer shall issue the Completion Certificate. Failure of the Contractor to complete all the Punch List items within the time set forth in Clause 14.4.1 for any reason, other than conditions constituting Force Majeure or for reasons solely attributable to the Authority, shall entitle the Authority to terminate this Agreement.
- 14.4.3. If the Contractor fails to complete the Punch List items within said period of 90 days, the Authority may, without prejudice to any other rights or remedy available to it under this Agreement, have such items completed at the risk and costs of the Contractor. The cost incurred by the Authority in completing the Punch List items, as certified by the Independent Engineer / the Authority, shall be reimbursed by the Contractor to the Authority within 7 (seven) days from the date of receipt of a claim in respect thereof from the Authority.

14.5 Withholding of Provisional Certificate

- 14.5.1. If the Independent Engineer determines that the Construction Works or any part thereof does not conform to the provisions of this Agreement and cannot be safely and reliably placed in commercial operation, it shall forthwith make a report in this behalf and send copies thereof to the Authority and the Contractor. Upon receipt of such a report from the Independent Engineer and after conducting its own inspection, if the Authority is of the opinion that the Construction Works is not fit and safe for commercial service, it shall, within 7 (seven) days of receiving the aforesaid report, notify the Contractor of the defects and deficiencies in the Construction Works and direct the Independent Engineer to withhold issuance of the Provisional Certificate. Upon receipt of such notice, the Contractor shall remedy and rectify such defects or

deficiencies and thereupon Tests shall be undertaken in accordance with this Clause 14. Such procedure shall be repeated as necessary until the defects or deficiencies are rectified.

- 14.5.2. Notwithstanding anything to the contrary contained in Clause 14.5.1, the Authority may, at any time after receiving a report from the Independent Engineer under that Clause, direct the Independent Engineer to issue a Provisional Certificate under Clause 14.3, and such direction shall be complied forthwith.

14.6 Rescheduling of Tests

- 14.6.1. If the Independent Engineer certifies to the Authority and the Contractor that it is unable to issue the Completion Certificate or Provisional Certificate, as the case may be, because of events or circumstances on account of which the Tests could not be held or had to be suspended, the Contractor shall be entitled to re-schedule the Tests and hold the same as soon as reasonably practicable.

15.0 Entry into Commercial Service

15.1 Commercial Operation Date (COD)

The Construction Works of the Project shall be deemed to be complete when the Completion Certificate or the Provisional Certificate, as the case may be, is issued under the provisions of Clause 14, and accordingly the commercial operation date of the Project shall be the date which is notified on such Completion Certificate or the Provisional Certificate is issued by the MCGM/Independent Engineer (the “COD”). The Project shall enter into commercial service on COD when the functioning of the C&D Waste Processing Plant shall commence.

15.2 Damages for delay

If COD does not occur prior to the 91st (Ninety first) day after the Scheduled COD, unless the delay is on account of reasons solely attributable to the Authority or due to Force Majeure, the Contractor shall pay Damages to the Authority in a sum calculated at the rate of 0.1% (zero point one per cent) of the amount of Performance Security for delay of each day until COD is achieved, subject to a maximum of 20% (twenty percent) of the Performance Security. Provided that if COD is delayed beyond 60 (sixty) days after the Scheduled COD, the Authority shall, subject to the provisions of Clause 29, be entitled to terminate this Agreement and to appropriate the Performance Security.

16.0 Operation and Maintenance

16.1 Operation & Maintenance Requirements

The Contractor shall procure that at all times during the Operation Period, the Project conforms to the operation & maintenance requirements set forth in Schedule 10, 12, 13, 14 and 15) (the “**Operation & Maintenance Requirements**”).

16.2 Operation & Maintenance Manual

16.2.1. No later than 180 (one hundred and eighty) days prior to the Scheduled Completion Date the Contractor shall, in consultation with the Independent Engineer, evolve an operation and maintenance manual (the “**Operation & Maintenance Manual**”) for the Operation & Maintenance Requirements (Schedules 10, 12, 13, 14 and 15), Safety Requirements (Schedule 13) and Good Industry Practice, and shall provide 5 (five) copies thereof to the Authority and 2 (two) copies to the Independent Engineer. The Operation & Maintenance Manual shall be revised and updated once every 3 (three) years and the provisions of this Clause 16.2 shall apply, mutatis mutandis, to such revision.

16.2.2. The Operation & Maintenance Manual shall, in particular, include provisions for maintenance of Project Assets and shall provide for life cycle maintenance, routine maintenance and reactive maintenance which may be reasonably necessary for maintenance and repair of the Project Assets, including replacement thereof, such that their overall condition conforms to Good Industry Practice.

16.3 Damages for breach of operation & maintenance obligations

16.3.1. In the event that the Contractor fails to repair or rectify any defect or deficiency set forth in the Operation & Maintenance Requirements within the period specified therein, it shall be deemed to be in breach of this Agreement and the Authority shall be entitled to recover, in addition to the specific Damages provided in Schedule 12, Damages, to be calculated and paid for each day of delay until the breach is cured, at the higher of (a) 0.5% (zero point five per cent) of daily Tipping Fee, and (b) 0.1% (zero point one per cent) of the cost of such repair or rectification as estimated by the MCGM/Independent Engineer.

16.3.2. Recovery of such Damages shall be without prejudice to the rights of the Authority under this Agreement, including the right of Termination thereof.

16.3.3. The Damages set forth in Clause 16.3 may be assessed and specified forthwith by the Independent Engineer; provided that the Authority may, in its discretion, demand a smaller sum as Damages, if in its opinion, the breach has been cured promptly and the Contractor is otherwise in compliance with its obligations hereunder. The Contractor

shall pay such Damages forthwith and in the event that it contests such Damages, the Dispute Resolution Procedure shall apply.

16.4 Authority's right to take remedial measures

16.4.1. In the event the Contractor does not maintain and /or repair the Project Facilities or part thereof in conformity with the Operation & Maintenance Requirements or the Maintenance Manual, as the case may be, and fails to commence the remedial works within 15 (fifteen) days of receipt of the O&M Inspection Report or notice on this behalf from the Authority or the Independent Engineer, as the case may be, the Authority shall, without prejudice to its right under this Agreement including Termination thereof, be entitled to undertake such remedial measure at the risk and cost of the Contractor, and to recover its cost for the Contractor. In addition to recovery as aforesaid, a sum equal to 20% (twenty per cent) of such cost shall be paid by the Contractor to the Authority as Damages. For avoidance of doubt, the right of the Authority under this Clause 16.4, shall be without prejudice to its rights and remedies provided under Clause 16.3.

16.5 Overriding powers of the Authority

16.5.1. If in the reasonable opinion of the Authority, the Contractor is in material breach of its obligations under this Agreement, and such breach is causing or likely to cause the Project to violate environmental norms or cause nuisance to the surrounding areas, the Authority may, without prejudice to any of its rights under this Agreement including Termination thereof, by notice require the Contractor to take reasonable measures immediately for rectifying or removing such hardship or danger, as the case may be.

16.5.2. If the Contractor fails to rectify or remove such hardship or danger, the Authority may, without prejudice to any other rights or remedy available to it under this Agreement, have such remove such hardship at the risk and costs of the Contractor. The cost incurred by the Authority in rectifying such default of the Contractor, as certified by the Independent Engineer / the Authority, shall be reimbursed by the Contractor to the Authority within 7 (seven) days from the date of receipt of a claim in respect thereof from the Authority, failing which the Authority shall have right to adjust and recover such cost from Contractor.

16.5.3. In the event of national emergency, civil commotion or any other Indirect Political Event specified in Clause 26.3, the Authority may take over the performance of any or all of the obligations of the Contractor to the extent deemed necessary by it and exercise such control over the Project and give such direction to the Contractor as may be deemed necessary. It is agreed that the Contractor shall comply with such directions issued by the Authority and shall provide necessary assistance and cooperation to the Authority, on best effort basis, for performance of its obligations hereunder.

17.0 Tipping Fee

17.1 Tipping Fee

- 17.1.1. Subject to the provisions of this Agreement and bid documents, and in consideration of the Contractor accepting the Contract and undertaking to perform and discharge its obligations in accordance with the terms, conditions and covenants set forth in this Agreement, the Authority agrees and undertakes to pay the Contractor a Tipping Fee, which shall be the only fee paid by the Authority to the Contractor for performing the services under this Agreement. The Contractor has quoted the Tipping Fee in the following way-
1. Collection, Transportation, Processing and Disposal of C&D Waste-[---/-] per ton of C&D Waste received and weighed at the gate of Processing site
The Tipping Fee shall be calculated in accordance with Schedule 19, subject to any deduction(s) as allowed under the terms of this Agreement.
- 17.1.2. The Contractor shall, on or before the 15th day of every month or in case the 15th day of a month being a holiday then on the following working day, submit to the MCGM/Independent Engineer monthly bill along with a consolidated statement (“Monthly Statement”) providing the following details.
- a. Records maintained and certified by the MCGM/Independent Engineer in accordance with Clause 5.9.
 - b. Amount of Tipping Fee for the previous month calculated in accordance with Schedule 19.
- 17.1.3. The Tipping Fee shall be payable from COD. For the avoidance of doubt, the Contractor shall issue the Tipping Fee Statement for the first payment on or before the 15th of day the month following the date of COD.
- 17.1.4. The quantity of Conforming C&DW received from other entities as referred in Clause 18.2 shall not be considered for calculation of Tipping Fee under this clause.
- 17.1.5. If any component of the project is required to be altered/ modified as per Clause No. 2.2 then its financial impact will be calculated using the approved Financial Model. Any variation in Tipping fee/ Contract cost shall be calculated and determined accordingly with approval of MCGM.

17.2 Mechanism of Payment during the Contract Period

- 17.3.1. The agency shall submit before 15th of every month a monthly bill along with MIS Data giving the details of the waste Collected, Transported, processed and disposed along with the products thereof. The statement shall be certified by the

MCGM/Independent Engineer of the project. Tipping Fees shall be paid to Contractor by the Authority within a period of 30 (thirty) days from the date of submission of monthly bill by Contractor and duly certified by the MCGM/Independent Engineer (if appointed).

- 17.3.2. If MCGM disputes any item or part of an item set out in any monthly bill, MCGM shall serve a notice (an 'Invoice Dispute Notice') on the Contractor setting out the item or part of an item set out in such invoice which is in dispute together with its estimate of what such item or part of an item should be along with the reasons and basis of such disputed amount.
- 17.3.3. Notwithstanding that MCGM has issued an Invoice Dispute Notice, it shall still be required to pay to the Contractor the Payment less the disputed amount as described in the disputed monthly Statement. After the settlement of the dispute, the disputed amount shall be paid subsequently.
- 17.3.4. In the event that the Parties do not, within fourteen (14) business days of the delivery of an Invoice Dispute Notice, resolve any dispute arising under clause 4.2 of this Schedule, either party may refer the matter to be determined in accordance with the Agreement.
- 17.3.5. The Authority shall deduct / withhold the following charges:
- a. The applicable statutory deductions, such as Income Tax
 - b. Any Damages for operational breaches, which is determined to be due and payable, as specified in Schedule 12.
 - c. Any other recoveries under the terms of this Agreement. All payments to the Contractor by the Authority shall be made by way of Cheque / RTGS payable at par at Mumbai.

18.0 Collection & transportation of C&DW

18.1 Collection & transportation of C&DW

- 18.1.1. MCGM shall facilitate to ensure collection C & D waste every day during the Operations Period.
- 18.1.2. In case the C&DW contains Municipal Waste /Hazardous Waste and / or Biomedical Waste as defined under the Hazardous Waste (Management and Handling) Rules, 2016 and the Biomedical Waste (Management & Handling) Rules, 2016, the Contractor on inspection shall decline to accept such NON C&D Waste ("Non-Conforming Waste).
- 18.1.3. Any Non-Conforming Waste supplied at the specified entry point of the Processing site shall not be considered for calculating the C&D Waste quantity supplied for the purpose of Clause 18.1.1

18.1.4. The Authority and the Contractor shall mutually review the daily Waste Quantity specified for each year of the Contract Period. Both parties can mutually agree for an interim review at any time during the operations period.

18.2 Supply of C&DW from Other entities

18.2.1. The Contractor may accept Conforming Waste from entities other than MCGM or Municipal Corporation of Greater Mumbai located in the vicinity of Mumbai (hereinafter referred to as “Other entities”). The Contractor shall obtain permission from the Authority for accepting and treating C&D Waste at the Site. The acceptance of the Conforming Waste from Other Local Bodies shall be governed by the Waste Supply Agreement between the Contractor and Other entities.

18.2.2. Notwithstanding any other provision of this Agreement, the Contractor shall accord highest priority to the waste received from the Municipal Corporation of Greater Mumbai area and MCGM for treatment and disposal of C&D Waste at the Processing Plant.

19.0 Safety Requirements

19.1 Safety Requirements

19.1.1. The Contractor shall comply with the provisions of this Agreement, Applicable Laws and Applicable Permits and conform to Good Industry Practice for securing the safety of the personnel at the Project Site. In particular, the Contractor shall develop, implement and administer a surveillance and safety program for providing a safe environment on or about the Project, and shall comply with the safety requirements set forth in Schedule 13 (the “Safety Requirements”).

19.2 Expenditure on Safety Requirements

All costs and expenses arising out of or relating to Safety Requirements shall be borne by the Contractor to the extent such costs and expenses form part of the works and services included in the scope of the Project.

20.0 Monitoring of Operation and Maintenance

20.1 Monthly status reports

During Operation Period, the Contractor shall, no later than 7 (seven) days after the close of each month, furnish to the Authority and the Independent Engineer a monthly report stating in reasonable detail the condition of the Project Facilities including its compliance or otherwise with the Operation & Maintenance Requirements, Operation & Maintenance Manual, and Safety Requirements, and shall promptly give such other relevant information as may be required by the Independent Engineer. In particular, such report shall separately identify and state in reasonable detail the defects and deficiencies that require rectification.

20.2 Inspection

The Independent Engineer shall inspect the Project Facilities at least once a month. It shall make a report of such inspection (the “**O&M Inspection Report**”) stating in reasonable detail the defects or deficiencies, if any, with particular reference to the Operation & Maintenance Requirements, Operation & Maintenance Manual, and Safety Requirements, and send a copy thereof to the Authority and the Contractor within 7 (seven) days of such inspection.

20.3 Tests

For determining that the Project Facilities conforms to the Operation & Maintenance Requirements, the Independent Engineer shall require the Contractor to carry out, or cause to be carried out, tests specified by it. The Contractor shall, with due diligence, carry out or cause to be carried out all such tests in accordance with the instructions of the Independent Engineer and furnish the results of such tests forthwith to the Independent Engineer. The costs incurred on the Tests shall be borne solely by the Contractor.

20.4 Remedial measures

20.4.1. The Contractor shall repair or rectify the defects or deficiencies, if any, set forth in the O&M Inspection Report or in the test results referred to in Clause 20.3 and furnish a report in respect thereof to the Independent Engineer and the Authority within 15 (fifteen) days of receiving the O&M Inspection Report or the test results, as the case may be; provided that where the remedying of such defects or deficiencies is likely to take more than 15 (fifteen) days, the Contractor shall submit progress reports of the repair works once every week until such works are completed in conformity with this Agreement.

20.4.2. The Independent Engineer shall require the Contractor to carry out or cause to be

carried out tests, at its own cost, to determine that such remedial measures have brought the Project Facilities into compliance with the Operation & Maintenance Requirements and the procedure set forth in this Clause 20.3 shall be repeated until the Project Facilities conforms to the Operation & Maintenance Requirements. In the event that remedial measures are not completed by the Contractor in conformity with the provisions of this Agreement, the Authority shall be entitled to recover Damages from the Contractor in accordance with Clause 16.3 this Agreement. For avoidance of doubts, levy and recovery of Damages by the Authority from the Contractor shall not absolve the Contractor for its obligation and the Authority shall be entitled to seek specific performance by the Contractor of its obligations under this Agreement

21.0 Independent Engineer

21.1 Procedure for Appointment & Scope of Independent Engineer

- 21.1.1. Independent Engineer shall be a third party agency, appointed within 6 (Six) months of this Agreement. The broad scope of nature of work of the Independent Engineer is set out in Schedule 16, but may be refined after discussions between the Authority and the Contractor. The said Agency shall act as the Independent Engineer for both the Contractor and MCGM.
- 21.1.2. The Independent Engineer shall be appointed for the Contract Period. The initial term of the Independent Engineer shall be up to 3 (three) years. On expiry of the aforesaid period, the Authority may in its discretion renew the appointment, or appoint another firm from a fresh panel to be the Independent Engineer for a term of 3 (three) years, and such procedure shall be repeated after expiry of each appointment.

21.2 Payments to Independent Engineer

- 21.2.1. The Authority shall pay the Independent Engineer all fees, costs, charges and expenses payable to the Independent Engineer in accordance with the terms of its appointment (collectively the “**Remuneration**”).

21.3 Replacement of the Independent Engineer

- 21.3.1. The Authority may, in its discretion, terminate the appointment of the Independent Engineer at any time, but only after appointment of another Independent Engineer in accordance with Clause 21.1.

21.4 Authorized signatories

The Authority shall require the Independent Engineer to designate and notify to the Authority and the Contractor up to 2 (two) persons employed in its firm to sign for

and on behalf of the Independent Engineer, and any communication or document required to be signed by the Independent Engineer shall be valid and effective only if signed by any of the designated persons; provided that the Independent Engineer may, by notice in writing, substitute any of the designated persons by any of its employees.

22.0 Closure of Project Facilities

22.1 Ownership after the Contract Period

22.1.1. Without prejudice and subject to the Contract, the ownership of the Project Facilities and vehicles and equipments, including all improvements made therein by Contractor, during and after the Contract Period shall at all times remain with the Contractor.

22.2 Contractor's Obligations

22.2.1. Processing Facility

Contractor shall on and post the date of expiry of the Contract Period shall terminate all activities related to the project.

22.3 The Authority's obligations

22.3.1 The Authority shall, subject to the Authority's right to encash Performance Security for getting executed the works / jobs required for the project at Contractor cost and risk, and which have not been carried out by Contractor, or any outstanding dues, which may have accrued in respect of the Project during the Contract Period, duly discharge and release to Contractor bank Guarantees of the Contractor.

PART IV – FINANCIAL COVENANTS

23.0 Financial Close

23.1 Financial Close

- 23.1.1. The Contractor hereby agrees and undertakes that it shall achieve Financial Close within 180 (one hundred and eighty) days from the date of Letter of Acceptance (LOA) and in the event of delay, it shall be entitled to a further period not exceeding 30 (thirty) days, subject to payment of Damages to the Authority in a sum calculated at the rate of 0.2% (zero point two per cent) of the Performance Security for each day of delay, or for a further period not exceeding 100 (one hundred) days, subject to payment of Damages specified in Clause 4.3; provided that the Damages specified herein shall be payable every week in advance and the period beyond the said 150 (one hundred and fifty) days shall be granted only to the extent of Damages so paid; provided further that no Damages shall be payable if such delay in Financial Close has occurred solely as a result of any default or delay by the Authority in procuring satisfaction of the Conditions Precedent specified in Clause 4.1.2 or due to Force Majeure. For the avoidance of doubt, the Damages payable hereunder by the Contractor shall be in addition to the Damages, if any, due and payable under the provisions of Clause 4.3.
- 23.1.2. The Contractor shall, upon occurrence of Financial Close, notify the Authority forthwith, and shall have provided to the Authority, at least 2 (two) days prior to Financial Close, 3 (three) true copies of the Financial Package and the Financial Model, duly attested by a Director of the Contractor, along with 3 (three) soft copies of the Financial Model in MS Excel version or any substitute thereof, which is acceptable to the Senior Lenders.

23.2 Termination due to failure to achieve Financial Close

- 23.2.1. Notwithstanding anything to the contrary contained in this Agreement, in the event that Financial Close does not occur, for any reason whatsoever, within the period set forth in Clause 23.1.1 or the extended period provided there under, all rights, privileges, claims and entitlements of the Contractor under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Contractor, and the Contract Agreement shall be deemed to have been terminated by mutual agreement of the Parties. For the avoidance of doubt, it is agreed that in the event the Parties hereto have, by mutual consent, determined the Appointed Date to precede the Financial Close, the provisions of this Clause 23.2.1 shall not apply.
- 23.2.2. Upon Termination under Clause 23.2.1, the Authority shall be entitled to encash the Bid Security and appropriate the proceeds thereof as Damages; provided, however, that if Financial Close has not occurred solely as a result of the Authority being in

default of any of its obligations under Clause 4.2, it shall, upon Termination, return the Bid Security forthwith. For the avoidance of doubt, it is expressly agreed that if the Bid Security shall have been substituted by Performance Security, the Authority shall be entitled to encash there from an amount equal to Bid Security.

24.0 Insurance

24.1 Insurance

The Contractor shall at its cost and expense, purchase and maintain by due reinstatement or otherwise, during the Contract Period all insurances in respect of the Project Facilities in accordance with the Good Industry Practices. The Contractor shall also effect and maintain such insurances as may be necessary for mitigating the risks that may devolve on the Authority as a consequence of any act or omission of the Contractor during the Construction Period. The Contractor shall procure that in each insurance policy, the Authority shall be a co-insured and that the insurer shall pay the proceeds to insurance. For the avoidance of doubt, the level of insurance to be maintained by the Contractor after repayment of Lenders' dues in full shall be determined on the same principles as applicable for determining the level of insurance prior to such repayment of Lenders' dues.

24.2 Notice of the Authority

No later than 45 (forty-five) days prior to commencement of the Construction Period and the Operation Period, as the case may be, the Contractor shall, by notice furnish to the Authority, in reasonable detail, information in respect of the insurances that it proposes to effect and maintain in accordance with this Clause 24. Within 30 (thirty) days of receipt of such notice, the Authority may require the Contractor to effect and maintain such other insurances as may be necessary pursuant hereto, and in the event of any difference or disagreement relating to any such insurance, the Dispute Resolution Procedure shall apply.

24.3 Evidence of Insurance Cover

All insurances obtained by the Contractor in accordance with this Clause 24 shall be maintained with insurers on terms consistent with Good Industry Practice. Within 15 (fifteen) days of obtaining any insurance cover, the Contractor shall furnish to the Authority, notarized true copies of the certificate(s) of insurance, copies of insurance policies and premium payment receipts in respect of such insurance, and no such insurance shall be cancelled, modified, or allowed to expire or lapse until the expiration of at least 45 (forty five) days after notice of such proposed cancellation, modification or non-renewal has been delivered by the Contractor to the Authority. The Contractor shall maintain a register of entry in order of premiums paid towards Insurance of the Project Facilities.

24.4 Remedy for failure to insure

If the Contractor shall fail to effect and keep in force all insurances for which it is responsible pursuant hereto, the Authority shall have the option to either keep in force any such insurances, and pay such premium and recover the costs thereof from the Contractor, or in the event of computation of a Termination Payment, treat an amount equal to the Insurance Cover as deemed to have been received by the Contractor.

24.5 Waiver of Subrogation

All insurance policies in respect of the insurance obtained by the Contractor pursuant to this Clause 24 shall include a waiver of any and all right of subrogation or recovery of the insurers there under against, inter alia, the Authority, and its assigns, successor, underrating and their subsidiaries, affiliates, employees, insurers and underwriters and of any right of the insurers of any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy or in any way connected with any loss, liability or obligation covered by such policies of insurance.

24.6 Contractor's waiver

The Contractor hereby further releases, assigns and waives any and all rights of recovery against, inter alia, the Authority, and its assigns, undertaking, and their affiliates, subsidiaries, employees, successors, assigns, insurers and underwriters, which the Contractor may otherwise have or acquire in or from or in any way connected with any loss, liability or obligations covered by policies of insurance maintained or required to be maintained by the Contractor pursuant to this Agreement (other than Third Party liability insurance policies) or because of deductible Clause s in or inadequacy of limits of any such policies of insurance.

24.7 Application of Insurance Proceeds

Subject to the provisions of the Financing Documents and unless otherwise provided herein, the proceeds of all insurance policies received shall be promptly applied by Contractor towards repair, renovation, restoration or re-instatement of the Project Facilities or any part thereof which may have been damaged or destroyed. The Contractor shall designate the Authority as the beneficiary for the assets under ownership of the Authority as per Clause 22.1 and may designate the Lenders as the beneficiaries for the assets under the Contractor ownership as per Clause 22.1 or assign the insurance policies in their favour as security for the financial assistance provided by them to the Project. The Contractor shall carry such repair, renovation, restoration or re-instatement to the extent possible in such manner that the Project Facilities after such repair, renovation, restoration or re-instatement to the extent possible in the same condition as it were prior to such damage or destruction, normal wear and tear

accepted.

24.8 No Breach of Insurance Obligation

If during the Contract Period, any risk which has been previously insured becomes un-insurable due to the fact that the insurers have ceased to insure such a risk and therefore insurance cannot be maintained / re-instated in respect of such risk, Contractor shall not be in breach of its obligations regarding insurance under this Agreement.

25.0 Accounts and Audit

25.1 Audited accounts

25.1.1. The Contractor shall maintain books of accounts recording all its receipts (including all Tipping Fee and other revenues derived/collected by it from or on account of the Project and/or its use), income, expenditure, payments (including payments from the Escrow Account), assets and liabilities, in accordance with this Agreement, Good Industry Practice, Applicable Laws and Applicable Permits. The Contractor shall provide 2 (two) copies of its Balance Sheet, Cash Flow Statement and Profit and Loss Account, along with a report thereon by its Statutory Auditors, within 90 (ninety) days of the close of the Accounting Year to which they pertain and such audited accounts, save and except where expressly provided to the contrary, shall form the basis of payments by either Party under this Agreement. The Authority shall have the right to inspect the records of the Contractor during office hours and require copies of relevant extracts of books of accounts, duly certified by the Statutory Auditors, to be provided to the Authority for verification of basis of payments, and in the event of any discrepancy or error being found, the same shall be rectified and such rectified account shall form the basis of payments by either Party under this Agreement.

25.1.2. The Contractor shall, within 30 (thirty) days of the close of each month of an Accounting Year, furnish to the Authority its unaudited financial results in respect of the preceding month, in the manner and form prescribed by the Securities and Exchange Board of India for publication of quarterly results by the companies listed on a stock exchange.

25.2 Appointment of auditors

25.2.1. The Contractor shall appoint, and have during the subsistence of this Agreement as its Statutory Auditors, a firm chosen by it from the mutually agreed list of 10 (ten) reputable firms of chartered accountants (the “**Panel of Chartered Accountants**”). All fees and expenses of the Statutory Auditors shall be borne by the Contractor.

25.2.2. The Contractor may terminate the appointment of its Statutory Auditors after a notice of 45 (forty five) days to the Authority, subject to the replacement Statutory Auditors

being appointed from the Panel of Chartered Accountants.

25.2.3. Notwithstanding anything to the contrary contained in this Agreement, the Authority shall have the right, but not the obligation, to appoint at its cost from time to time and at any time, another firm (the “**Additional Auditors**”) from the Panel of Chartered Accountants to audit and verify all those matters, expenses, costs, realizations and things which the Statutory Auditors are required to do, undertake or certify pursuant to this Agreement.

25.3 Certification of claims by Statutory Auditors

Any claim or document provided by the Contractor to the Authority in connection with or relating to receipts, income, payments, costs, expenses, accounts or audit, and any matter incidental thereto shall be valid and effective only if certified by its Statutory Auditors.

25.4 Dispute resolution

25.4.1. In the event of there being any difference between the findings of the Additional Auditors and the Statutory Auditors, such Auditors shall meet to resolve the differences and if they are unable to resolve the same, such Dispute shall be resolved by the Authority by recourse to the Dispute Resolution Procedure.

PART V - FORCE MAJEURE AND TERMINATION

26.0 Force Majeure

26.1 Force Majeure

As used in this Agreement, the expression “**Force Majeure**” or “**Force Majeure Event**” shall mean occurrence in India of any or all of Non-Political Event, Indirect Political Event and Political Event, as defined in Clauses 26.2, 26.3 and 26.4 respectively, if it affects the performance by the Party claiming the benefit of Force Majeure (the “**Affected Party**”) of its obligations under this Agreement and which act or event (i) is beyond the reasonable control of the Affected Party, and (ii) the Affected Party could not have prevented or overcome by exercise of due diligence and following Good Industry Practice, and (iii) has Material Adverse Effect on the Affected Party.

26.2 Non-Political Event

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

- a. act of God, epidemic, extremely adverse weather conditions, lightning, earthquake, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionizing radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Site);
- b. strikes or boycotts (other than those involving contractors, or their respective employees/representatives, or attributable to any act or omission of any of them) interrupting supplies and services to the Project for a continuous period of 7 (seven) days and an aggregate period exceeding 14 (fourteen) days in an Accounting Year, and not being an Indirect Political Event set forth in Clause 26.3;
- c. any failure or delay of a Contractor but only to the extent caused by another Non-Political Event and which does not result in any offsetting compensation being payable to Contractor, by, or on behalf of such Contractor;
- d. any judgment or order of any court competent jurisdiction or statutory authority made against the Contractor in any proceedings for reasons other than (i) failure of the Contractor to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Agreement, or (iv) exercise of any of its rights under this Agreement by the Authority;
- e. the discovery of geological conditions, toxic contamination or archaeological remains on the Site that could not reasonably have been expected to be discovered through a site inspection; or
- f. any event or circumstances of a nature analogous to any of the foregoing.

26.3 Indirect Political Event

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

- a. an act of war (whether declared or undeclared), invasion, armed conflict or act foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;
- b. industry-wide or State-wide strikes or industrial action for a continuous period of 7 (seven) days and exceeding an aggregate period of 14 (fourteen) days in an accounting Year;

- c. any civil commotion, boycott or political agitation which prevents collection of Tipping Fee by Contractor for an aggregate period exceeding 7 (seven) days in an accounting Year;
- d. any failure or delay of a Contractor to the extent caused by any Indirect Political Event and which does not result in any offsetting compensation being payable to Contractor by or on behalf of such Contractor; and
- e. any Indirect Political Event that causes a Non-Political Event;
- f. any event or circumstances of a nature analogous to any of the foregoing.

26.4 Political Event

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

- a. change in Law, only if consequences thereof cannot be dealt with under and in accordance with the provisions of Clause 33 and its effect, in financial terms, exceeds the sum specified in Clause 33.2;
- b. compulsory acquisition in national interest or expropriation of any Project Assets or rights of Contractor or of the Contractors;
- c. unlawful or unauthorized or without jurisdiction revocation of or refusal to renew or grant without valid cause, any clearance, license, permit, authorization, no objection certificate, consent, approval or exemption required by Contractor or any of the Contractors to perform their respective obligations under this Agreement and the Project Agreements; provided that such delay, modification, denial, refusal or revocation did not result from Contractor or any Contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such clearance, license, authorization, no objection certificate, exemption, consent, approval or permit;
- d. any failure or delay of a Contractor but only to the extent caused by another Political, Event and which does not result in any offsetting compensation being payable to Contractor by or on behalf of such Contractor; or
- e. any event or circumstance of a nature analogous to any of the foregoing.

26.5 Duty to report Force Majeure Event

- 26.5.1. Upon occurrence of a Force Majeure Event, the Affected Party shall by notice report such occurrence to the other Party forthwith. Any notice pursuant hereto shall include full particulars of:
- a. the nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Clause 26 with evidence in support thereof;
 - b. the estimated duration and the effect or probable effect which such Force Majeure Event is having or will have on the Affected Party's performance of its obligations under this Agreement;
 - c. the measures which the Affected Party is taking or proposes to take for alleviating the impact of such Force Majeure Event; and
 - d. any other information relevant to the Affected Party's claim.
- 26.5.2. The Affected Party shall not be entitled to any relief for or in respect of a Force Majeure Event unless it shall have notified the other Party of the occurrence of the Force Majeure Event as soon as reasonably practicable, and in any event not later than 14 (fourteen) days after the Affected Party knew, or ought reasonably to have known, of its occurrence, and shall have given particulars of the: probable material effect that the Force Majeure Event is likely to have on the performance of its obligations under this Agreement.
- 26.5.3. For so long as the Affected Party continues to claim to be materially affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than weekly) reports containing information as required by Clause 26.5.2, and, such other information as the other Party may reasonably request the Affected Party to provide.

26.6 Effect of Force Majeure Event on the Contract

- 26.6.1. Upon the occurrence of any Force Majeure Event prior to the Appointed Date, the period set forth in Clause 23.1.1 for achieving Financial Close shall be extended by a period equal in length to the duration of the Force Majeure Event.
- 26.6.2. At any time after the Appointed Date, if any Force Majeure Event occurs:
- a. before COD, the Contract Period and the dates set forth in the Project Completion Schedule shall be extended by a period equal in length to the duration for which such Force Majeure Event subsists; or
 - b. after COD, if the collection of the Tipping Fee is suspended, the Contract Period shall be extended by a period equal in length to the period during which the collection of the Tipping Fee is suspended.

26.7 Allocation of costs arising out of Force Majeure

- 26.7.1. Upon occurrence of any Force Majeure Event prior to the Appointed Date, the Parties shall bear their respective costs and no Party shall be required to pay to the other Party any costs thereof.
- 26.7.2. Upon occurrence of a Force Majeure Event after the Appointed Date, the costs incurred and attributable to such event and directly relating to the Project (the; "**Force Majeure Costs**") shall be allocated and paid as follows:
- a. upon occurrence of a Non-Political Event, the Parties shall bear their respective Force Majeure costs and neither Party shall be required to pay to the other Party any costs thereof;
 - b. upon occurrence of an Indirect Political Event, all Force Majeure costs attributable to such Indirect Political Event, and not exceeding the insurance cover for such Indirect Political Event, shall be borne by, and to the extent Force Majeure costs exceed such insurance cover 25% (twenty five) of such excess amount shall be reimbursed by the Authority to Contractor; and
 - c. Upon occurrence of a Political Event, all Force Majeure costs attributable to such Political Event shall be reimbursed by the Authority to Contractor.

For the avoidance of doubt, Force Majeure costs may include interest payments on debt, O&M Expenses, any increase in the cost of Construction Works on account of inflation and all other costs directly attributable to the Force Majeure Event, but shall not include loss of Tipping Fee revenues or debt repayment obligations, and for determining such costs, information contained in the Financing Documents may be relied upon to the extent that such information is relevant.

- 26.7.3. Save and except as expressly provided in this Clause 26, neither Party shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure event or exercise of any right pursuant hereto.

26.8 Termination Notice for Force Majeure Event

If a Force Majeure Event subsists for a period of 180 (one hundred and-eighty) days or more within a continuous period of 365 (three hundred and sixty five) days, either Party may in its discretion terminate this Agreement by issuing a Termination Notice to the other Party without being liable in any manner whatsoever, save, as provided in this Clause 26, and upon issue of such Termination Notice, this Agreement shall, notwithstanding anything to the contrary contained herein, stand terminated forthwith; provided that before issuing such Termination Notice, the Party intending to issue the Termination Notice shall inform the other Party of such intention and grant 15

(fifteen) days time to make a representation, and may after the expiry of such 15 (fifteen) days period, whether or not it is in receipt of such representation, in its sole discretion issue the Termination Notice.

26.9 Termination Payment for Force Majeure Event

26.9.1 If Termination is on account of a Non-Political Event, MCGM shall make a Termination Payment to the Contractor which shall be equal to 90% of Debt Due, less any insurance cover. The Contractor shall be entitled to withdraw the Performance Security, if subsisting.

26.9.2 If Termination is on account of an Indirect Political Event, MCGM shall make a Termination Payment to the Contractor an amount equal to Debt Due, less insurance cover. The Contractor shall be entitled to withdraw the Performance Security, if subsisting.

26.9.3 If Termination is on account of a Political Event, the Authority shall make a Termination Payment to Concessionaire in an amount that would be payable as if it were an Authority's Default.

26.10 Dispute Resolution

In the event that the Parties are unable to agree in good faith about the occurrence or existence of a Force Majeure Event, such Dispute shall be finally settled in accordance with the Dispute Resolution Procedure; provided that the burden of proof as to the occurrence or existence of such Force Majeure Event shall be upon the Party claiming relief and/or excuse on account of such Force Majeure Event.

26.11 Excuse from Performance of Obligations

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

- a. the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;
- b. the Affected Party shall make all reasonable efforts to mitigate or limit damage to the other party arising out of or as a result of the existence or occurrence of such Force Majeure Event and to cure the same with due diligence; and
- c. when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party notice to that effect and shall promptly resume performance of its obligations as per this Agreement.

27.0 Compensation for Breach of Agreement

27.1 Compensation for default by the Contractor

Subject to the provisions of Clause 27.5, in the event of the Contractor being in material default or breach of this Agreement, it shall pay to the Authority by way of compensation, all direct costs suffered or incurred by the Authority as a consequence of such material default, within 30 (thirty) days of receipt of the demand supported by necessary particulars thereof; provided that no compensation shall be payable under this Clause 27.1 for any breach or default in respect of which Damages are expressly specified and payable under this Agreement or for any consequential losses incurred by the Authority.

27.2 Compensation for default by the Authority

Subject to the provisions of Clause 27.5, in the event of the Authority being in material default or breach of this Agreement at any time after the Appointed Date, it shall pay to the Contractor by way of compensation, all direct costs suffered or incurred by the Contractor as a consequence of such material default supported by necessary particulars thereof; provided that no such compensation shall be payable for any breach or default in respect of which Damages have been expressly specified in this Agreement. For avoidance of doubt, compensation payable may include interest payment on debt, O&M Expenses, any increase in capital cost and all other similar costs directly attributable to such material default but shall not include loss of Tipping Fee, debt repayment obligations or other consequential losses and for determining such compensation, information contained in the Financial Package and Financial Model may be relied upon to the extent it is relevant.

In the event that the Parties are unable to agree in good faith about the compensation as per Clause 27.1 and 27.2, such Dispute shall be finally settled in accordance with the Dispute Resolution Procedure.

27.3 Extension of Contract Period

Subject to the provisions of Clause 27.5, in the event that a material default or breach of this Agreement set forth in Clause 27.2 causes delay in achieving COD or leads to suspension, as the case may be, the Authority shall, in addition to payment of compensation under Clause 27.2, extend the Contract Period, such extension being equal in duration to the period by which COD was delayed.

27.4 Compensation to be in addition

Compensation payable under this Article 27 shall be in addition to, and not in substitution for, or derogation of, Termination Payment, if any.

27.5 Mitigation of costs and damage

The Affected Party shall make all reasonable efforts to mitigate or limit the costs and damage arising out of or as a result of breach of Agreement by the other Party

28.0 Suspension of Contractor's Rights

28.1 Suspension upon Contractor Event of Default

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

28.2 Authority to act on behalf of Contractor

- 28.2.1. During the period of Suspension, the Authority shall withhold all Tipping Fee payments to the Contractor. The Tipping Fee shall be deposited by the Authority in a separate bank account. The Authority shall be entitled to make withdrawals from this account for meeting the costs incurred by it for remedying and rectifying the cause of Suspension, and thereafter for defraying the expenses.
- 28.2.2. During the period of Suspension hereunder, all rights and liabilities vested in the Contractor in accordance with the provisions of this Agreement shall continue to vest therein and all things done or actions taken, including expenditure incurred by the Authority for discharging the obligations of the Contractor under and in accordance with this Agreement and the Project Agreements, shall be deemed to have been done or taken for and on behalf of the Contractor and the Contractor undertakes to indemnify the Authority for all costs incurred during such period. The Contractor hereby licences and sub-licences respectively, the Authority or any other person authorized by it under Clause 28.1 to use during Suspension, all Intellectual Property belonging to or licenced to the Contractor with respect to the Project and its design, engineering, construction, operation and maintenance, and which is used or created by the Contractor in performing its obligations under the Agreement.

28.3 Revocation of Suspension

- 28.3.1. In the event that the Authority shall have rectified or removed the cause of Suspension within a period not exceeding 90 (ninety) days from the date of Suspension, it shall revoke the Suspension forthwith and restore all rights of the Contractor under this Agreement. For the avoidance of doubt, the Parties expressly agree that the Authority may, in its discretion, revoke the Suspension at any time, whether or not the cause of Suspension has been rectified or removed hereunder.
- 28.3.2. Upon the Contractor having cured the Contractor Event of Default within a period not exceeding 90 (ninety) days from the date of Suspension, the Authority shall revoke the Suspension forthwith and restore all rights of the Contractor under this Agreement.

28.4 Substitution of Contractor

At any time during the period of Suspension, the Lenders' Representative, on behalf of Lenders, shall be entitled to substitute the Contractor under and in accordance with the Substitution Agreement, and upon receipt of notice thereunder from the Lenders' Representative, the Authority shall withhold Termination for a period not exceeding 180 (one hundred and eighty) days from the date of Suspension, and any extension thereof under Clause 28.1, for enabling the Lenders' Representative to exercise its rights of substitution on behalf of Lenders.

28.5 Termination

- 28.5.1. At any time during the period of Suspension under this Clause 28, the Contractor may by notice require the Authority to revoke the Suspension and issue a Termination Notice. Subject to the rights of the Lenders' Representative to undertake substitution in accordance with the provisions of this Agreement and within the period specified in Clause 28.4, the Authority shall, within 15 (fifteen) days of receipt of such notice, terminate this Agreement under and in accordance with Clause 29.
- 28.5.2. Notwithstanding anything to the contrary contained in this Agreement, in the event that Suspension is not revoked within 180 (one hundred and eighty) days from the date of Suspension hereunder or within the extended period, if any, set forth in Clause 28.1, the Contract Agreement shall, upon expiry of the aforesaid period, be deemed to have been terminated by mutual agreement of the Parties and all the provisions of this Agreement shall apply, mutatis mutandis, to such Termination as if a Termination Notice had been issued by the Authority upon occurrence of a Contractor Event of Default.

29.0 Events of Default and Termination

29.1 Events of Default

29.1.1. Event of Default shall mean either Contractor Event of Default or Authority Event of Default or both as the context may admit or require.

29.1.2. Contractor Event of Default

Save as otherwise provided in this Agreement, in the event that any of the defaults specified below shall have occurred, and the Contractor fails to cure the default within the Cure Period and where no cure period is specified, within the Cure Period of 30 (thirty) days, the Contractor shall be deemed to be in default of this Agreement (the “**Contractor Event of Default**”), unless the default has occurred solely as a result of any breach of this Agreement by the Authority or due to Force Majeure. The defaults referred to herein shall include:

- a. the Performance Security has been encashed and appropriated in accordance with Clause 9.2 and the Contractor fails to replenish or provide fresh Performance Security within 30 (thirty) days;
- b. subsequent to the replenishment or furnishing of fresh Performance Security in accordance with Clause 9.2, the Contractor fails to cure, within a Cure Period of 90 (ninety) days, the Contractor Event of Default for which whole or part of the Performance Security was appropriated;
- c. the Contractor fails to achieve any of the Project Milestones due in accordance with respective Scheduled Project Milestone Date, as set in the Schedule 5 and continues in default for 180 (one hundred and eighty) days;
- d. the Contractor has failed to achieve COD within 9 (nine) months of the Appointed Date;
- e. the Contractor abandons or manifests intention to abandon the construction or operation of the Project without the prior written consent of the Authority;
- f. the Punch List items have not been completed within the period set forth in Clause 14.4.1;
- g. the Contractor is non-compliant to the Performance Standards as specified in the Schedule 12, Clause 12.2 and remains non-compliant such that it becomes an Event of Default;
- h. the Contractor is in breach of the Operation and Maintenance Requirements or

- the Safety Requirements, as the case may be;
- i. upon occurrence of a Financial Default, the Lenders' Representative has by notice required the Authority to undertake Suspension or Termination, as the case may be, in accordance with the Substitution Agreement and the Contractor fails to cure the default within the Cure Period specified hereinabove;
 - j. a breach of any of the Project Agreements by the Contractor has caused a Material Adverse Effect;
 - k. the Contractor creates any Encumbrance in breach of this Agreement;
 - l. the Contractor repudiates this Agreement or otherwise takes any action or evidences or conveys an intention not to be bound by the Agreement;
 - m. a Change in Ownership has occurred in breach of the provisions of Clause 5.11;
 - n. the Equity holding of the Contractor is not in line with Clause 5.11.2.
 - o. there is a transfer, pursuant to law either of (i) the rights and/or obligations of the Contractor under any of the Project Agreements, or of (ii) all or part of the assets or undertaking of the Contractor, and such transfer causes a Material Adverse Effect;
 - p. an execution levied on any of the assets of the Contractor has caused a Material Adverse Effect;
 - q. the Contractor is adjudged bankrupt or insolvent, or if a trustee or receiver is appointed for the Contractor or for the whole or material part of its assets that has a material bearing on the Project;
 - r. the Contractor has been, or is in the process of being liquidated, dissolved, wound-up, amalgamated or reconstituted in a manner that would cause, in the reasonable opinion of the Authority, a Material Adverse Effect;
 - s. a resolution for winding up of the Contractor is passed, or any petition for winding up of the Contractor is admitted by a court of competent jurisdiction and a provisional liquidator or receiver is appointed and such order has not been set aside within 90 (ninety) days of the date thereof or the Contractor is ordered to be wound up by Court except for the purpose of amalgamation or reconstruction; provided that, as part of such amalgamation or reconstruction,

the entire property, assets and undertaking of the Contractor are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the obligations of the Contractor under this Agreement and the Project Agreements; and provided that:

- i. the amalgamated or reconstructed entity has the capability and operating experience necessary for the performance of its obligations under this Agreement and the Project Agreements;
- ii. 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 Contractor as at the Appointed Date; and
- iii. each of the Project Agreements remains in full force and effect;
- t. any representation or warranty of the Contractor herein contained which is, as of the date hereof, found to be materially false or the Contractor is at any time hereafter found to be in breach thereof;
- u. the Contractor submits to the Authority any statement, notice or other document, in written or electronic form, which has a material effect on the Authority's rights, obligations or interests and which is false in material particulars;
- v. the Contractor has failed to make any payment to the Authority within period specified in this Agreement
- w. the Contractor has failed to fulfill any obligation, for which failure Termination has been specified in this Agreement; or
- x. The Contractor commits a default in complying with any other provision of this Agreement if such a default causes a Material Adverse Effect on the Authority.

29.1.3. **Authority Event of Default**

In the event that any of the defaults specified below shall have occurred, and the Authority fails to cure such default within a Cure Period of 90 (ninety) days or such longer period as has been expressly provided in this Agreement, the Authority shall be deemed to be in default of this Agreement (the "**Authority Event of Default**") unless the default has occurred as a result of any breach of this Agreement by the Contractor

or due to Force Majeure. The defaults referred to herein shall include:

- a. The Authority has failed to make any payments due to the Contractor without any valid reason and more than 90 (ninety) days have elapsed since such Default;
- b. The Authority is in Material Breach of any of its obligations under this Agreement and has failed to cure such breach within 60 (sixty) days of receipt of notice thereof issued by the Contractor.

29.2 Termination due to Event of Default

29.2.1. Termination for Contractor Event of Default

- a. Without prejudice to any other right or remedy which the Authority may have in respect thereof under this Agreement, upon the occurrence of a Contractor Event of Default, the Authority shall, subject to the provisions of the "Substitution Agreement" (if any, with the Senior Lenders, pursuant to which, in case of Default by Contractor, Senior Lenders shall be allowed to take charge of Contractor's roles and responsibilities under this Agreement), be entitled to terminate this Agreement in the manner as set out under Sub-clause (b) of Clause 29.2.1. Provided however, that upon the occurrence of a Contractor Event of Default as specified under Sub-clause 29.1.2(s), the Authority may terminate this Agreement by issue of Termination Notice in the manner set out under Clause 29.2.3.
- b. If the Authority decides to terminate this Agreement pursuant to preceding Clause (a), it shall in the first instance issue Preliminary Notice to Contractor. Within 30 (thirty) days of receipt of the Preliminary Notice, Contractor shall submit to the Authority in sufficient detail and if applicable the manner in which inter-alia it proposes to cure the underlying Event of Default or prevent the Event of Default from reoccurring (the "Contractor Proposal to Rectify"). The same shall be reasonably considered by the Authority. In case of non-submission of Contractor Proposal to Rectify within the said period of 30 (thirty) days, the Authority shall be entitled to terminate this Agreement by issuing Termination Notice, and to appropriate the Performance Security, if subsisting. In case Contractor has made a Proposal to Rectify within the period stipulated therefore, and the same is accepted by the Authority as reasonable, the Contractor shall be allowed a Cure Period of 60 (sixty) days. If, however the Contractor fails to remedy / cure the underlying Event of Default or the factors causing the Event of Default within such further period allowed, the Authority shall be entitled to terminate this Agreement, by issue of Termination Notice and to appropriate the Performance Security, if subsisting. For the avoidance of doubt, the Authority, at its sole discretion, can reject the Contractor Proposal to rectify if it feels that it is not adequate to cure the Event of Default or prevent the

Event of Default from reoccurring.

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

- a. Without prejudice to any other right or remedy which Contractor may have in respect thereof under this Agreement, upon the occurrence of a Authority Event of Default, Contractor shall be entitled to terminate this Agreement by issuing Termination Notice.
- b. If Contractor decides to terminate this Agreement pursuant to preceding Sub-clause (a) it shall in the first instance issue Preliminary Notice to the Authority. Within 30 (thirty) days of receipt of Preliminary Notice, if applicable, Authority shall forward to Contractor its proposal to remedy / cure the underlying Event of Default (the "Authority Proposal to Rectify"). In case of non-submission of Authority Proposal to rectify within the period stipulated therefore, Contractor shall be entitled to terminate this Agreement by issuing Termination Notice.
- c. In case Authority Proposal to Rectify is forwarded to Contractor within the period stipulated therefore, the Authority shall have further period of 60 (sixty) days to remedy / cure the underlying Event of Default. If, however the Authority fails to remedy / cure the underlying Event of Default within such further period allowed, Contractor shall be entitled to terminate this Agreement by issuing Termination Notice.

29.2.3. **Termination Notice**

If a Party having become entitled to do so decides to terminate this Agreement pursuant to the preceding Clause 29.2.1 or Clause 29.2.2, it shall issue Termination Notice setting out:

- a. in sufficient detail the underlying Event of Default;
- b. the Termination Date which shall be a date occurring not earlier than 90 (ninety) days from the date of Termination Notice;
- c. the estimated termination payment including the details of computation thereof; and ,
- d. any other relevant information.

The Parties hereby agree that any Termination Notice shall also be sent to all Senior Lenders , by registered post / courier and a public notice of default of the Contractor in leading daily newspaper (of both English and the prevalent local language) of Mumbai City.

29.2.4. **Obligation of Parties**

Following issue of Termination Notice by either Party, the Parties shall, subject to the provision of the Financing Documents and the rights of the Lenders provided therein, promptly take all such steps as may be necessary or required to ensure that:

- a. Until Termination the Parties shall, to the fullest extent possible, discharge their respective obligations so as to maintain the continued operation of the Project Facilities.
- b. The Termination Payment, if any, payable by the Authority in accordance with the Clause 29.2.6 is paid to Contractor on the Termination Date and

29.2.5. Withdrawal of Termination Notice

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

Provided that the Party in breach shall compensate the other Party for any direct costs/consequences occasioned by the Event of Default which caused the issue of Termination Notice or as mutually agreed upon by both parties.

29.2.6. Termination Payments

Upon Termination of this Agreement on account of Authority Event of Default, the Contractor shall be entitled to the following termination payments in addition to payment from the Authority that may have accrued to Contractor prior to the Termination:

a. Authority Event of Default before COD:

Upon Termination of this Agreement on account of the Authority Event of Default before occurrence of COD, Contractor shall be entitled to receive from authority by way of Termination Payment a sum equal to 100% (hundred percent) of the Debt Due and 100% (One Hundred Per cent) of Adjusted Equity as Termination Payment.

b. Contractor Event of Default before COD:

Upon Termination on account of a Contractor Event of Default before COD, the Contractor will cease all activities related to the project. For the avoidance of doubt, the Contractor hereby acknowledges that no Termination Payment shall be due or payable on account of a Contractor Event of Default.

Upon Termination of this Agreement on account of Contractor Event of Default the Performance Security, if subsisting, shall be invoked by the Authority. The Contractor expressly agrees that Termination Payment under this Clause 29.2 shall constitute a full and final settlement of all claims of the Contractor on account of Termination of this Agreement for any reason whatsoever and that the Contractor or any shareholder thereof shall not have any further right or claim under any law, treaty, convention, contract or otherwise.

c. Authority Event of Default after COD:

Upon Termination of this Agreement on account of the Authority Event of Default after occurrence of COD, the Contractor shall receive from the Authority, a sum equal to 100% (hundred percent) of the Debt Due and 100% (One Hundred Per cent) of Adjusted Equity as Termination Payment.

The Contractor shall be entitled to withdraw the Performance Security, if subsisting, provided that the Performance Security shall be withdrawn only after substitution of the Contractor in accordance with the provisions of Substitution Agreement, if any.

d. Contractor Event of Default after COD

Upon Termination on account of a Contractor Event of Default after COD, the Contractor will cease all activities related to the project. For the avoidance of doubt, the Contractor hereby acknowledges that no Termination Payment shall be due or payable on account of a Contractor Default occurring after COD.

29.3 Rights of the Authority on Termination

- a. Notwithstanding anything contained in this Agreement, the Authority shall not, as a consequence of Termination or otherwise, have any obligation whatsoever including but not limited to obligations as to compensation for loss of employment, continuance or regularization of employment, absorption or re-employment on any ground, in relation to any person in the employment of or engaged by Contractor in connection with the Project, and the handover of the Project rights by Contractor to the Authority shall be free from any such obligation.

29.4 Survival of 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 have in law or contract. The rights and obligations of either Party under this Agreement, including without limitation those relating to the Termination Payment, shall survive the Termination but only to the extent such survival is necessary for giving effect to such rights and obligations.

30.0 Deleted

31.0 Defects Liability after Termination

31.1 Liability for defects after Termination

The Contractor shall be responsible for all defects and deficiencies in the Project for a period of 120 (One hundred and twenty) days after Termination, and it shall have the obligation to repair or rectify, at its own cost, all defects and deficiencies observed by the Independent Engineer in the Project during the aforesaid period. In the event that the Contractor fails to repair or rectify such defect or deficiency within a period of 15 (fifteen) days from the date of notice issued by the Authority in this behalf, the Authority shall be entitled to get the same repaired or rectified at the Contractor's risk and cost so as to make the Project conform to the Operation and Maintenance Requirements. All costs incurred by the Authority hereunder shall be reimbursed by the Contractor to the Authority within 15 (fifteen) days of receipt of demand thereof, and in the event of default in reimbursing such costs, the Authority shall be entitled to recover the same from the Performance Security for Operation and Maintenance Requirements in accordance with Clause 9.

PART V – OTHER PROVISIONS

32.0 Assignment and Charges

32.1 Restrictions on assignment and charges

- 32.1.1. Subject to Clauses 32.2 and 32.3, this Agreement shall not be assigned by the Contractor to any person, save and except with the prior consent in writing of the Authority, which consent the Authority shall be entitled to decline without assigning any reason.
- 32.1.2. Subject to the provisions of Clause 32.2, the Contractor shall not create nor permit to subsist any Encumbrance, or otherwise transfer or dispose of all or any of its rights and benefits under this Agreement or any Project Agreement to which the Contractor is a party except with prior consent in writing of the Authority, which consent the Authority shall be entitled to decline without assigning any reason.

32.2 Permitted assignment and charges

The restraints set forth in Clause 32.1 shall not apply to:

- a. liens arising by operation of law (or by an agreement evidencing the same) in the ordinary course of business of the Project;
- b. mortgages / pledges / hypothecation of goods / assets other than Project Assets and their related documents of title, a charge on the Escrow account arising or created in the ordinary course of business of the Project, and as security only for indebtedness to the Lenders under the Financing Agreements and/or for working capital arrangements for the Project;
- c. assignment of rights, interest and obligations of the Contractor to or in favour of the Lenders' Representative as nominee and for the benefit of the Lenders, to the extent covered by and in accordance with the Substitution Agreement as security for financing provided by Lenders under the Financing Agreements; and
- d. liens or encumbrances required by any Applicable Law.

32.3 Substitution Agreement

32.3.1 The Lenders' Representative, on behalf of Lenders, may exercise the right to substitute the Contractor pursuant to the agreement for substitution of the Contractor (the "Substitution Agreement") to be entered into amongst the Contractor, the Authority and the Lenders' Representative, on behalf of Lenders, substantially in the form set forth in Schedule 18.

32.3.2 Upon substitution of the Contractor under and in accordance with the Substitution Agreement, the Nominated Company substituting the Contractor shall be deemed to be the Contractor under this Agreement and shall enjoy all rights and be responsible for all obligations of the Contractor under this Agreement as if it were the Contractor; provided that where the Contractor is in breach of this Agreement on the date of such substitution, the Authority shall by notice grant a Cure Period of 120 (one hundred and twenty) days to the Contractor for curing such breach

32.4 Assignment by the Authority

Notwithstanding anything to the contrary contained in this Agreement, the Authority may, after giving 60 (sixty) days' notice to the Contractor, assign and/ or transfer any of its rights and benefits and/or obligations under this Agreement to an assignee who is, in the reasonable opinion of the Authority, capable of fulfilling all of the

Authority's then outstanding obligations under this Agreement.

33.0 Change in Law

33.1 Change in Law

Change in law shall mean the occurrence or coming into force of any of the following, after the Commencement Date:

- i. The enactment of any new Indian law;
 - ii. The repeal, modification or re-enactment of any existing Indian law
 - iii. A change in the interpretation or application of any Indian law by a court of record.
 - iv. The commencement of any Law, Bye-laws, rules, regulations, order, ordinance, protocols, codes, guidelines, policies, notices, directions, judgements, decrees or other requirements or official directives of any Governmental Authority or Taxes which has not entered into effect until the date of this Agreement
 - v. Change in notified Service Area
- a. Provided that change in law shall not include
- i. Coming into effect, after the Commencement Date, of any provision or statute which is already in place as of the Commencement 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 Commencement Date which is a matter of public knowledge,
 - iii. Any change in the rates of taxes

33.2 Increase in costs

If as a result of Change in Law, the Contractor suffers an increase in costs or reduction in net after tax return or other financial burden, the aggregate financial effect of which exceeds the higher of Rs. 1 crore (Rupees one crore) or 0.5% (zero point five percent) of the Tipping Fee in respective Accounting Year, the Contractor may so notify the Authority and propose amendments to this Agreement so as to place the Contractor in the same financial position as it would have enjoyed had there been no such Change in Law resulting in the cost increase, reduction in return or other financial burden as aforesaid. Upon notice by the Contractor, the Parties shall meet, as soon as reasonably

practicable but no later than 30 (thirty) days from the date of notice, and either agree on amendments to this Agreement or on any other mutually agreed arrangement.

Provided that if no agreement is reached within 90 (ninety) days of the aforesaid notice, the Contractor may by notice require the Authority to pay an amount that would place the Contractor in the same financial position that it would have enjoyed had there been no such Change in Law, and within 15 (fifteen) days of receipt of such notice, along with particulars thereof, the Authority shall pay the amount specified therein; provided that if the Authority shall dispute such claim of the Contractor, then same shall be settled in accordance with the Dispute Resolution Procedure. For avoidance of doubt, it is agreed that this Clause 33.2 shall be restricted to changes in law directly suffering the Contractor's costs of performing its obligations under this Agreement.

33.3 Reduction in costs

If as a result of Change in Law, the Contractor benefits from a reduction in costs or increase in net after-tax return or other financial gains, the aggregate financial effect of which exceeds the higher of Rs. 1 crore (Rupees one crore) or 0.5% (zero point five percent) of the Tipping Fee in any Accounting Year, the Authority may so notify the Contractor and propose amendments to this Agreement so as to place the Contractor in the same financial position as it would have enjoyed had there been no such Change in Law resulting in the decreased costs, increase in return or other financial gains as aforesaid. Upon notice by the Authority, the Parties shall meet, as soon as reasonably practicable but no later than 30 (thirty) days from the date of notice, and either agree on such amendments to this Agreement or on any other mutually agreed arrangement.

Provided that if no agreement is reached within 90 (ninety) days of the aforesaid notice, the Authority may by notice require the Contractor to pay an amount that would place the Contractor in the same financial position that it would have enjoyed had there been no such Change in Law, and within 15 (fifteen) days of receipt of such notice, along with particulars thereof, the Contractor shall pay the amount specified therein to the Authority; provided that if the Contractor shall dispute such claim of the Authority, the same shall be settled in accordance with the Dispute Resolution Procedure. For the avoidance of doubt, it is agreed that this Clause 33.3 shall be restricted to changes in law directly affecting the Contractor's costs of performing its obligations under this Agreement.

33.4 Protection of NPV

Pursuant to the provisions of Clauses 33.2 and 33.3 and for the purposes of placing the Contractor in the same financial position as it would have enjoyed had there been no Change in Law affecting the costs, returns or other financial burden or gains, the Parties shall rely on the Financial Model to establish a net present value (the "NPV") of the net

cash flow and make necessary adjustments in costs, revenues, compensation or other relevant parameters, as the case may be, to procure that the NPV of the net cash flow is the same as it would have been if no Change in Law had occurred.

33.5 Restriction on cash compensation

- a. The Parties acknowledge and agree that the demand for cash compensation under this Clause 33 shall be restricted to the effect of Change in Law during the respective Accounting Year and shall be made at any time after commencement of such year, but no later than one year from the close of such Accounting Year. Any demand for cash compensation payable for and in respect of any subsequent Accounting Year shall be made after the commencement of the Accounting Year to which the demand pertains, but no later than two years from the close of such Accounting Year.
- b. Upon receipt of the notice of Change in Law issued by the Contractor pursuant to preceding sub clause, Authority and the Contractor shall along with the Project Officer hold discussions and take all such steps as may be necessary including determination / certification by the Project Officer of the quantum of the Additional Cost to be borne and paid by the Authority.
- c. Subject to Change in Law resulting in Material Adverse Effect and subject to the Contractor taking necessary measures to mitigate the impact or likely impact of Change in Law on the Project, if as a direct consequence of a Change in Law, the Contractor is obliged to incur Additional Costs, then Authority shall subsequently reimburse to the Contractor with 20% of such Additional Costs incurred annually in any one financial year. Similarly subject to the Change in Law if the Contractor enjoys a reduction in the cost and/ or is financially benefited, then the Contractor shall reimburse to the Authority 20% of such gains made in any one financial year.
- d. An Independent Consultant shall be appointed by Authority for calculating the gain or loss due to the Change in Law. The figures mentioned by the Independent Consultant shall be considered final and the Parties shall agree to the same. The cost of such Independent Consultant shall be borne equally by the Contractor and Authority

34.0 Liability and Indemnity

34.1 General indemnity

- 34.1.1 The Contractor will indemnify, defend, save and hold harmless the Authority and its officers, servants, agents, Government Instrumentalities and Government owned and/or controlled entities/enterprises, (the “Authority Indemnified Persons”) against any and

all suits, proceedings, actions, demands and claims from third parties for any loss, damage, cost and expense of whatever kind and nature, whether arising out of any breach by the Contractor of any of its obligations under this Agreement or any related agreement or on account of any defect or deficiency in the provision of services by the Contractor to any User or from any negligence of the Contractor under contract or tort or on any other ground whatsoever, except to the extent that any such suits, proceedings, actions, demands and claims have arisen due to any negligent act or omission, or breach or default of this Agreement on the part of the Authority Indemnified Persons.

34.1.2 The Authority will indemnify, defend, save and hold harmless the Contractor against any and all suits, proceedings, actions, demands and claims from third parties for any loss, damage, cost and expense of whatever kind and nature arising out of (i) defect in title and/or the rights of the Authority in the land comprised in the Site, and/or (ii) breach by the Authority of any of its obligations under this Agreement or any related agreement, which materially and adversely affect the performance by the Contractor of its obligations under this Agreement, save and except that where any such claim, suit, proceeding, action, and/or demand has arisen due to a negligent act or omission, or breach of any of its obligations under any provision of this Agreement or any related agreement and/or breach of its statutory duty on the part of the Contractor, its subsidiaries, affiliates, contractors, servants or agents, the same shall be the liability of the Contractor.

34.2 Indemnity by the Contractor

34.2.1 Without limiting the generality of Clause 34.1, the Contractor shall fully indemnify, hold harmless and defend the Authority and the Authority Indemnified Persons from and against any and all loss and/or damages arising out of or with respect to:

- a. failure of the Contractor to comply with Applicable Laws and Applicable Permits;
- b. payment of taxes required to be made by the Contractor in respect of the income or other taxes of the Contractor's contractors, suppliers and representatives; or
- c. Non-payment of amounts due as a result of materials or services furnished to the Contractor or any of its contractors which are payable by the Contractor or any of its contractors.

34.2.2 Without limiting the generality of the provisions of this Clause 34, the Contractor shall fully indemnify, hold harmless and defend the Authority Indemnified Persons from and

against any and all suits, proceedings, actions, claims, demands, liabilities and damages which the Authority Indemnified Persons may hereafter suffer, or pay by reason of any demands, claims, suits or proceedings arising out of claims of infringement of any domestic or foreign patent rights, copyrights or other intellectual property, proprietary or confidentiality rights with respect to any materials, information, design or process used by the Contractor or by the Contractor's Contractors in performing the Contractor's obligations or in any way incorporated in or related to the Project. If in any such suit, action, claim or proceedings, a temporary restraint order or preliminary injunction is granted, the Contractor shall make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the revocation or suspension of the injunction or restraint order. If, in any such suit, action, claim or proceedings, the Project, or any part thereof or comprised therein, is held to constitute an infringement and its use is permanently enjoined, the Contractor shall promptly make every reasonable effort to secure for the Authority a licence, at no cost to the Authority, authorising continued use of the infringing work. If the Contractor is unable to secure such license within a reasonable time, the Contractor shall, at its own expense, and without impairing the Specifications and Standards, either replace the affected work, or part, or process thereof with non-infringing work or part or process, or modify the same so that it becomes non-infringing.

34.3 Notice and contest of claims

In the event that either Party receives a claim or demand from a third party in respect of which it is entitled to the benefit of an indemnity under this Clause 34 (the "**Indemnified Party**") it shall notify the other Party (the "**Indemnifying Party**") within 15 (fifteen) days of receipt of the claim or demand and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim or demand, it may conduct the proceedings in the name of the Indemnified Party, subject to the Indemnified Party being secured against any costs involved, to its reasonable satisfaction.

34.4 Defence of claims

- 34.4.1 The Indemnified Party shall have the right, but not the obligation, to contest, defend and litigate any claim, action, suit or proceeding by any third party alleged or asserted against such Party in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified hereunder, and reasonable costs and expenses thereof shall be indemnified by the Indemnifying Party. If the Indemnifying Party acknowledges in writing its obligation to indemnify the Indemnified Party in respect of loss to the full extent provided by this Clause 34, the Indemnifying Party shall be entitled, at its option, to assume and control the defence of such claim, action, suit or proceeding, liabilities, payments and obligations at its expense and through the

counsel of its choice; provided it gives prompt notice of its intention to do so to the Indemnified Party and reimburses the Indemnified Party for the reasonable cost and expenses incurred by the Indemnified Party prior to the assumption by the Indemnifying Party of such defense. The Indemnifying Party shall not be entitled to settle or compromise any claim, demand, action, suit or proceeding without the prior written consent of the Indemnified Party, unless the Indemnifying Party provides such security to the Indemnified Party as shall be reasonably required by the Indemnified Party to secure the loss to be indemnified hereunder to the extent so compromised or settled.

34.4.2 If the Indemnifying Party has exercised its rights under Clause 34.3, the Indemnified Party shall not be entitled to settle or compromise any claim, action, suit or proceeding without the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

34.4.3 If the Indemnifying Party exercises its rights under Clause 34.3, the Indemnified Party shall nevertheless have the right to employ its own counsel, and such counsel may participate in such action, but the fees and expenses of such counsel shall be at the expense of the Indemnified Party, when and as incurred, unless:

- a. the employment of counsel by such party has been authorized in writing by the Indemnifying Party; or
- b. the Indemnified Party shall have reasonably concluded that there may be a conflict of interest between the Indemnifying Party and the Indemnified Party in the conduct of the defence of such action; or
- c. the Indemnifying Party shall not, in fact, have employed independent counsel reasonably satisfactory to the Indemnified Party, to assume the defence of such action and shall have been so notified by the Indemnified Party; or
- d. the Indemnified Party shall have reasonably concluded and specifically notified the Indemnifying Party either:
 - i. that there may be specific defenses available to it which are different from or additional to those available to the Indemnifying Party; or
 - ii. that such claim, action, suit or proceeding involves or could have a material adverse effect upon it beyond the scope of this Agreement;
 - iii. Provided that if Sub-clauses (b), (c) or (d) of this Clause 34.4.3 shall be applicable, the counsel for the Indemnified Party shall have the right to direct the defence of such claim, demand, action, suit or proceeding on

behalf of the Indemnified Party, and the reasonable fees and disbursements of such counsel shall constitute legal or other expenses hereunder.

34.5 No consequential claims

Notwithstanding anything to the contrary contained in this Clause 34, the indemnities herein provided shall not include any claim or recovery in respect of any cost, expense, loss or damage of an indirect, incidental or consequential nature, including loss of profit, except as expressly provided in this Agreement.

35.0 Rights and Title over the Site

35.1 Rights over the Site

For the purpose of this Agreement, the Contractor shall have rights to the use of the Site for sole purpose of the Project in accordance with this Agreement, and to this end, it may regulate the entry and use of the Project by third parties in accordance with and subject to the provisions of this Agreement and in consultation with the Authority only.

35.2 Access rights of the Authority and others

- 35.2.1 The Contractor shall allow free access to the Site at all times for the authorized representatives and vehicles of the Authority, Senior Lenders, and the Independent Engineer, and for the persons and vehicles duly authorized by any Government Instrumentality to inspect the Project or to investigate any matter within their authority, and upon reasonable notice, the Contractor shall provide to such persons reasonable assistance necessary to carry out their respective duties and functions.
- 35.2.2 The Contractor shall, for the purpose of operation and maintenance of any utility or road specified in Clause 11, allow free access to the Site at all times for the authorized persons and vehicles of the controlling body of such utility or road.

35.3 Property taxes

All applicable statutory taxes shall be payable by the Contractor, including the property taxes, rent and cess on the Site, under Applicable Laws for use of the Site shall be its sole responsibility and same shall not be reimbursed or payable by the Authority.

35.4 Restriction on sub-letting

The Contractor shall not sublet the whole or any part of the Site, save and except as may be expressly set forth in this Agreement; provided that nothing contained herein shall be construed or interpreted as restricting the right of the Contractor to appoint Contractors for the performance of its obligations hereunder including for operation and maintenance of all or any part of the Project.

36.0 Dispute Resolution

36.1 Dispute resolution

- 36.1.1 Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the “**Dispute**”) shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 36.2.
- 36.1.2 The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non-privileged records, information and data pertaining to any Dispute.

36.2 Conciliation

In the event of any Dispute between the Parties, either Party may call upon the Independent Engineer to mediate and assist the Parties in arriving at an amicable settlement thereof. Failing mediation by the Independent Engineer or without the intervention of the Independent Engineer, aggrieved Party may require such Dispute to be referred to the concerned Additional Municipal Commissioner of MCGM.

Addl. Municipal Commissioner shall constitute a committee comprising of three officers i.e. concerned Deputy Municipal Commissioner or Director (ES&P), Chief Engineer other than the Engineer of the Contract and concerned Chief Accountant. The Committee shall give decision in writing within 60 days.

Appeal on the Order of the Committee may be referred to the Municipal Commissioner within 7days. Thereafter the Municipal Commissioner shall constitute a Committee comprising of three Addl. Municipal Commissioners including Addl. Municipal Commissioner in charge of Finance Department. The Municipal Commissioner within a period of 90 days after being requested to do so shall give written notice of committee’s decision to the Contractor. Save as herein provided such decision in respect of every matter so referred shall be final and binding upon both parties until the completion of the works, and shall forthwith be given effect to by the Contractor who shall proceed with the works with due diligence, whether he requires arbitration as hereinafter provided or not. If the Commissioner has given written notice of the decision to the Contractor and no Claim to arbitration has been

communicated within a period of 90 days from receipt of such notice the said decision shall remain final and binding upon the Contractor.

36.3 Arbitration

If the Commissioner fails to give notice of the decision as aforesaid within a period of 90 days after being requested as aforesaid, or if the Contractor is dissatisfied with any such decision, then the Contractor may within 90 days after receiving notice of such decision or within 90 days after the expirations of the first named period of 90 days (as the case may be) require that the matter or matters in dispute be referred to arbitration as hereinafter provided.

- i) In case of a contract where the contract price and /or contract value is less than Rs 5,00,00,000/- (Rupees Five Crores Only), any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination , shall be referred to mutually agreed arbitral tribunal in accordance with the Arbitration and Conciliation Act, 1996 (amended upto date). The arbitral tribunal shall consist of a sole arbitrator, as mutually agreed upon by the parties and the said dispute shall be finally resolved by the said arbitral tribunal. The decision of the arbitral tribunal shall be in writing (with reasons) and which will be final and binding upon parties hereto and the expenses of the arbitration shall be paid as may be determined by the arbitral tribunal. The seat of the arbitration shall be Mumbai. The venue of arbitration shall be within the limits of Brihan Mumbai. The language of Arbitration shall be English.

If the parties fails to appoint mutually agreed arbitral tribunal, within the period of 30 days from the date of application seeking arbitration in the dispute, the arbitral tribunal shall be appointed by the recognized arbitral institution i.e. Mumbai Centre for International Arbitration (approved by Government of Maharashtra under G.R. no. ARB/Case No. 1/2017/D-19 dtd. 28.02.2017) as per the Arbitration Rules of the Mumbai Centre for International Arbitration then in force (“MCIA Rules”).

- ii) In case the Contract where the contract price and/or contract value is Rs 5,00,00,000/- (Rupees Five Crores Only) or more , any dispute arising out of or in connection with such a contract, including any question arising out of or in connection with contract, including any question regarding its existence, validity or termination, shall be directly referred to and finally resolved by the recognized arbitral institution i.e Mumbai Centre for International Arbitration (approved by Government of Maharashtra under G.R. no ARB/Case No. 1 /2017/ D-19 dtd. 28.02.2017) as per the Arbitration Rules of the Mumbai Centre for International Arbitration then in force (“MCIA Rules”). The arbitral tribunal shall consist of a sole arbitrator. The seat of Arbitration shall be Mumbai. The language of Arbitration shall be English.

In either case the law governing the arbitration agreement and the contract shall be Indian Law.

36.6 Performance during dispute

Pending the submission of and/or decision on a Dispute and until the arbitral award is published; the Parties shall continue to perform their respective obligations under this Agreement, subject to orders passed by the Arbitral Tribunal from time to time, without prejudice to a final adjustment in accordance with such award.

37.0 Disclosure

37.1 Disclosure of Specified Documents

The Contractor shall make available for inspection by any person, copies of this Contract Agreement, the Operation & Maintenance Manual, and the Operation and Maintenance Requirements (hereinafter collectively referred to as the “**Specified Documents**”), free of charge, during normal business hours on all working days at the Project Site and at the Contractor’s Registered Office.

37.2 Disclosure of Documents relating to safety

The Contractor shall make available for inspection by any person copies of all Documents and data relating to safety of the Project, free of charge, during normal business hours on all working days, at the Contractor’s Registered Office. The Contractor shall make copies of the same available to any person upon payment of copying charges on a ‘no profit no loss’ basis.

Notwithstanding the provisions of Clauses 37.1 and 37.2, the Authority shall be entitled to direct the Contractor, from time to time, to withhold the disclosure of Protected Documents (as defined herein below) to any person in pursuance of the aforesaid Clauses.

Explanation:

The expression Protected Documents shall mean such of the Specified Documents or documents referred to in Clauses 37.1 and 37.2, or portions thereof, the disclosure of which the Authority is entitled to withhold under the provisions of the Right to Information Act, 2005.

38.0 Redressal of Public Grievances

38.1 Complaints Register

38.1.1 The Contractor shall maintain a public relations office at the Project Site and shall keep registers at the Project Site (the “**Complaint Register**”) open to public access at all times for recording of complaints by any person (the “**Complainant**”). Information

relating to the availability of and access to the Complaint Register shall be prominently displayed by the Contractor at the Plant Site. The Authority shall also maintain a Complaint Register at its SWM Cell office at Mumbai, open to public access at all times for recording of complaints by the Complainant.

38.1.2 The Complaint Register shall be securely bound and each page thereof shall be duly numbered. It shall have appropriate columns including the complaint number, date, name and address of the Complainant, substance of the complaint and the action taken by the Contractor. Immediately after a complaint is registered, the Contractor shall give a receipt to the Complainant stating the date and complaint number.

38.1.3 Without prejudice to the provisions of Clauses 38.1.1 and 38.1.2, the Authority may, in consultation with the Contractor, specify the procedure for making complaints in electronic form and for responses thereto.

38.2 Redressal of complaints

38.2.1 The Contractor shall inspect the Complaint Register every day and take prompt and reasonable action for redressal of each complaint. The action taken shall be briefly noted in the Complaint Register and a reply stating the particulars thereof shall be sent by the Contractor to the Complainant under a certificate of posting.

38.2.2 Within 7 (seven) days of the close of each month, the Contractor shall send to the Authority and to the Independent Engineer a true photocopy each of all the pages of the Complaint Register on which any entry has been recorded during the course of such month, and upon perusal thereof, the Authority may, in its discretion, advise the Contractor to take such further action as the Authority may deem appropriate for a fair and just redressal of any grievance. The Contractor shall consider such advice and inform the Authority of its decision thereon, and if the Authority is of the opinion that the Complainant is entitled to further relief, it may refer the matter to the competent forum for its disposal under the Consumer Protection Act, 1986, and advise the Complainant to pursue the complaint at his own risk and cost.

39.0 Miscellaneous

39.1 Governing Law and Jurisdiction

This agreement shall be governed by the laws of India. Only the Courts at Mumbai shall have jurisdiction over all matter arising out of or relating to this Agreement.

39.2 Waiver

Waiver by either party of any default by the other party in the observation and performance of any provision of or obligation under this Agreement:

- a. shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions or obligation under this agreement;
- b. shall not be effective unless it is in writing and executed by a duly authorized representative of such Party; and
- c. shall not affect the validity or enforceability of this agreement in any manner.

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

39.3 Survival

Termination of this agreement shall not relieve the Authority of any obligations already incurred hereunder which expressly or by implication survives Termination hereof, and except as otherwise provided in any provision of this agreement expressly limiting the liability of 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.

39.4 Amendments

This Agreement, Schedules and RFP along with all corrigenda, addenda as specified in Clause 1.4 shall together constitute a complete and exclusive understanding of the terms of the Agreement between the parties on the subject hereof and no amendment or modification hereto shall be valid and effective unless agreed to by all the parties hereto and evidenced in writing.

39.5 Notice

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 given by hand delivery, recognized international courier, e-mail, telex or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set forth below;

If to Authority:

[XXX

XXX

XXX]

If to Contractor:

/XXX

XXX

XXX]

Or such address, email 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:

- a. in the case of any communication made by letter, when delivered by hand, by recognized international courier or by e-mail at that address; and
- b. in the case of any communication made by telex or facsimile, when transmitted properly addressed to such telex number or facsimile number.

39.6 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 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.

39.7 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.

39.8 Waiver of immunity

Each Party unconditionally and irrevocably:

- a. agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;
- b. agrees that, should any proceedings be brought against it or its assets, property

or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Party with respect to its assets;

- c. waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and
- d. consents generally in respect of the enforcement of any judgement or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgement that may be made or given in connection therewith).

39.9 Depreciation and Interest

39.9.1 Only for the purposes of depreciation under the Applicable Laws, the Assets representing the capital investment made by the Contractor in the Project shall be deemed to be acquired and owned by the Contractor. For the avoidance of doubt, the Authority shall not in any manner be liable in respect of any claims for depreciation to be made by the Contractor under the Applicable Laws.

39.10 Payments

The Parties hereto agree that payments due from one Party to the other Party under the provisions of this Agreement shall be made within the period if set forth therein.

39.11 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 or any representation by either Party not contained in a binding legal agreement executed by both Parties.

39.12 Entire Agreement

This Agreement, Schedules and all the documents as per Clause 1.4.1 together constitute a complete and exclusive statement 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 such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other

communications of every kind pertaining to this Agreement are abrogated and withdrawn. For the avoidance of doubt, the Parties hereto agree that any obligations of the Contractor arising from the Request for Proposals and all the documents as per Clause 1.4.1, as the case may be, shall be deemed to form part of this Agreement and treated as such.

39.13 Third Parties

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

39.14 Successors and Assigns

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

39.15 Language

All notices required to be given by one Party to the other Party and all other communications, Documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

SCHEDULES

Schedule 1

1.0 Project Site

Schedule 2- Applicable Permits

2.1 Applicable Permits

2.1.1. The Contractor shall obtain, as required under the Applicable Laws, the following Applicable Permits, but not limited to, on or before the Appointed Date, save and except to the extent of a waiver granted by the Authority in accordance with Clause 4.1.3 (j)

Sr. No.	Approval/ Clearance	Concerned Agency	Responsibility
1	Site Authorization under C&DW Rules	MPCB	Contractor
2	License in accordance with the rules and provisions of Labour (Regulation and Abolition) Act, 1970	MoLE	Contractor
3	Consent to establish under Air and Water Act	MPCB	Contractor
4	Consent to operate under Air and Water Act	MPCB	Contractor
5	NOC from Fire Department	MCGM or any appropriate Authority	Contractor
6	Disaster Management Plan	Maharashtra State Disaster Management Authority/ MCGM	Contractor
7	Vehicle Registration	Mumbai RTO	Contractor
8	Airport Authority clearance	ATC/ AAI	Contractor
9	Industrial Setup Approval	DoI	Contractor
10	All drawings and document approval	MCGM	Contractor
11	Water Supply	MCGM or any appropriate Authority	Contractor

Where;

MPCB- Maharashtra State Pollution Control Board

MoLE-Ministry of Labour and Employment

RTO- Transport Office of GoM

MERC- Maharashtra Electricity Regulatory Commission

DoI- Directorate of Industries, Maharashtra

ATC – Air Traffic Control

AAI- Airports Authority of India

Schedule 3 - Deleted

Schedule 4

Performance Security for Contract Period

Refer Article 9

The Municipal Commissioner

Municipal Corporation of Greater Mumbai

Mumbai 411018

WHEREAS

1. (The “Contractor”) and the Municipal Corporation of Greater Mumbai (the “Authority”) are entering into a Contract Agreement dated (the “Agreement”) whereby MCGM has agreed to the Contractor undertaking the Development of MCGM’s C&DW Management Facility, subject to and in accordance with the provisions of the Agreement.
2. The tender/Agreement requires the Contractor to furnish a Performance Security to MCGM in a sum of Rs ----- (Rupees ----- only) (The “Guarantee Amount”) as security for due and faithful performance of its obligations, under and in accordance with the Agreement, during the Construction Period (as defined in the Agreement).
3. Wethrough our Branch at..... (The “Bank”) have agreed to furnish this Bank Guarantee towards Performance Security.

NOW THEREFORE, The Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:

1. The Bank hereby unconditionally and irrevocably guarantees the due and faithful performance of the Contractor’s obligations during the Construction Period, under and in accordance with the Agreement, and agrees and undertakes to pay to MCGM, upon its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Contractor, such sum or sums up to an aggregate sum of the Guarantee Amount as MCGM shall claim, without MCGM being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.
2. A letter from MCGM, under the signature of the Municipal Commissioner/Addl. Municipal Commissioner/Jt. Municipal Commissioner/Chief Engineer of the project,

stating that the Contractor has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that MCGM shall be the sole judge as to whether the Contractor is in default in due and faithful performance of its obligations during the Construction Period under the Agreement and its decision that the Contractor is in default shall be final, and binding on the Bank, notwithstanding any differences between MCGM and the Contractor, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Contractor for any reason whatsoever.

3. In order to give effect to this Guarantee, MCGM shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the Contractor and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.
4. It shall not be necessary, and the Bank hereby waives any necessity, for MCGM to proceed against the Contractor before presenting to the Bank its demand under this Guarantee.
5. The Authority shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Agreement or to extend the time or period for the compliance with, fulfillment and/ or performance of all or any of the obligations of the Contractor contained in the Agreement or to postpone for any time, and from time to time, any of the rights and powers exercisable by MCGM against the Contractor, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Agreement and/or the securities available to MCGM, and the Bank shall not be released from its liability and obligation under these presents by any exercise by MCGM of the liberty with reference to the matters aforesaid or by reason of time being given to the Contractor or any other forbearance, indulgence, act or omission on the part of MCGM or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.
6. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by MCGM in respect of or relating to the Agreement or for the fulfillment, compliance and/or performance of all or any of the obligations of the Contractor under the Agreement.
7. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in

force in compliance of the conditions specified in paragraph 8 below and unless a demand or claim in writing is made by the Authority on the Bank under this Guarantee, no later than 6 (six) months from the date of expiry of this Guarantee, all rights of the Authority under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.

8. The Performance Security will be valid for the period of one year after the expiry of the Contract.
9. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of MCGM in writing, and declares and warrants that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.
10. Any notice by way of request, demand or otherwise hereunder may be sent by post, hand delivery, courier, email addressed to the Bank at its above referred Branch, which shall be deemed to have been duly authorized to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of MCGM that the envelope was so posted shall be conclusive.
11. This Guarantee shall come into force with immediate effect and shall remain in force and effect for a period of one year after expiry of contract or until it is released earlier by MCGM pursuant to the provisions of the Agreement.

Signed and sealed this day of....., 20..... at

SIGNED, SEALED AND DELIVERED

For and on behalf of the
BANK by:

(Signature)

(Name)

(Designation)

(Address)

NOTES:

- iii) The bank guarantee should contain the name, designation and code

number of the officer(s) signing the guarantee.

- iv) The address, telephone number and other details of the Head Office of the Bank as well as of issuing Branch should be mentioned on the covering letter of issuing Branch.

Schedule 5

Project Completion Schedule

5.1 Project Completion Schedule

Time Frame for execution of work

Phase no.	Phase timeframe	Nature of Work
1	6 months	Obtain necessary clearances & approvals from relevant authorities from the date of LoA
2	6 months	Complete the construction and commissioning of the C&D Waste Processing Facility in terms of the Agreement within 6 months from obtaining the required clearances and development of Collection & Transportation facilities as well as fleet of adequate, suitable vehicles through procurement/ hiring/ owned within 12 months from the date of LOA. In case of delay due to unforeseen circumstances, the period will be further extended with prior approval of Hon. MC.
3	20 Years	Operation and Maintenance (O&M) Period- 20 Years of Operation and Maintenance from the Commercial Operation Date. Further extension of 5 years of O&M may be given based on Independent Engineer's recommendation and approval of competent authority of MCGM.

Note:

1. The Contractor shall adhere to the time frame to start and complete the work in phases as above:
2. The Contractor shall mobilize man power, financial resources, vehicles, equipment for the execution of the project in phases as above. (Excluding Rainy Season)
3. The Contractor shall carry out various activities described in Phase I to II

simultaneously to ensure completion of the task assigned on time.

4. In case of delay due to unforeseen circumstances, the period will be further extended with prior approval of Hon. MC.

5. Within 45 days of the issue of LoA, the Selected Bidder/Consortium shall submit to the Authority its program in keeping with time frame prescribed to undertake the works in the form of a Pert Chart for his review and take his approval. The approved pert chart shall be diligently and strictly followed with a view to complete the works as per schedule. The progress & planning of works shall be reviewed from time to time and he may modify the same depending upon the exigencies of the work and stage of the works with approval of MCGM.

Extension of time may be granted by the Authority on genuine grounds only if delay is for the reasons beyond the control of the Contractor.

Schedule 6

Work plans, Routes

Note: Drawing - mean all of the drawings including working drawings for the Project Facilities, designs, calculations and documents pertaining to the Project in accordance with the Construction and O&M Requirements

Schedule 7

Tests

Refer Clause 14.1.2

7.1 Tests

- 7.1.1 For determining that the Construction Works conform to the Specifications and Standards, the MCGM/Independent Engineer shall require the Contractor to carry out or cause to be carried out tests, at such time and frequency and in such manner as may be specified by the Independent Engineer from time to time, in accordance with Good Industry Practice for quality assurance.
- 7.1.2 In the event that results of any tests conducted, any defects or deficiencies in the Construction Works observed, the Contractor shall carry out remedial measures and furnish a report to the Independent Engineer on this behalf.
- 7.1.3 During the Construction Period, Independent Engineer to carry tests to determine whether the Construction is being carried out in conformance with the Construction Requirements given in the Schedules to this Agreement and whether the Construction Milestones of the Project have been achieved.
- 7.1.4 At least 90 (ninety) days prior to the likely completion of the Project Facilities, the Contractor shall notify the Independent Engineer of its intent to subject the Project Facilities to Tests. The date and time of each of the Tests shall be determined by the Independent Engineer in consultation with the Contractor and notified to MCGM who may designate its representative to witness the Tests. The Contractor shall provide such assistance as the Independent Engineer may reasonably require for conducting the Tests.
- 7.1.5 Before the civil construction starts, the Contractor shall needs to follow the entire standards test such as soil investigations, ground water levels, hydro-geological tests, concrete grades tests, etc.
- 7.1.6 The Contractor shall arrange the tests as per recommendations of the manufacturer of all electrical and mechanical machinery and equipments, and the test results shall be recorded in presences of the Independent Engineer.
- 7.1.7 The Contractor shall arrange the tests of electrical equipments as per the requirement of the supply company and the test reports shall be furnished to them to get the electric supply. Similarly, any test required to be carried out as per Supply Company requirements shall be carried out in presence of the Independent Engineer.

7.1.8 All tests in relation to the electrical equipment shall be conducted by the licensed electrical contractors only.

7.1.9 The relevant tests to be conducted shall be finalized by the Contractor in consultation with the Independent Engineer from time to time.

Schedule 8

Completion Certificate

Refer Clauses 14.2 and 14.3

8.1 Completion Certificate

1. I, (Name of the Independent Engineer), acting as Independent Engineer, under and in accordance with the Contract Agreement dated (the “**Agreement**”), for

Collection and Transportation of C&D waste in Mumbai on PPP basis, through (Name of Contractor), hereby certify that the Tests specified in Clause 14 and Schedule 7 of the Agreement have been successfully undertaken to determine compliance of the Project with the provisions of the Agreement, and I am satisfied that the Project can be safely and reliably placed in commercial service.

2. It is certified that, in terms of the aforesaid Agreement, all works forming part of Project have been completed, and the Project is hereby declared fit for entry into commercial operation on this the day of 20.....

SIGNED, SEALED AND
DELIVERED

For and on behalf of the INDEPENDENT
ENGINEER by:

(Signature)

(Name)

(Designation)

(Address)

8.2 Provisional Certificate

1. I, (Name of the MCGM/Independent Engineer), acting as Designation/Independent Engineer, under and in accordance with the Contract Agreement dated (the “**Agreement**”), for Collection, Transportation, Processing & Disposal of C&D waste in Mumbai, through (Name of Contractor), hereby certify that the Tests specified in Clause 14 and Schedule 7 of the Agreement have been undertaken to determine compliance of the Project with the provisions of the Agreement.
2. Construction Works that were found to be incomplete and/or deficient have been specified in the Punch List appended hereto, and the Contractor has agreed and accepted that it shall complete and/or rectify all such works in the time and manner set forth in the Agreement. (Some of the incomplete works have been delayed as a result of reasons attributable to the Authority or due to Force Majeure and the Provisional Certificate cannot be withheld on this account. Though the remaining incomplete works have been delayed as a result of reasons attributable to the Contractor,) I am satisfied that having regard to the nature and extent of such incomplete works, it would not be prudent to withhold commercial operation of the Project, pending completion thereof.
3. In view of the foregoing, I am satisfied that the Project can be safely and reliably placed in commercial service, and in terms of the Agreement, the Project is hereby provisionally declared fit for entry into commercial operation on this the day of 20.....

ACCEPTED, SIGNED, SEALED AND DELIVERED

For and on behalf of
CONTRACTOR by:
(Signature)
(Name)
(Designation)
(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of the INDEPENDENT
ENGINEER by:
(Signature)
(Name)
(Designation)
(Address)

Schedule 9

Construction Requirements

9.1 General

9.1.1 The Contractor shall adhere to all applicable rules, regulations, acts, guidelines, standards and laws which are applicable for this Project. Some of these important rules, regulations, acts, guidelines, standards, etc. are as follows:

- a. All applicable rules, regulations, acts, guidelines, standards and laws of Government of India and Government of Maharashtra
- b. All applicable Indian Standards (IS)
- c. All applicable standards by the Bureau of Indian Standard (BIS)
- d. All norms of the Indian Road Congress (IRC)
- e. All norms of the National Building Code (NBC)
- f. C&D Waste Management Rules, 2016
- g. Environment (Protection) Act, 1986
- h. Environment (Protection) Rules, 1986
- i. EIA Notification, 2006 and amendments
- j. Guidelines and recommendation of Central Public Health & Environmental Engineering Organisation (CPHEEO), MoUD, GoI
- k. Solid Waste Management Rules, 2016
- l. All applicable rules, regulations, acts, guidelines, standards of Central Pollution Control Board (CPCB) and Maharashtra State Pollution Control Board (MPCB)
- m. Motor Vehicle Act and Vehicle Emission Control
- n. Labour Laws – Workmen Compensation Act, 1923, Payment of Gratuity Act,

1972, Employees PF and Miscellaneous Provision Act, 1952, Maternity Benefit Act, 1951, Contract Labour (Regulation and Abolition) Act, 1970, Minimum Wages Act, 1948, Payment of Wages Act, 1948, Equal Remuneration Act, 1979, Payment of Bonus Act, 1965, Industrial Disputes Act, 1947, Industrial Employment (Standing Orders) Act, 1946, Trade Unions Act, 1926, Child labour (prohibition and regulation) Act, 1986, Inter-State migrant Workmen's (Regulation of Employment and Conditions of Service) Act, 1979, The Building & other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 and the Cess Act of 1996, The Factories Act, 1948, E.S.I.C. Act, 1948,

9.2 Vehicles

- a. All the vehicles should conform to Bharat Stage VI/Euro IV or applicable standards of emission and upgraded from time to time as per statutory requirements.
- b. A wireless communication network shall be provided by the Contractor for the supervisors as well as on the vehicles and equipment for drivers with a base station at the control room at Processing Facility.
- c. All vehicles shall be equipped by advanced vehicle tracking system and should be capable of being monitored from the control room and Processing Facility.
- d. The type of system shall be two way communication wireless or mobile phone.
- e. All the vehicles or their replacement shall be returned to the Authority after the Contract Period in best possible condition.

9.3 Workshop / Vehicle Maintenance Facility

The workshops shall be such that it allows for systematic use of designated parking of vehicles, easy way for in and outbound vehicles and separate sections with all required infrastructure for repair and maintenance and washing / cleaning of vehicles at Processing Facilities.

9.4 Construction Phasing Plan

- a. For each phase, The Contractor shall prepare engineering drawings that will be presented to Independent Engineer for review and approvals.
- b. The construction phasing plan shall demonstrate that the site has sufficient disposal

capacity.

- c. The office building shall be a permanent structure and shall be equipped with an office area for facility management and supervisory control. The Contractor shall at his own cost and to satisfaction of the Engineer provide a temporary office at the work-site which will include tables, chairs and lockers for keeping the records. He shall also make necessary arrangements for drinking water, pantry, latrines, with doors, windows, locks, bolts and fastenings sufficient for security for the Engineer, and his subordinates, as close to the works from time to time in progress as can be conveniently arranged, and shall at his own cost furnish the office with such chairs, tables, lockers, locks and fastenings as may be required by the Engineer, and no expense of any kind in connection with the erection or upkeep of the offices or fittings shall be borne by the Corporation, but all such work shall be carried out by the Contractor and the expenses thereof defrayed by him. The Contractor shall also make water connections and fit up stand pipe with a bib tap at each office. The latrines and the water connections shall be subject to all the conditions herein elsewhere laid down for temporary water connection and office generally with all requisite equipments for e-governance and electronic and digital communication. These offices are not to be allowed on public roads without the written instruction of the Engineer. These offices should be preferably located within 50 to 500 m of the worksite. In case the office is more than 500m away from the worksite, the contractor is to provide conveyance. Also, for staff working beyond working hours the contractor has to provide conveyance.
- d. The Contractor is responsible for design and construction of on-site utilities and facilities.

Schedule 10

Operation and Maintenance Requirements

10.1 General

The Contractor shall comply with the O&M requirements set out in this Schedule. In doing so, the Contractor shall ensure that the Project is operated and maintained to the standards and specifications as set out in the Construction Requirements and also meet the other requirements, if any, set out in the Agreement.

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

- a. Ensure the safety of personnel deployed on and users of the Project or part thereof;
- b. Keep the equipment and machinery employed for the Project from undue deterioration and wear
- c. Permit unimpaired performance of statutory duties and functions of any Party in relation to the Project;

During the Contract Period, the Contractor shall, in respect of the Project, ensure that:

- d. Applicable and adequate safety measures are taken
- e. Adverse effects on the environment and to the owners and occupiers of property and/or land in the vicinity of the Project components and the roads used by the vehicles used for transportation of the waste, due to any of its actions, is minimized
- f. Any situation which has arisen or likely to arise on account of any accident or other emergency is responded to as quickly as possible and its adverse effects controlled/minimized;
- g. Disturbance or damage or destruction to property of third party by operations of the Project or Project components is controlled/minimized
- h. Data relating to the operation and maintenance of the Project is collected
- i. All materials used in the operation, maintenance of any of the Project

component shall meet the Construction Requirements and the specifications from the original manufacturer in case of vehicles and equipment used in the Project;

- j. The personnel assigned by the Contractor have the requisite qualifications and experience and are given the training necessary to enable the Contractor meet the O&M Requirements.

10.2 Operations & Maintenance Manual and Plans

The Contractor shall finalize the O&M Plan and the O&M Manual for the Project in the manner as set out below:

- a. Prior to making application for the Readiness Certificate for the Project the Contractor shall finalize in consultation with the Independent Engineer:
 - i. The O&M Manual (including the formats for the reports to be submitted during the Operations Period)
 - ii. The O&M Plan for the first five years of operations and shall be modified for subsequent years
 - iii. If applicable, the month-on-month maintenance schedule for each module of C&D plants and other vital equipment and plants (as proposed in Schedule 10.3) for the first five years of the Contract Period.
- b. Six weeks prior to the anniversary of COD each year, the Contractor shall submit to the Independent Engineer and MCGM an annual O&M Plan for the next year of operations.

10.3 General Requirements

10.3.1 Vehicles

- a. Vehicle garages/workshops shall be maintained at the locations as identified by contractor and agreed by MCGM for repair and maintenance of all the vehicles. The vehicle garage/workshops shall have facilities to attend following but not limited to periodical, routine and preventive maintenance.
- b. The garage/workshop shall support preventive maintenance of vehicles. The working of the preventive maintenance should be devised on the recommendations of the vehicle manufacturers.
- c. Based on which a schedule shall be prepared for daily checking, monthly checking and periodic checking and repairs, replacements and history card of

each vehicle shall be prepared.

- d. Sufficient number of recovery vehicles for attending break downs shall be provided.
- e. The vehicles shall be kept clean and regularly painted at least twice in a year with anti-corrosive paint and sufficient trained staff shall be deployed to attend the repair and maintenance of vehicles.
- f. All the vehicles shall have fitness certificate from Road Transport Authority, Government of Maharashtra or any other agency approved by Government of Maharashtra.

10.3.2 Installation of Close Circuit Cameras

The Contractor shall install a close circuit camera at each weighbridge to record the vehicles being weighed. The camera shall record clearly the registration details of the vehicle and face of the vehicle driver along with time. Contractor shall also install CCTVs in sufficient numbers to cover all the project facilities. At the end of each month, a back-up copy of the close circuit cameras recording of the each day shall be produced on compact disc (CD)/DVD.

10.3.3 Deleted.

10.3.4 Weighing of Vehicles at the Processing Facility

- a. Each vehicle shall pass through the weigh bridge with computer control and obtain weight slip at the time of entry and exit.
- b. Unauthorized vehicles bringing waste from elsewhere shall be stopped near the entrance gate for inspection, record and instructions for acceptance or rejection.
- c. Deleted.
- d. In the event that the weighbridge is not in operation, the following methodology shall, unless modified with mutual consent of Parties, be adopted for computing the weight of C&D Waste supplied by the MCGM:

$$WS = W_{avg} \times NT$$

Where,

WS, is the weight of C&D Waste supplied during the period for which the weighbridge was inoperable

Wavg, is the average weight of C&D Waste carried per truck based on the data available for the 6 (six) months prior to the month in which the weighbridge was render inoperable

NT, is the number of truck loads of C&D Waste accepted by the Contractor during the period for which the weighbridge was inoperable.

10.3.5 Weighing of Vehicles at Disposal Site

- a. Each vehicle shall pass through the weigh bridge with computer control and obtain weight slip at the time of entry and exit.
- b. Unauthorized vehicles bringing waste from elsewhere shall be stopped near the entrance gate for inspection, record and instructions for acceptance or rejection.
- c. All the vehicles received at the Landfill Site shall be weighed and the data record shall be matching with the C&DW leaving the Processing Facility.
- d. In the event that the weighbridge is not in operation, the following methodology shall, unless modified with mutual consent of Parties, be adopted for computing the weight of Municipal Solid Waste supplied by the MCGM:

$$WS = W_{avg} \times NT$$

Where,

WS, is the weight of C&D Waste supplied during the period for which the weighbridge was inoperable

Wavg, is the average weight of C&D Waste carried per truck based on the data available for the 6 (six) months prior to the month in which the weighbridge was render inoperable

NT, is the number of truckloads of C&D Waste accepted by the Contractor during the period for which the weighbridge was inoperable.

10.3.6 Waste inspection in waste receiving area of processing plant

- a. Waste shall be unloaded at the designated area for its inspection and if found acceptable then its onward handling.

- b. Deleted
- c. Deleted
- d. hand sorting of large size objects (LSO) such as tyres, wooden clauses etc. shall be done at two or three stages from tipping floor to sorting belts.
- e. Each category of sorted out material shall be deposited in to its assigned holding cell/area on daily basis.
- f. Provision to be made for receiving of source segregated waste in to their respective processing sections so as to minimize multiple handling.
- g. Tipping floor shall have sufficient area for waste unloading so as to minimize waiting period of incoming vehicles (e.g. about 2 Sq.m./MT C&DW and holding time of up to 3 hours).
- h. Some reserved area should be earmarked for receiving of waste under emergency situations and/or extra quantities during festival season or religious ceremonies.
- i. Waste receiving operation shall be on all 365 days of the year and as per notified timings.

10.3.7 Maintain Hygienic and Aesthetic Conditions

The Processing Facility shall be maintained hygienic and aesthetic conditions by taking proper measures as suggested by Independent Engineer.

10.3.8 Hazardous Waste Disposal

The Contractor shall dispose of the Hazardous Waste generated by the processing units of C&DW and/or any other waste such as batteries, used oil in machineries, etc, under the Hazardous Waste (Management and Handling) Rules, 2016 as amended from time to time.

10.4 Cleaning and Maintenance Requirements

The Contractor shall plan and execute cleaning and maintenance procedures ensuring, that

- a. The buildings, structures, seeded and planted areas, paved and un-paved traffic areas etc. are maintained clean and proper without damages, that may impede

their functionality or appearance.

- b. All moving or fixed equipment, vehicles and machinery are maintained clean and in good working condition.
- c. All service facilities, e.g. outdoor sewage system, leachate management system, etc., are inspected regularly, cleaned and maintained.
- d. Every day at closing time the internal roads and other paved areas shall be inspected, and any spillage of C&DW shall be collected. If necessary the paved areas shall be swept using a sweeping machine. During dry periods dust emission shall be controlled by sprinkling the surfaces with water in connection with sweeping activities.

10.5 Monitoring Procedures

The monitoring at integrated facility shall be carried out during implementation/ Construction Period and Operation Period. The monitoring plan shall be prepared in accordance to the applicable Maharashtra State Pollution control Board (MPCB) requirements.

10.6 Management of Labour and Prevention of Accidents

The Contractor shall comply with all the provisions of the laws regarding deployment of labour under the contract; The Abolition of contract Labour Act, The Minimum wages Act, The Workmen's Compensation Act and the provisions of the SWM Rules 2016.

It shall be the liability and responsibility of the Contractor to implement the provisions of these acts. In addition to;

- a. The Contractor shall not employ in connection with the work any person who has not completed 18 years of age.
- b. The Contractor shall furnish to the MCGM and Independent Engineer; information on the various categories of labour employed by him and the facilities given to the employees in the form prescribed for the purpose at such intervals as may be specified in the work specification.
- c. The Contractor shall keep all records desired under the said labour laws , with one copy of such records to the Independent Engineer, and submit periodical returns to the respective statutory authorities.
- d. The Contractor shall in respect of labour employed by him comply with provisions of the various labour Laws and the Rules and Regulations as

applicable to them in regards to matters provided therein and shall indemnify MCGM in respect of all claims that may be raised against MCGM for non-compliance thereof by the Contractor.

The Contractor shall report, register and inform the Independent Engineer all occurrences of;

- a. Accidents involving risks for human health and security;
 - b. Other incidents connected with occupational health and security; and
 - c. Unscheduled interruptions to the planned operations including fires, explosions, break-down of vehicles, break-down of essential machinery and equipment, etc.
- The reports shall be forwarded to the Independent Engineer, MCGM and relevant authorities. The registered information shall be kept in the "Report Book". The accident and other incident record formats and record keeping procedure shall be approved by Independent Engineer and MCGM. Further Contractor shall take necessary steps promptly for mitigating of such accidents/incidents etc.

10.7 Facilities and Benefits for the Work Force Employed

The Contractor shall furnish the details of the work force employed for the work defined in this document – details of the workers including those for supervision before commencing the work.

Each person (including Supervisor) deployed on this work shall be provided the following facilities.

- a. Uniform with ID approved by MCGM (visible distinctly at night)
- b. Safety and protective gears
- c. primary medical facilities
- d. follow all safety requirements in accordance to Schedule 13

10.8 Training, Social Programmes and Public Grievances

- a. The Contractor shall provide training and awareness to labourers at plant, which should be a continuous activity and maintain the records.
- b. The Contractor shall maintain health records of all the artisans and labour staff. The health record formats and record keeping procedure shall be approved by MCGM/concerned medical representative.
- c. The Contractor should create a system to register public grievances and redressal system.

Schedule 11

Operational Plan

(To be submitted by the Contractor)

The operational plans should include the following key points:

- a. Transportation
 - i. Route planning
 - ii. Operational control of vehicular movements
 - iii. Time management plan
 - iv. Machineries/equipments operational plan
 - v. Routine and breakdown maintenance plan

- b. Environmental Management Plans
 - i. Monitoring plan
 - ii. Quick response mechanism
 - iii. Maintenance plan for plantation and green belt
 - iv. Health and safety plan
 - v. Pollution control units and their operational plan

- c. Disaster Management Plan

Schedule 12

Performance Standards and Damages

12.1 Performance Standards

12.1.1 The Contractor shall have the following requirements related to Operations and Maintenance

- a. Deleted
- b. Deleted
- c. The Contractor shall ensure that logbooks are provided to the vehicles and shall be maintained with details such as vehicle nos., timing, name of the driver and cleaner, name of the ULB from where C&DW has been transported.
- d. The Contractor shall ensure that a calibration test of the weigh bridges at Dumping Points/ Designated places, Processing Facility and Scientific Landfill Site are carried out twice in a year starting from the Appointed Date and a copy of the calibration test result is submitted to authorize representative immediately after the test. Stamping of weighbridge shall be done through Weights and Measures Department (WMD), Govt. of Maharashtra.
- e. Independent Engineer shall carry out an audit of the weigh bridge data maintained and made available by the Contractor at least once in every month starting from the appointed date and submit the result of such audit to MCGM.
- f. The Contractor shall ensure that all waste containers, vehicles, weigh bridge operated for project are maintained clean all the time. Processing facility shall be provided with proper draining arrangement and sumps to collect wash down water and proper disposal of contaminated water is treated and disposed through the sewer network.
- g. The daily records of receipt of the C&DW transported to the processing facility together with weighment shall be maintained shift-wise at MCGM.
- e. The Contractor shall ensure that it maintains daily records of the quantities of C&DW and submit the same to the Independent Engineer on a Monthly Basis.
- f. Deleted.
- g. Quantity of C&DW at the input of Processing Plant

- h. Quantity of inert / remnants received at the Scientific Landfill facility
- i. The daily records of receipt of the C&DW at Processing Facility /Scientific Landfill shall be maintained shift-wise by preparing respective data sheets
- j. Independent Engineer shall review the records and certify the same within 3 (Three) working days of submission. Only certified records would be considered for the payment of Tipping Fee in accordance with the provisions of the Contractor Agreement.
- k. With effect from the COD, the Contractor shall not suspend at any time collection, transportation, processing & disposal of C&DW on any day during the Contract Period.

12.2 Schedule of Penalties

Penalty for Collection & Transportation of C&D Waste

S.No	Description of Event	Penalty in INR
1.	Penalty for Non-reporting of vehicle after 4 hours of breakdown of vehicle before starting of work & failure of bidder to make alternate arrangements.	Rs.500/-per hour per vehicle starting after 4 hours of breakdown.
2.	Penalty for breakdown after starting the work & Failure of bidder to make alternate arrangement within 3 hours for transferring the debris from the breakdown vehicle, the Corporation requires making necessary arrangement.	Rs.500/-per per hour per vehicle starting after 3 hours of breakdown.
3	Penalty for failure to attend any site and collect the complete C&D Waste thereat within 48 hours.	Rs.1000/-per spot
4	Penalty for failure to attend any site and collect the complete C&D Waste thereat within 72 Hours	Rs. 2000/- per spot per day
6.	Penalty for failure to provide "On Municipal Duty & indication of Debris vehicle" board on the vehicle.	Rs.500/-per vehicle per shift.

S.No	Description of Event	Penalty in INR
7.	Penalty for failure to keep the vehicles well Painted.	Rs.1000/- per vehicle per trip
8.	Lump sum penalty for not starting the work after completion of mobilization period.	Rs.20,000/- per day .
9.	Penalty for failure to provide uniform	Rs.300/- per day per staff
10	Penalty for failure to provide Hand Gloves	Rs.200/- per day per staff
11	Penalty for failure to provide face mask	Rs.100/- per day per staff
12	Penalty for failure to provide safety shoes	Rs.300/- per day per staff
13	Penalty for failure to provide I-Card	Rs.100/- per day per staff
14	Penalty for failure to provide rain coat (only in Monsoon season)	Rs.200/- per day per staff
16	Penalty for failure to providing plastic/ tarpaulin cover on dumper or is torn out or small	Rs.1000/- per such dumper/
18	Penalty for damaging collection spots / roads/ Municipal property by machinery (such as JCB).	Rs.500/- per spot

Penalty for Processing & Disposal of C&D Waste

S.No.	Description of Event	Penalty in INR
1.	Processing of less than 600 TPD quantity Of C&D waste (On yearly basis)	Rs. 100 per ton of unprocessed C&D waste
2.	Violation of C&D Rules and Environmental norms	Rs. 2000 per incidence in addition to action taken by concerned authorities.
3.	Violation of safety norms as per good Industry practice	Rs. 1000 per incidence per day in addition to action taken by concerned authorities.

S.No.	Description of Event	Penalty in INR
4.	Non-Compliance of instructions given by competent authorities & MCGM regarding proper operation of the plant	Rs. 5000 per default per day in addition to Action taken by concerned authorities.
5	Malpractice regarding collection, transportation, processing & disposal of C&D waste causing losses (monetary, legal, social, environmental etc)to MCGM (This shall be applicable for collection & transportation also.)	Heavy penalty of 50% of payment of last 2 months preceding the month in which malpractice is found +liquidated damages to MCGM Note – If the malpractice is done for second time, MCGM will seriously look after the same and will initiate legal action against the contractor which may include
6	Penalty for any other event of default/lapses (eg. Non-functioning of app or website for online complaint registration) Not specifically mentioned in the tender (This shall be applicable for collection & transportation also.)	Rs. 2000 per event per day

1. Note –

- 1.** If the total penalty amount reaches 10% of contract cost, MCGM may consider to terminate the contract & initiate further legal action which may including blacklisting.
- 2.** Rate of penalty will be increased by 10% every year.

Schedule 13

Safety Requirements

Refer Clause 19

13.1 Safety Requirements

Contractor is responsible for maintaining an incident/hazard free work environment. In compliance with these provisions, the Contractor shall comply with the latest edition of the Contractor Safety Requirements and perform the following:

- a. Contractor is expected to pre-plan all work to minimize the potential for personal injury and property damage.
- b. Develop the plan in a Project specific nature, which is designed to anticipate and identify hazards before work begins. Know in advance what measures will be taken to eliminate hazards or adequately control the anticipated risks for each scope of work. This information shall include, but is not limited to: scope of work, sequence of activities, site specific fall protection, high angle rescue procedures, safety control methods, training records, competent persons, lead abatement, asbestos abatement and excavations. The planning does not stop at the pre-planning stage, but is a continuous process of assessment and evaluation. When changes occur or new hazards are identified during the course of the Project, the work should be suspended while the plan is revised.
- c. Ensure all subcontractors, suppliers and vendors are informed of their obligations with regard to safety and of the Contractor Safety Requirements.
- d. Plan and execute all work to comply with the stated objectives and safety requirements contained in the Contractor Safety Requirements, contract provisions, federal, state, and local laws and regulations, and standards.
- e. Contractor or their contractors/subcontractors with 25 or more employees on a single shift will establish a fulltime position of a Contractor Safety Manager to perform safety inspections and training services. In addition, for every additional 100-job site employees added, an additional Safety Management Representative shall be required. In the event that the Contractor has less than 25 employees, the contractor shall appoint an onsite person who along with other concurrent duties shall serve as the Contractor's Safety Representative.

- f. Contractor shall maintain its own orientation program for its employees that shall include as a minimum a review of (1) hazards present in the area in which they will be working and (2) the personal protective equipment and apparel the workers will be required to use or wear as specified under Occupational Safety and Health Administration (OSHA).
- g. Contractor shall provide and maintain a chemical and flammable material storage area as described in the Contractor Safety Requirements. Be responsible for the control, availability and use of necessary safety equipment, including personal Protective equipment (PPE) and apparels for the Contractor employees.
- h. Take an active part in all supervisory safety meetings, including the discussion of observed unsafe work practices or conditions and a review of any incidents and corrective actions.
Additionally, encourage, solicit and follow up on safety related suggestions from Contractor employees.
- i. Report all injuries and incidents in a timely manner in accordance with federal and/or state laws and regulations and the Contractor Safety Requirements.
- j. Analyze all incidents and implement immediate corrective action.
- k. Provide job supervisors with appropriate training materials to conduct weekly safety meetings and attend said meetings to evaluate their effectiveness.
- l. Review safety meeting reports submitted by job supervisors and take necessary action to ensure that the job supervisors hold meaningful weekly safety meetings.
- m. Implement safety-training programs for Contractor supervisors and employees applicable to their specific responsibilities.
- n. Maintain list on-site of personnel available for first aid and emergency treatment for injured Contractor employees.
- o. Contractor will be responsible for providing a safety orientation training session for all workers before they are allowed to begin work. The orientation safety training will be conducted by the authorized representative as suggested by MCGM and will include a summary of the Contractor Safety requirements/ Heads-Up Safety Training and awareness.
- p. At a minimum Contractor representative to adequately train its employees

according to applicable safety standards. This training may include but is not limited to: fall protection, fire watch, scaffolds, forklifts, excavation, ladders, confined space entry, respiratory protection, OSHA-PSM (Process Safety Management), grounding, shoring and traffic control etc.

- q. In the event of a work-related incident resulting in a Contractor employee injury or near miss, Contractors shall notify their Appointed Representative immediately.
- r. Contractors shall provide the appointed representative with an initial report of incident, in writing, within 24 hours of the accident. Hard copy or electronic formats are acceptable.
- s. Contractors shall provide a completed accident investigation report within three (3) working days of the incident. In the event, their investigation requires more time to investigate due to the complexity of the incident, Contractors shall communicate to the appointed Representative in writing including intimation to higher authorities of availability and use of necessary safety equipment, including personal Protective equipment (PPE) and apparels for the Contractor employees.
- t. All first aid injuries shall be documented for record keeping purposes. In the event a first aid case develops into a Contractor employee injury, accident reporting and investigation procedure be initiated as outlined previously.
- u. In order to maintain a safe and healthy work environment in emergency situations, Contractor has developed this emergency action plan to help safeguard Contractor employees while working on MCGM Sites. All Contractor employees will be trained in the use of this plan and informed of their role in implementing it during their required safety orientation training. This policy is mandatory and must be strictly followed by all Contractors and their personnel while working on Sites.
- v. When notified of an emergency evacuation (an audible alarm/verbal announcement will be used by Contractor to alert employees of an evacuation), Contractors must immediately evacuate their personnel from the Project Site, perform a head count and report missing personnel to concerned in-charge of the facility and take appropriate steps for investigation. When evacuating any building, structure or job site, employees should utilize the nearest exit to them. Personnel will remain at the designated site until an all-clear is announced or further evacuation steps are ordered.
- w. Contractor shall comply with the latest revision Safety Rules & Procedures Permit. Contractors shall provide adequate fire protection equipment in each of

their storage areas, offices and other temporary structures.

- x. Contractor is responsible for orienting employees on the specific safety rules that must be followed by all persons working on Project Facilities. Other personal protective equipment (PPE) is also required in accordance with the appropriate safety standards and equipment as set by the manufacture's specifications. A list of the minimum personal protective requirements is as follows:
 - i. The Contractor shall be responsible for providing and ensuring the use of required personal protective equipment for its employees.
 - ii. Approved hard hats, shall be worn at all times while on the Site. It is required that each employee use an American National Standards Institute (ANSI) approved hardhat.
 - iii. Safety glasses, which meet applicable ANSI standards, are required at all times while on the Site and should include approved side shields. Only clear safety glasses are allowed to be used inside buildings or enclosed structures. Shaded goggles or hoods may be used while welding or cutting requires. Prescription safety glasses with self-tinting capabilities may be worn on-site.
 - iv. PPE shall be worn while travelling from the security gate, while travelling through the plants, working outside or otherwise engaged in work at each station, except in areas specifically designated as PPE not required.
 - v. Contractor's vendors and visitors will be required to meet these same standards.
- y. Good housekeeping affects safety, quality and production. It is the responsibility of Contractor onsite to keep their work area clean. Contractor are responsible or trash and debris that is generated by their work. Trash and debris must be collected and placed in proper containers on a daily basis.
- z. Trash shall not be randomly thrown off a floor or through openings in the floor. Trash chutes, trash boxes, or other approved means such as barricading and/or flagging shall be utilized.
- aa. Safety requirement mentioned in the Environment and Social Impact Assessment (ESIA) Report shall be complied in accordance to Schedule 14.

Schedule 14

Environmental Standards

14.1 Environmental Standards

- a. The Contractor shall follow all the environmental standards for processing facility as per C&D Waste Management Rules, 2016 and any amendments thereto till date. It shall also follow all those additional or stricter standards as per applicable Indian Standards, rules, Guidelines, Acts and as directed by the Independent Engineer.
- b. The contractor shall prepare an Environment Management Plan in consideration and requirement of the Environment Protection Act, 1986 and rules framed under it.
- c. The Contractor shall implement the recommendations of the Environment Management Plan (EMP) report prepared.
- d. The Contractor shall meet the standards during the construction period as per the instruction or suggestion by the Independent Engineer from time to time based on the environmental standards applicable.
- e. The Contractor shall meet the standards during the operation period as per the instruction or suggestion by the Independent Engineer from time to time as per the design requirement and applicable standards.
- f. The Contractor shall form the **Environmental Monitoring Cell (EMC)** to review the effectiveness of environment management system during construction and operation phase of the Project Facilities. Independent Engineer shall be the Governing Authority over the EMC functions. EMC & IE shall report to MCGM as & when required.
- g. EMC shall meet regularly to review the effectiveness of the EMP (Environmental Monitoring Programme) implementation. The data collected on various EMP measures would be reviewed by EMC and if needed corrective action will be formulated for implementation purposes.
- h. The Contractor through EMC shall co-ordinate all monitoring programmes at Project Site and data thus generated shall be regularly furnished to the state regulatory agencies. The Environmental Audit reports and review shall be prepared for the entire year of operations and shall be regularly submitted to regulatory authorities.

- i. The Contractor shall setup a well-equipped laboratory for monitoring and analysis of environmental parameters for air quality, meteorology, water, wastewater, noise, groundwater, etc based on the overall monitoring requirements.
- j. The Contractor shall follow the QA/QC procedures for all laboratory services and strive to get the certified laboratory status from quality point of view such as ISO 9000 and other similar standards. The overall goal should also be to acquire the status of certified and recognized laboratory under MOEF&CC, Government of India. The Contractor shall strive to get ISO 14001 certification for the entire facility. (i) The Contractor shall follow the environmental issues with management action along with responsibilities as mentioned in the following table

Environmental Issues	Management Action	Implementation Responsibilities
Project Location		
Tree Clearance	<ul style="list-style-type: none"> • EMC will prepare a detailed Transplantation and Plantation plan and monitoring the implementation 	Contractor
Increase in power consumption	<ul style="list-style-type: none"> • EMC will prepare a detailed Energy Conservation plan and monitoring the implementation 	Contractor
Loss of local fauna	<ul style="list-style-type: none"> • EMC to create plan as per EMP report and implement the same 	Contractor
Loss of trees & vegetation in the Project area	<ul style="list-style-type: none"> • EMC will prepare a detailed plantation plan and monitoring the implementation • MCGM / Independent Engineer to closely oversee the work of trees and vegetation removal or plantation 	Contractor
Increase in the water requirement for domestic purpose	<ul style="list-style-type: none"> • EMC to monitor and prevent the excess water consumption 	Contractor
Stress on the surrounding marine eco system (if any)	<ul style="list-style-type: none"> • EMC will plan the earth movement in consultation with the Contractor and see to it that the mitigation measures are implemented by the contractor/ operator 	Contractor
Change in land use pattern	<ul style="list-style-type: none"> • Preparation the landscaping and greenery plan 	Contractor
Loss of any archaeological /cultural/historic site	<ul style="list-style-type: none"> • The operator of the facility will be planned to eliminate any odour or pollution 	Contractor

Environmental Issues	Management Action	Implementation Responsibilities
Processing, Landfill Facility (if required)		
Air Pollution	<ul style="list-style-type: none"> The EMC would look into the action of the operator on regular basis The EMC would look into the action of the contractor on a regular basis. 	Contractor
High dust level	<ul style="list-style-type: none"> MCGM through Independent Engineer can receive a feedback and direct the agency for corrective measures 	Contractor
Sediment runoff	<ul style="list-style-type: none"> EMC will plan the excavation, etc in consultation with the contractor and see to it that the mitigation measures are implemented by the contractor 	Contractor
Safety of workers	<ul style="list-style-type: none"> EMC to monitor and ensure the security and safety of workers 	Contractor
Interference with the natural drainage of the local ecosystem	<ul style="list-style-type: none"> Possible changes in natural drainage system to be avoided MCGM to closely oversee any changes in natural drainage system 	Contractor
Flooding in other low lying areas	<ul style="list-style-type: none"> EMC to monitor the construction and layout plan 	Contractor
Noise Pollution	<ul style="list-style-type: none"> Make provision in the contract to limit the noise pollution EMC will monitor noise Low noise vehicles with proper maintenance and monitoring 	Contractor
Disposal of excavated material	<ul style="list-style-type: none"> EMC to monitor the quantity and disposal 	Contractor
Safety hazard during the erection and operation	<ul style="list-style-type: none"> Regular monitoring and reporting 	Contractor
Landfill Construction (if required)		
Extremely high dust levels	<ul style="list-style-type: none"> The EMC would look into the action of the contractor on a regular basis 	Contractor
Air Pollution due to equipment fuel usage	<ul style="list-style-type: none"> EMC to monitor the air pollution 	Contractor

Environmental Issues	Management Action	Implementation Responsibilities
Air Pollution due to land cell creation	<ul style="list-style-type: none"> • these requirements are a part of the tender document for the contractor carrying out this activity • The EMC would look into the action of the contractor on a regular basis 	Contractor
Air Pollution due to other construction activity	<ul style="list-style-type: none"> • EMC to monitor the air pollution and set the construction working schedule 	Contractor
Accident during the construction stage	<ul style="list-style-type: none"> • Make provision for reporting and action 	Contractor
Fire hazard during the construction stage	<ul style="list-style-type: none"> • Make provision for reporting and action 	Contractor
Noise Pollution	<ul style="list-style-type: none"> • Make provision for reporting and action 	Contractor
Lack of Sewerage and Sewage Treatment Facilities leading to unhygienic condition	<ul style="list-style-type: none"> • Make provision for reporting and action 	Contractor
Indoor air pollution in the camp due to biomass fuel for cooking	<ul style="list-style-type: none"> • EMC to monitor the air pollution. 	Contractor
Air Pollution due to construction vehicle usages	<ul style="list-style-type: none"> • EMC to monitor the air pollution 	Contractor
Water logging and cross drainage issue during construction	<ul style="list-style-type: none"> • Make provision for reporting and action • EMC will monitor 	Contractor
Solid waste generation and inadequate disposal	<ul style="list-style-type: none"> • Make provision for reporting and action. • EMC to monitor the adequacy of the solid waste disposal 	Contractor
Disposal of excavated Material	<ul style="list-style-type: none"> • To make available the land for disposal of excavated material 	Contractor
Pollution of land, ground water and surface water arising from wastes and spillage due to construction	<ul style="list-style-type: none"> • make provision for reporting and action • EMC to monitor the adequacy of waste disposal 	Contractor
Incomplete post-use clearance and rein- statement of base camp, leading to degradation of soil	<ul style="list-style-type: none"> • make provision for reporting and action 	Contractor
Operation Phase		

Environmental Issues	Management Action	Implementation Responsibilities
Air pollution due to the C&DW vehicles and processing plants	<ul style="list-style-type: none"> • EMC to ensure the air pollution of facility meets the norms • Regular noise monitoring and reporting 	Contractor
Increase in power consumption	<ul style="list-style-type: none"> • EMC will prepare a detailed Energy Conservation plan and monitor the implementation with the operator of the facility 	Contractor
High air pollution along the various transport corridors leading to and away from the site	<ul style="list-style-type: none"> • EMC will monitor pollution and inspection log of vehicles 	Contractor
Noise pollution due to the operational activities	<ul style="list-style-type: none"> • EMC to monitor noise and give feedback for control 	Contractor
Noise pollution along the various transport corridors leading to and away from the landfill site	<ul style="list-style-type: none"> • EMC to monitor the noise pollution and give feedback for control 	Contractor
Solid waste management issues	<ul style="list-style-type: none"> • EMC to monitor and report 	Contractor
Sewage/leachate treatment issues	<ul style="list-style-type: none"> • to maintain the STP as per the standard prescribed norms. • EMC to monitor the same 	Contractor
Periphery Development	<ul style="list-style-type: none"> • MCGM initiatives to be communicated to Contractor for its implementation 	Contractor

14.2 Social Standards

- a. The Contractor shall provide a separate clinic at the Project Site where people can approach for primary health advice
- b. The Contractor shall provide community and training center within the Project Site wherein multiple employments related capacity building and training activities shall be undertaken and necessary skills shall be imparted.
- c. The Contractor shall provide an employment opportunity based on training and skill assessment. The secondary employment and/or business opportunity shall be created through the facility operator or support services.
- d. The Contractor shall provide training and awareness to labors at plant, which should be a continuous activity.

- e. The Contractor shall setup C&DW management and innovation center for every-one which will be useful to locals, students and others who would wish to work in this field.

- f. The Contractor shall give prior importance to nearby population to get involved in the activities of horticulture, garden maintenance, energy management, etc at the Project Facilities.

Schedule 15

Waste Reports

Refer Clause 5.7

15.1 Daily Report for Vehicles Incoming to Processing Facility

Date:

Shift: First /Second /Third

Sr.No. (1)	Vehicle No (2)	Logshee t No. (3)	Time (4)		Travelle d time (5)	Laden Wt. (6)	Unlade n Wt (7)	Net wt. (6-7)
			In	Out				
Total								

15.2 Monthly Report for Vehicles Incoming to Processing Facility

Month:

Years:

1. Quantity and composition of construction and demolition waste including any Deconstruction waste

- (a) Total quantity of construction and demolition waste Collected during the whole Month in metric ton
- Any figures for lean period and peak period generation per day
 - Average generation of construction and demolition waste (TPD).....
 - Total quantity of construction and demolition waste collected per day.....

(b) Total quantity of construction and demolition waste processed / recycled (in metric ton):.....

- Non-structural concrete aggregate :
- Manufactured sand :
- Ready-mix concrete (RMC) :
- Paving blocks :
- GSB :
- Others, if any, please specify :

(c) **Transportation Detail:**

- **Total Number of Waste Transported in Month :**
- **Consolidated Statement with daily Report Attached :**

Schedule 16

Scope of Work of Independent Engineer

Refer Clause 21.1

16.1 Role of the Independent Engineer

- a. Review of Project drawings and milestones submitted by the Contractor in conformance with Schedule 5 (Project Completion Schedule) and 6 (Work Plans, Routes).
- b. Review, inspection and monitoring of construction works as set out in Schedule 9 (Project Requirements).
- c. Conducting tests on completion of construction and issuing Completion/Provisional Certificate as set forth in Schedule 8 (Completion Certificate).
- d. Review, inspection and monitoring of operations and maintenance as set out in Schedule 10 (Operation and Maintenance Requirements).
- e. Determining as required under the Agreement the cost of any works or services or their reasonableness
- f. Determining as required under the Agreement, the period or any extension thereof, for performing any duty or obligations
- g. Assisting the parties in case of any dispute

- h. Undertaking all other duties and functions in accordance with the Agreement
- i. The Independent Engineer shall discharge its duties in a fair, impartial and efficient manner, consistent with the highest standards of professional integrity and Good Industry Practice.
- j. During the Development Period, the Independent Engineer shall undertake a detailed review of the Drawings to be furnished by the Contractor along with supporting data. The Independent Engineer shall complete such review and send its comments/observations to MCGM and the Contractor within 15 (fifteen) days of receipt of such Drawings. In particular, such comments shall specify the conformity or otherwise of such Drawings with the Scope of the Project and Specifications and Standards.
- k. The Independent Engineer shall review any modified Drawings or supporting Documents sent to it by the Contractor and furnish its comments within 7 (seven) days of receiving such Drawings or Documents.
- l. The Independent Engineer shall undertake a detailed review of the Construction Milestones defined and submitted by the Contractor and send its comments/observations to MCGM and the Contractor within 15 (fifteen) days of receipt.
- m. Upon reference by MCGM, the Independent Engineer shall review and comment on the contracts entered into by the Contractor for the purpose of execution of this Agreement.

- n. The Independent Engineer shall review the monthly progress report furnished by the Contractor and send its comments thereon to MCGM and the Contractor within 7 (seven) days of receipt.
- o. The Independent Engineer shall cross check the specifications of the machinery and equipment (including vehicles) with the specifications submitted by the manufacturer.
- p. The Independent Engineer shall monitor/ inspect the Project activities on day to day basis for which dedicated staff shall be deployed at Project Site and make out a report of such inspection (the “Inspection Report”) setting forth an overview of the status, progress, quality and safety of construction, including the work methodology adopted, the materials used and their sources, and conformity of construction works with the Scope of the Project and the Specifications and Standards
- q. If any lapses, defects or deficiencies are found, the Independent Engineer shall confirm the same and report to MCGM and get it rectified from the Contractor.
- r. For determining that the construction conforms to construction requirements, the Independent Engineer shall require the Contractor to carry out, or cause to be carried out, tests on a sample basis, to be specified by the Independent Engineer in accordance with Good Industry Practice for quality assurance.
- s. In the event that the Contractor fails to achieve any of the Project Milestones, the Independent Engineer shall undertake a review of the progress of

construction and identify potential delays, if any. If the Independent Engineer shall determine that completion of the Project Facilities is not feasible within the time specified in the Agreement, it shall require the Contractor to indicate within 10 (ten) days the steps proposed to be taken to expedite progress, and the period within which the Project construction would be completed. Upon receipt of a report from the Contractor, the Independent Engineer shall review the same and send its comments to MCGM and the Contractor forthwith.

- t. The Independent Engineer during operation period shall review the monthly report furnished by the Contractor, and shall submit its comments on the same to MCGM and to the Contractor within 7 days of the receipt of the report.
- u. The Independent Engineer shall carry out tests as might be deemed necessary and furnish the observations of the tests to the Contractor and to MCGM.
- v. The Independent Engineer during operation period is authorized to conduct surprise checks on the Project Facilities and processes to ensure that they comply with the Project specifications.
- w. The Independent Engineer during operation period shall report the results of surprise checks to MCGM within 7 days of such checks.
- x. The Independent Engineer during operation period is authorized to require the Contractor to carry out such tests/ arrange to carry out such tests as it deems necessary and present the result and inferences of the same to MCGM.

- y. In case any deficiency or maintenance requirement is observed by the Independent Engineer during operation period during the inspection or tests, it shall report the same to MCGM along with the possible impact on the Project Facilities and the cost of rectification of the same.

- z. The Independent Engineer during operation period shall inspect the Project Facilities once the Contractor rectifies the defect and report the results of such inspection to MCGM

- aa. The Independent Engineer during operation period shall audit and certify the weighbridges located at the Processing site at least once a month and submit the results of such review to MCGM and the Contractor.

- bb. The Independent Engineer during operation period shall audit the C&DW quantity supply data recorded at the Processing site to ensure that the data reported by the Contractor for charging Tipping Fee is accurate and that the provisions of this agreement are conformed with. The Independent Engineer during operation period is authorized to conduct surprise checks and tests for this purpose.

Schedule 17

Deleted

Schedule 18

Substitution Agreement

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

AMONGST

1. Municipal Corporation of Greater Mumbai, a Municipal Corporation established in 1888 and operating under Mumbai Municipal Corporation Act of 1888 and having its offices at Municipal Head Office, Mahapalika Marg, Fort, Mumbai-400001, acting through The Municipal Commissioner (hereinafter referred to as the “MCGM” or “Authority” which expression shall, unless repugnant to the context or meaning thereof, mean and include its successors and assigns) of the FIRST PART,
2. **[Name of the JV incorporated by the successful bidder/ consortium]**, a company incorporate in India under the Companies Act of 1956 and having its registered offices at ... [address] (hereinafter referred to as the “Contractor”, which expression shall, unless repugnant to the context or meaning thereof, mean and include its successors and assigns)
3. name and particulars of Lenders Representative and having its registered office at, acting for and on behalf of the Senior Lenders as their duly authorized agent with regard to matters arising out of or in relation to this Agreement (hereinafter referred to as the “**Lenders’ Representative**”, which expression shall unless repugnant to the context or meaning thereof include its successors and substitutes);
 - A. The Authority has entered into a Contract Agreement dated with the Contractor (the “**Contract Agreement**”) for the Project on Design, Build, Own, operate basis, and a copy of which is annexed hereto and marked as Annex-A to form part of this Agreement.
 - B. Senior Lenders have agreed to finance the Project in accordance with the terms and conditions set forth in the Financing Agreements.
 - C. Senior Lenders have requested MCGM to enter into this Substitution Agreement for securing their interests through assignment, transfer and substitution of the Contract to a Nominated Company in accordance with the provisions of this Agreement and the Contract Agreement.

D. In order to enable implementation of the Project including its financing, construction, operation and maintenance, MCGM has agreed and undertaken to transfer and assign the Contract to a Nominated Company in accordance with the terms and conditions set forth in this Agreement and the Contract Agreement.

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

18.1 Definitions and Interpretations

18.1.1 Definitions

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

“Agreement” means this Substitution Agreement and any amendment thereto made in accordance with the provisions contained in this Agreement

“Financial Default” means occurrence of a material breach of the terms and conditions of the

Financing Agreements or a continuous default in Debt Service by the Contractor for a minimum period of 3 (three) months;

“Lenders’ Representative” means the person referred to as the Lenders Representative in the foregoing Recitals;

“Nominated Company” means a company, incorporated under the provisions of the Companies Act, 1956, selected by the Lenders Representative, on behalf of Senior Lenders, and proposed to MCGM for assignment/transfer of the Contract as provided in this Agreement;

“Notice of Financial Default” shall have the meaning ascribed thereto in Clause 18.3.2(a) of this Substitution Agreement; and

“Parties” means the parties to this Agreement collectively and “Party” shall mean any of the Parties to this Agreement individually.

18.1.2 Interpretations

- a. References to Lenders Representative shall, unless repugnant to the context or meaning thereof, mean references to the Lenders Representative, acting for and on behalf of Senior Lenders.
- b. References to Clauses are, unless stated otherwise, references to Clauses of this Agreement.
- c. The words and expressions beginning with capital letters and defined in this Agreement shall have the meaning ascribed thereto herein, and the words and expressions used in this Agreement and not defined herein but defined in the Contract Agreement shall, unless repugnant to the context, have the meaning ascribed thereto in the Contract Agreement.
- d. The rules of interpretation stated in Clauses 1.2, 1.3 and 1.4 of the Contract Agreement shall apply, mutatis mutandis, to this Agreement.

18.2 Assignment

18.2.1 Assignment of rights and titles

The Contractor hereby agrees to assign the rights, title and interest in the Contract to, and in favor of, the Lenders Representative pursuant to and in accordance with the provisions of this Agreement and the Contract Agreement by way of security in respect of financing by the Senior Lenders under the Financing Agreements.

18.3 Substitution of the Contractor

18.3.1 Rights of substitution

- a. Pursuant to the rights, title and interest assigned under Clause 18.2.1, the Lender's Representative shall be entitled to substitute the Contractor by a Nominated Company under and in accordance with the provisions of this Agreement and the Contract Agreement.
- b. The Authority hereby agrees to substitute the Contractor by endorsement on the Contract Agreement in favor of the Nominated Company selected by the Lenders Representative in accordance with this Agreement. (For the avoidance of doubt, the Senior Lenders or the Lenders Representative shall not be entitled to operate and maintain the Project Facility as Contractor either individually or collectively).

18.3.2 Substitution upon occurring of financial default

- a. Upon occurrence of a Financial Default, the Lenders Representative may issue a notice to the Contractor (the "Notice of Financial Default") along with

particulars thereof, should send a copy to MCGM for its information and record. A Notice of Financial Default under this Clause 18.3 shall be conclusive evidence of such Financial Default and it shall be final and binding upon the Contractor for the purposes of this Agreement.

- b. Upon issue of a Notice of Financial Default hereunder, the Lenders Representative may, without prejudice to any of its rights or remedies under this Agreement or the Financing Agreements, substitute the Contractor by a Nominated Company in accordance with the provisions of this Agreement.
- c. At any time after the Lenders Representative has issued a Notice of Financial Default, it may by notice require MCGM to suspend all the rights of the Contractor and undertake the operation and maintenance of the Project Facilities in accordance with the provisions of the Contract Agreement, and upon receipt of such notice, MCGM shall undertake Suspension under and in accordance with the provisions of the Contract Agreement. The aforesaid Suspension shall be revoked upon substitution of the Contractor by a Nominated Company, and in the event such substitution is not completed within 180 (one hundred and eighty) days from the date of such Suspension, MCGM may terminate the Contract Agreement forthwith by issuing a Termination Notice in accordance with the provisions of the Contract Agreement; provided that upon written request from the Lenders Representative and the Contractor, MCGM may extend the aforesaid period of 180 (one hundred and eighty) days by a period not exceeding 90 (ninety) days. For the avoidance of doubt, MCGM expressly agrees and undertakes to terminate the Contract Agreement forthwith, upon receipt of a written request from the Lenders Representative at any time after 270 (two hundred and seventy) days from the date of Suspension hereunder.

18.3.3 Substitution upon occurrence of Contractor default

- a. Upon occurrence of a Contractor Default, MCGM shall by a notice inform the Lenders Representative of its intention to issue a Termination Notice and grant 15 (fifteen) days time to the Lenders Representative to make a representation, stating the intention to substitute the Contractor by a Nominated Company.
- b. In the event that the Lenders Representative makes a representation to MCGM within the period of 15 (fifteen) days specified in Clause 18.3.3(a), stating that it intends to substitute the Contractor by a Nominated Company, the Lenders Representative shall be entitled to undertake and complete the substitution of the Contractor by a Nominated Company in accordance with the provisions of this Agreement within a period of 180 (one hundred and eighty) days from the date of such representation, and MCGM shall either withhold Termination or

undertake Suspension for the aforesaid period of 180 (one hundred and eighty) days; provided that upon written request from the Lenders Representative and the Contractor, MCGM shall extend the aforesaid period of 180 (one hundred and eighty) days by a period not exceeding 90 (ninety) days

18.3.4 Procedure for substitution

- a. The Authority and the Contractor hereby agree that on or after the date of Notice of Financial Default or the date of representation to MCGM under Clause 18.3.3(b), as the case may be, the Lenders Representative may, without prejudice to any of the other rights or remedies of the Senior Lenders, invite, negotiate and procure offers, either by private negotiations or public auction or tenders for the take over and transfer of the Project Facilities including the Contract to the Nominated Company upon such Nominated Company's assumption of the liabilities and obligations of the Contractor towards MCGM under the Contract Agreement and towards the Senior Lenders under the Financing Agreements.
- b. To be eligible for substitution in place of the Contractor, the Nominated Company shall be required to fulfill the eligibility criteria that were laid down by MCGM for short listing the bidders for award of the Contract; provided that the Lenders Representative may represent to MCGM that all or any of such criteria may be waived in the interest of the Project, and if MCGM determines that such waiver shall not have any material adverse effect on the Project, it may waive all or any of such eligibility criteria.
- c. Upon selection of a Nominated Company, the Lenders Representative shall request MCGM to:
 - i. accede to transfer to the Nominated Company the right to construct, operate and maintain the Project Facilities in accordance with the provisions of the Contract Agreement;
 - ii. endorse and transfer the Contract to the Nominated Company, on the same terms and conditions, for the residual Contract Period; and
 - iii. enter into a Substitution Agreement along with this Contract Agreement with the Lenders Representative and the Nominated Company on the same terms as are contained in this Agreement.
- d. If MCGM has any objection to the transfer of Contract in favour of the Nominated Company in accordance with this Agreement, it shall within 30 (thirty days) days from the date of proposal made by the Lenders

Representative, give a reasoned order after hearing the Lenders Representative. If no such objection is raised by MCGM, the Nominated Company shall be deemed to have been accepted. The Authority thereupon shall transfer and endorse the Contract within 30 (thirty days) of its acceptance/deemed acceptance of the Nominated Company; provided that in the event of such objection by MCGM, the Lenders Representative may propose another Nominated Company whereupon the procedure set forth in this Clause 18.3.4 shall be followed for substitution of such Nominated Company in place of the Contractor.

18.3.5 Selection to be binding

The decision of the Lenders Representative and MCGM in selection of the Nominated Company shall be final and binding on the Contractor. The Contractor irrevocably agrees and waives any right to challenge the actions of the Lenders Representative or the Senior Lenders or MCGM taken pursuant to this Agreement including the transfer/assignment of the Contract in favour of the Nominated Company. The Contractor agrees and confirms that it shall not have any right to seek revaluation of assets of the Project or the Contractor's shares. It is hereby acknowledged by the Parties that the rights of the Lenders Representative are irrevocable and shall not be contested in any proceedings before any court or Authority and the Contractor shall have no right or remedy to prevent, obstruct or restrain MCGM or the Lenders Representative from effecting or causing the transfer by substitution and endorsement of the Contract as requested by the Lenders Representative.

18.4 Project Agreements

18.4.1 Substitution of Nominated Company in Project Agreements

The Contractor shall ensure and procure that each Project Agreement contains provisions that entitle the Nominated Company to step into such Project Agreement, in its discretion, in place and substitution of the Contractor in the event of such Nominated Company's assumption of the liabilities and obligations of the Contractor under the Contract Agreement.

18.5 Termination of the Contract Agreement

18.5.1 Termination upon occurrence of Financial Default

At any time after issue of a Notice of Financial Default, the Lenders Representative may by a notice in writing require MCGM to terminate the Contract Agreement forthwith, and upon receipt of such notice, MCGM shall undertake Termination under

and in accordance with the provisions of Clause 29 of the Contract Agreement.

18.5.2 Termination when no nominate company is selected

In the event that no Nominated Company acceptable to MCGM is selected and recommended by the Lenders Representative within the period of 180 (one hundred and eighty) days or any extension thereof as set forth in Clause 18.3.3(b), MCGM may terminate the Contract Agreement forthwith in accordance with the provisions thereof.

18.5.3 Realization of debt due

The Authority and the Contractor hereby acknowledge and agree that, without prejudice to their any other right or remedy, the Lenders Representative is entitled to receive from the Contractor, without any further reference to or consent of the Contractor, the Debt Due upon Termination of the Contract Agreement.

18.6 Duration of the Agreement

18.6.1 Duration of the Agreement

This Agreement shall come into force from the date hereof and shall expire at the earliest to occur of the following events: (a) Termination of the Agreement; or (b) completion of contract period.

18.7 Indemnity

18.7.1 General indemnity

- a. The Contractor will indemnify, defend and hold MCGM and the Lenders Representative harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense of whatever kind and nature arising out of any breach by the Contractor of any of its obligations under this Agreement or on account of failure of the Contractor to comply with Applicable Laws and Applicable Permits.
- b. The Authority will indemnify, defend and hold the Contractor harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of MCGM to fulfill any of its obligations under this Agreement, materially and adversely affecting the performance of the Contractor's obligations under the Contract Agreement or this Agreement, other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by MCGM, its officers,

servants and agents.

- c. The Lenders Representative will indemnify, defend and hold the Contractor harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Lenders Representative to fulfill its obligations under this Agreement, materially and adversely affecting the performance of the Contractors obligations under the Contract Agreement, other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Lenders Representative, its officers, servants and agents.

18.7.2 Notice and contest of claims

In the event that any Party hereto receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under Clause 18.7.1 or in respect of which it is entitled to reimbursement (the “Indemnified Party”), it shall notify the other Party responsible for indemnifying such claim hereunder (the “Indemnifying Party”) within 15 (fifteen) days of receipt of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, such approval not to be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim, it may conduct the proceedings in the name of the Indemnified Party and shall bear all costs involved in contesting the same. The Indemnified Party shall provide all cooperation and assistance in contesting any claim and shall sign all such writings and documents as the Indemnifying Party may reasonably require.

18.8 Dispute Resolution

18.8.1 Dispute Resolution

Any dispute, difference or claim arising out of or in connection with this Agreement which is not resolved amicably shall be decided as per the Clause 36 Dispute Resolution of original contract agreement.

18.9 Miscellaneous Provisions

18.9.1 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the High Court of Mumbai shall have jurisdiction over all matters arising out of or relating to this Agreement.

18.9.2 Waiver of sovereign immunity

The Authority unconditionally and irrevocably:

- a. agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;
- b. agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of MCGM with respect to its assets;
- c. waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and
- d. consents generally in respect of the enforcement of any judgment or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgment that may be made or given in connection therewith).

18.9.3 Priority of agreements

In the event of any conflict between the Contract Agreement and this Agreement, the provisions contained in the Contract Agreement shall prevail over this Agreement.

18.9.4 Alteration of terms

All additions, amendments, modifications and variations to this Agreement shall be effectual and binding only if in writing and signed by the duly authorized representatives of the Parties.

18.9.5 Waiver

- a. Waiver by any Party of a default by another 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 of or obligations under this Agreement;
 - ii. shall not be effective unless it is in writing and executed by a duly authorized representative of the 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 there under nor time or other indulgence granted by a Party to another Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

18.9.6 No third party beneficiaries

This Agreement is solely for the benefit of the Parties and no other person or entity shall have any rights hereunder.

18.9.7 Survival

a. Termination of this Agreement:

i. shall not relieve the Parties of any obligations hereunder which expressly or by implication survive termination hereof; and

ii. except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such termination or arising out of such termination.

b. All obligations surviving the cancellation, expiration or termination of this Agreement shall only survive for a period of 3 (three) years following the date of such termination or expiry of this Agreement.

18.9.8 Severability

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

upon any such provisions shall not be subject to dispute resolution under Clause 18.8 of this Agreement or otherwise.

18.9.9 Successors and assigns

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

18.9.10 Notices

All notices or other communications to be given or made under this Agreement shall be in writing, shall either be delivered personally or sent by courier or registered post with an additional copy to be sent by facsimile or e-mail. The address for service of each Party, its facsimile number and e-mail address are set out under its name on the signing pages hereto. A notice shall be effective upon actual receipt thereof, save that where it is received after 5.30 (five thirty) p.m. on any day, or on a day that is a public holiday, the notice shall be deemed to be received on the first working day following the date of actual receipt. Without prejudice to the foregoing, a Party giving or making a notice or communication by facsimile or e-mail shall promptly deliver a copy thereof personally, or send it by courier or registered post to the addressee of such notice or communication. It is hereby agreed and acknowledged that any Party may by notice change the address to which such notices and communications to it are to be delivered or mailed. Such change shall be effective when all the Parties have notice of it.

18.9.11 Language

All notices, certificates, correspondence and proceedings under or in connection with this Agreement shall be in English.

18.9.12 Authorized Representative

Each of the Parties shall by notice in writing designate their respective authorized representatives through whom only all communications shall be made. A Party hereto shall be entitled to remove and/or substitute or make fresh appointment of such authorized representative by similar notice.

18.9.13 Original Document

This Agreement may be executed in three counterparts, each of which when executed and delivered shall constitute an original of this Agreement.

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

SIGNED SEALED AND DELIVERED

For and on behalf of Municipal Corporation of Greater Mumbai by:

(Signature)

(Name)

(Designation)

(Address)

(Fax No.)

(E-mail address)

THE COMMON SEAL OF CONTRACTOR has been affixed pursuant to the resolution passed by the Board of

Directors of the Contractor at its meeting held on the day of 20..... hereunto affixed in the presence of, Director, who has signed these presents in token thereof and, Company Secretary / Authorized Officer who has countersigned the same in token thereof:

SIGNED, SEALED AND DELIVERED

For and on behalf of SENIOR LENDERS by the Lenders' Representative:

(Signature)

(Name)

(Designation)

(Address)

(Fax)

(E-mail address)

In the presence of:

1.

2.

Schedule 19

Calculation and Payment of Tipping Fee

- a. Calculation of Tipping Fee for Collection, Transportation, Processing and Disposal of C&D waste facility:

The Tipping Fee for a particular month would be calculated using the formula given below: $A_n = Q_n \times T_Y$

Where,

A_n = Tipping Fee Amount for month n

Q_N = net quantity of C & D waste as per the weighment records at the processing plant during the month N. Net quantity of C & D waste will be calculated as a difference between weighment of vehicle at incoming & outgoing weighbridge.

T_Y = Tipping Fee rate applicable for the corresponding year

IN WITNESS THEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DAY, MONTH, AND YEAR FIRST ABOVE WRITTEN

THE SEAL OF CONTRACTOR has been affixed pursuant to the resolution passed by the Board of Directors of the Contractor at its meeting held on the _____ day of _____ 20__ hereunto affixed in the presence of _____ Director, who has signed these presents in token thereof:

1.

2.

3.

(Contractor)

In the presence of:

1.

2.

THE SEAL OF Municipal Corporation of Greater Mumbai (MCGM)

DMC(SWM), MCGM

In the presence of:

1.

2.