

REQUEST FOR PROPOSAL

Setting Up of Animal Carcass Incineration Plant at Chandigarh on Design, Build, Finance, Operate and Transfer Basis

December 2018

ISSUED BY:



CHANDIGARH SMART CITY LIMITED
2nd Floor, New Bridge Building -2, Near TDI Mall,
Sector 17A, Chandigarh-160017

Request for Proposal

Document Contents

Part-I	Instructions to Bidders
Part-II	Draft Concession Agreement

**Tender Notice
Chandigarh Smart City Limited
e- TENDER NOTICE**

Chandigarh Smart City Limited (CSCL) invites e-tenders (online tenders) from the eligible, reputed and established agencies/ individuals/ company (ies)/ firm for “Setting Up of Animal Carcass Incineration Plant at Chandigarh on Design Build Finance Operate and Transfer Basis”.

Prospective bidders should download the complete tender documents only from the website <http://etenders.chd.nic.in> upto the last date of submission i.e.18/01/2019. Addendum/ Corrigendum if any, to the tender documents shall be uploaded on the aforementioned website only. Hence, the bidders shall visit the same regularly. Bidders are requested to go through the complete bid documents, criteria and scope of work in particular, before submission of online bid.

Chief Executive Officer,
Chandigarh Smart City Limited,
2nd Floor, New Bridge Building,
Sector 17A, Chandigarh-160017
Email: smartcity.chd@nic.in

Setting Up of Animal Carcass Incineration Plant in Chandigarh on Design, Build, Finance, Operate and Transfer Basis- Request for Proposal

Chandigarh Smart City Limited
NOTICE INVITING TENDER
(E-TENDERS NOTICE)

Chandigarh Smart City Limited (CSCL) invites Bids i.e. General Bid, Technical and Financial Bid from the prospective bidders for selection of Concessionaire for “Setting Up of Animal Carcass Incineration Plant at Chandigarh on Design Build Finance Operate and Transfer Basis”. The Concession Period will be 10 (ten) years. The key bidding detail of the tender are:

1	Type of Online Bid	Three Bid System
	i) Folder- 1	Earnest Money and Document Fee
	ii) Folder-2	Pre-qualification documents such as completion certificate of similar works, Affidavit in original for blacklisting, downloaded copy of whole tender document, certificate of registration of GST/ Service Tax / Pan/ TIN and sign on each page of tender document and uploading of the same along with other requisite documents.
	iii) Folder- 3	Financial Bid
2	Date of Pre-bid Conference	11.01.2019 at 11:00 AM
3	Venue of Pre-bid Conference	Conference Room of Chief Executive Officer, Chandigarh Smart City Limited, 2 nd Floor, New Bridge Building-2, Near TDI Mall, Sector 17A, Chandigarh -160017.
4	Bid Closing Time and Date	18.01.2019 at 3:00 PM
5	EMD (Earnest Money Deposit) in shape of Demand Draft	Rs. 5,00,000.00 (Rupees Five Lakh only) in the form of a Demand Draft favouring Chandigarh Smart City Limited payable at Chandigarh. The Scanned copy of EMD shall be submitted online. The Original Demand Draft shall be submitted at the office of Chief Executive Officer, Chandigarh Smart City Limited, 2 nd Floor, New Bridge Building-2, Near TDI Mall, Sector 17A, Chandigarh-160017 on the date of opening of Technical Bid.
	Cost of Bid Document (Non Refundable)	Rs.25000/- in shape of Demand Draft favouring Chandigarh Smart City Limited at Chandigarh. The Scanned copy of Demand Draft on account of cost of Bid document shall be submitted online. The Original Demand Draft shall be submitted at the office of Chief Executive Officer, Chandigarh Smart City Limited,

Setting Up of Animal Carcass Incineration Plant in Chandigarh on Design, Build, Finance, Operate and Transfer Basis- Request for Proposal

		2 nd Floor, New Bridge Building-2, Near TDI Mall, Sector 17A, Chandigarh-160017 on the date of opening of Technical Bid.
6	Bid Opening Date	
	Technical Bid	18.01.2019 at 04:00 PM
	Financial Bid of bidders.	To be informed later to the Technically Qualified Bidders.
7	Submission of hard copies of the documents as uploaded online with the bid by the Successful Bidder	Within seven days from the date of opening of E-Financial Bids
8	Amount of Performance Guarantee to be submitted only by the Successful Bidder	Rs. 25,00,000.00 (Twenty-Five Lakh only) to be submitted within 30 days of receipt of Letter of Acceptance (LOA). Bidders should ensure that the performance guarantee should be valid for a period extending to 10 (Ten) years for the work.
9	Signing of Concession Agreement	Concession Agreement is to be signed within 30 days of receipt of LOA.

Other details and terms & conditions are given in the Request for Proposal (RFP), which can be downloaded from the website as mentioned in the Tender Notice. Interested eligible applicants may obtain further information from CSCL office. The Project consists of works as mentioned in the RFP document. A firm will be selected under the procedure as described in the detailed RFP. Conditional Tenders will not be accepted. CSCL has right to accept/reject any tender without assigning any reason. CSCL reserves all rights to reject whole or part of the Proposal, all or any proposal and to modify the terms and conditions.

Chief Executive Officer,
Chandigarh Smart City Limited,
2nd Floor, New Bridge Building-2,
Near TDI Mall, Sector 17A,
Chandigarh -160017,
Email: smartcity.chd@nic.in

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Disclaimer

The information contained in this Request for Proposal (hereinafter referred to as "RFP") document provided to the Bidders, by Chandigarh Smart City Limited (hereinafter referred to as "CSCL") or any of their employees or advisors, is provided to the Bidder(s) on the terms and conditions set out in this RFP document and all other terms and conditions subject to which such information is provided.

The purpose of this RFP document is to provide the Bidder(s) with information to assist in formulation of their proposals. This RFP document does not purport to contain all the information each Bidder may require. This RFP document may not be appropriate for all persons, and it is not possible for CSCL, their employees or advisors to consider the business/ investment objectives, financial situation and particular needs of each Bidder who reads or uses this RFP document. Each Bidder must conduct its own analysis of the information contained in this RFP document or to correct any inaccuracies therein that may appear in this RFP document and is advised to carry out its own investigations into the proposed project, the legislative and regulatory regimes which applies thereto and by and all matters pertinent to the proposed Project and to seek its own professional advice on the legal, financial, regulatory and taxation consequences of entering into any agreement or arrangement relating to the proposed project. CSCL, their employees and advisors make no representation or warranty and shall incur no liability under any law, statute, rules or regulations as to the accuracy, reliability or completeness of the RFP document.

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

Mere submission of a responsive Bid/Proposal does not ensure selection of the Bidder as Concessionaire.

SCHEDULE OF BIDDING PROCESS

CSCL would endeavor to adhere to the following schedule during the Bidding Process:

Sl. No.	Event Description	Date	Time
1	Start date for online purchase of E-tender document	31 st December 2018	3:00 PM
2	Last date of receiving queries	10 th January 2019	3:00 PM
3	Pre-bid meeting	11 th January 2019	11.00 AM
4	Last date for online Submission of E-tender document	18 th January 2019	3:00 PM
5	Opening of Technical Bids	18 th January 2019	4:00 PM
6	Opening of Financial Bids	To be informed later to the Technically Qualified Bidders.	

- *Pre-Bid meeting and opening of Technical and Financial Bid will be held in the office of Chandigarh Smart City Limited (CSCL) at the dates mentioned in the Schedule of Bidding Process.*
- *The Schedule of Bidding process is indicative, CSCL may change/revise any or all Schedules of dates during bid process. The revised date (s) shall be intimated to all bidders.*

PART-I: INSTRUCTIONS TO BIDDERS (ITB)

1. INVITATION FOR PROPOSAL

1.1 Introduction

- 1.1.1 At present the carcasses of dead animals are being disposed off in unscientific way in open and small animals are being dumped in the dumping ground. The carcasses are disposed of in open which petrify & produce obnoxious smell, invite vectors like dogs, cats and other birds cause nuisance and serious health hazard. Proper disposal of fallen animals is essential for effective disease control programmes. It is pertinent to mention here that at present, the disposal of dead animals is being done at two or three unmarked open spaces through hired contractor by the Municipal Corporation Chandigarh which is creating unhygienic conditions and public criticism. The contractor at its own level lifts & disposes carcasses within the Municipal limits of Chandigarh. There is an urgent need to set up a carcass Incineration Center for the scientific disposal of dead animals.
- 1.1.2 In view of the above, Chandigarh Smart City Limited (CSCL) proposes to invite private sector players for development, management and operation of Animal Carcass Incineration Plant (ACIP) at Chandigarh. ACIP shall be installed for treatment & disposal of various types of animal carcasses as per the latest guidelines of Central Pollution Control Board (CPCB), Chandigarh Pollution Control Committee (CPCC) and other applicable rules.
- 1.1.3 This Request for Proposal (RFP) document is for the Planning, Designing, Development, Operation, Maintenance and Management of Animal Carcass Incineration Plant (ACIP) at Chandigarh through Public Private Partnership (PPP) mode for a pre-determined Concession Period of 10 (Ten) years (the “Project”).
- 1.1.4 An Agreement will be drawn up amongst Chandigarh Smart City Limited (CSCL); Municipal Corporation Chandigarh (MCC) and the Successful Bidder/Concessionaire.
- 1.1.5 A “Single Stage” bidding process has been planned for determining the Successful Bidder. The Bidders would be required to meet the minimum threshold Technical Qualification Conditions and qualify for undertaking the Project as set out in this RFP document. This qualification assessment would be carried out as part of the current bidding and evaluation process. The Financial Proposals of only those Bidders that possess the minimum Technical Qualification Conditions as laid down in this RFP and other relevant documents (as per the formats mentioned in Clause 9.4 of the RFP) would be opened and evaluated.
- 1.1.6 The RFP document contains information about the Project, bidding process, Proposal submission, qualification and Financial Proposal requirement.

Setting Up of Animal Carcass Incineration Plant in Chandigarh on Design, Build, Finance, Operate and Transfer Basis- Request for Proposal

1.1.7 The detailed terms and conditions of this tender can be obtained from the Govt. website <http://etenders.chd.nic.in/nicgep>. Prospective bidders should download the complete tender documents only from the website <http://etenders.chd.nic.in/nicgep> upto the last date of submission. Addendum/ Corrigendum if any, to the tender documents shall be uploaded on the aforementioned website only. Hence, the bidders shall visit the same regularly. Bidders are requested to go through the complete bid documents, criteria and scope of work in particular, before submission of online bid. Interested Bidders shall pay a non-refundable Bid Document fee of Indian Rupees (“Rs”) 25,000.0 (Rupees Twenty-Five Thousand only) by way of crossed demand draft/ bankers cheque drawn in favour of “Chandigarh Smart City Limited”, payable on any scheduled bank in Chandigarh. The Scanned copy of Demand Draft on account of cost of Bid document shall be submitted online. The Original Demand Draft shall be submitted at the office of CSCL i.e. Chandigarh Smart City Limited, 2nd Floor, New Bridge Building-2, Near TDI Mall, Sector 17A, Chandigarh -160017 on the date of opening of Technical Bid.

1.1.8 The Bid submissions must be received no later than 1500 hrs on/ before 18.01.2019 in the manner specified in the RFP document at the address given below. CSCL reserves the right to reject and/ or accept any or all the Proposals without assigning any reason thereof.

Chief Executive Officer,
Chandigarh Smart City Limited,
2nd Floor, New Bridge Building-2,
Near TDI Mall, Sector 17A,
Chandigarh -160017.

1.1.9 Proposals from bidders will be evaluated on the basis of the criteria set out in this RFP document as per **Appendix F** in order to identify the successful bidder for the Project (hereinafter referred to as “Successful Bidder”). The Successful Bidder would then have to enter into a Concession Agreement with the CSCL and perform the obligations as stipulated therein, in respect of the Project.

1.1.10 Terms used in this RFP document, which have not been defined herein, shall have the meaning ascribed thereto in the Concession Agreement.

2. PROJECT BACKGROUND

2.1 Introduction

2.1.1 As per Section 319 of the Punjab Municipal Corporation Act of 1976 (as extended to the Union Territory of Chandigarh with effect from 1994), the Municipal Corporation of Chandigarh is responsible for removal of all dead animals from its jurisdiction area and safe disposal of carcasses. Considering sensibilities and sensitivity of concerned communities, and the threat to environment and public health, scientific and safe disposal of animal carcass is an obligatory function of an urban local body. Going forward, MCC now plans to formulate a project for developing such a facility under the ongoing Smart City Project. Chandigarh Smart City Limited (CSCL) and Municipal Corporation Chandigarh (MCC) has decided to set up Animal Carcass Incinerator Plant (ACIP) at Chandigarh through Public Private Participation mode (*'the Project'*) for the following purposes:

- To provide a scientific and safe method of disposal of all types of dead animals and stop the current practice of indiscriminate open disposal of animal carcass after flaying.
- To prevent the scavenging birds thereby reducing the risk of bird hit to civilian and military aircrafts, improving aesthetics around the disposal site, eliminating chances of spread of contagious diseases, safeguarding public health and environment, etc.

2.1.2 The scope of work is set out in **Appendix A** of Instructions to Bidders and in Schedule 1 of the Draft Concession Agreement.

2.1.3 Location of the Facilities

The location of the Site, wherein animal carcass incineration plant shall be setup, the details of the same is provided in Schedule- 1 of the draft Concession Agreement.

The land area, which shall be given to the Successful Bidder for the setup of animal carcass incineration plant, shall be individually termed as "Facility".

2.1.4 CSCL, propose to select a Successful Bidder for taking up the development of the aforesaid Project in the form of a Concession.

- The Concession Period for the Project shall be for a period of 10 (Ten) years.
- This Concession Period is to be considered from the date on the satisfaction of the Conditions Precedent i.e. Compliance Date. *{Refer Article 2.6.3 of the draft Concession Agreement (Section-II of the RFP document)}*

2.1.5 Project Structure

- The Facility shall be licensed to the Concessionaire for the purpose of setting up of the Animal Carcass Incineration Plant.

- The Concessionaire shall develop the Facility, as an Animal Carcass Incineration Plant, within the stipulated Development Period of 6 (six) months. Pursuant to the completion of the development, the Concessionaire shall thereby, operate, maintain and manage the Animal Carcass Incineration Plant throughout the Concession Period.
- However, it is being clarified here that the act of granting permission to develop, operate and maintain the Project shall not vest or create any proprietary interest in the Project or any part thereof including any permanent fixtures, fittings, etc. installed at the location of the Facilities in favor of the Concessionaire.

2.1.6 End of the Concession Period

At the end of the Concession Period, by efflux of time or premature termination for any reason whatsoever, all rights given under the Concession Agreement shall cease to have effect and the Facilities & the entire Project, thereof shall transfer back to the respective authorities as per the provisions of the draft Concession Agreement (Section II of the RFP document).

2.2 Commercial Consideration

The Successful Bidder would quote processing fee per kilogramme as per its Financial Proposal.

2.2.1 Minimum Assured Quantity

Subject to the provisions of Concession Agreement and in consideration of the Concessionaire accepting the concession and undertaking to perform and discharge its obligations in accordance with the terms, conditions and covenants set forth in the Concession Agreement, the Concessions Authority and Confirming Party (CSCL) agree and undertake to pay to Concessionaire fixed monthly processing Fees for the daily quantity of 700 kg Animal Carcasses/Dead Animals/ Meat Waste at the rate mentioned in Financial Proposal during the project term. Payment Mechanism of processing Fee to be paid by Concessions Authority and/or Confirming Party, as the case may be, has been described in Article 8 of the draft Concession Agreement.

2.3 Statutory Clearances

- 2.3.1 For the permissible development of the Facility under reference, the Successful Bidder/Concessionaire is required to adhere to the applicable norms/ laws and arrange approvals from all Local/ Competent Authorities. The Successful Bidder/Concessionaire shall obtain clearances and sanctions from competent authorities for utilities, firefighting, electric connection etc. It is to be clearly understood that all such clearances are to be obtained by the Successful Bidder/ Concessionaire and CSCL can only provide assistance, wherever possible, on best effort basis without any binding obligation.

3 Eligible Bidders

- 3.1 The Bidders eligible for participating in the qualification process shall be a single Business Entity¹ meeting the qualification criteria as set out in Appendix F - 'Proof of Qualification'.
- 3.2 Any entity, which has earlier been barred by the Chandigarh Administration from participating in any project being undertaken by Chandigarh Administration, would not be eligible to submit a Proposal, if such bar subsists as on the Proposal Due Date.

4 Consortium

Forming of Joint Venture/Consortium is not allowed.

5 Number of Proposals

Each Bidder can submit only one (1) Proposal for the Project, in response to this RFP. Any Bidder who submits more than one Proposal, either individually or as a part of consortia, for the Project will be disqualified and cause the disqualification of such consortia.

6 Validity of Proposal

The Proposal shall remain valid for a period not less than 180 days from the Proposal Due Date (hereinafter referred to as 'Proposal Validity Period'). CSCL reserves the right to reject any Proposal, which does not meet the requirements.

7 Proposal Preparation Cost

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

8 Earnest Money Deposit (EMD)

- 8.1 Each Proposal shall be accompanied by an EMD of Rs. 5,00,000.00 (Rupees Five Lakhs only). The Scanned copy of EMD shall be submitted online in folder 1.

¹ Business Entity means a company duly incorporated under the Companies Act, 1956/2013 or a registered partnership firm. In case of a partnership firm, a copy of the certificate of registration, issued by the concerned authority, should be submitted along with the Proposal.

- 8.2 The EMD shall be either in the form of a crossed demand draft/banker's cheque drawn in favor of the Chandigarh Smart City Limited on any scheduled bank and payable at Chandigarh. The Original Demand Draft shall be submitted at the office of Chief Executive Officer, Chandigarh Smart City Limited, 2nd Floor, New Bridge Building-2, Near TDI Mall, Sector 17A, Chandigarh-160017 on the date of opening of Technical Bid.
- 8.3 The EMD of every unsuccessful Bidder would be returned within a period of eight weeks from the date of announcement of the Successful Bidder. The EMD submitted by the Successful Bidder would be released upon furnishing of the Performance Security, by way of an irrevocable Bank Guarantee, issued by a scheduled bank located in India in favor of MCC for due and punctual performance of the obligations relating to the Project.
- 8.4 The EMD shall be forfeited in the following cases:
- a. If the Bidder withdraws its Proposal during the interval between the Proposal Due Date and expiration of the Proposal Validity Period.
 - b. If the Successful Bidder fails to provide the Performance Security within the stipulated time or any extension thereof provided by CSCL; and
 - c. If any information or document furnished by the Bidder turns out to be misleading or untrue in any material respect.
 - d. If the Successful Bidder fails within the Specified time limit to sign the Concession Agreement.

9 Submission of Proposal

- 9.1 The Proposal and all related correspondence and documents should be written in English only.
- 9.2 The currency for the purpose of the Proposal shall be the Indian Rupee only (INR).
- 9.3 **Online E-Tender submission process for Bidder**
- i) Tender documents can be downloaded from website <http://etenders.chd.nic.in/nicgep>.
 - ii) Since the bidders are required to sign their bids online using class – III Digital Signature Certificate, they are advised to obtain the same at the earliest.
 - iii) Bidders are requested to visit our e-tendering website regularly for any clarification and / or due date extension.
 - iv) Bidder must positively complete online e-tendering procedure at

<http://etenders.chd.nic.in/nicgep>.

- v) CSCL/MCC shall not be responsible in any way for delay /difficulties/inaccessibility of the downloading facility from the website for any reason whatever.
- vi) For any type of clarification bidders can email on smartcity.chd@nic.in.
- vii) The bidder whosoever is submitting the tender by his Digital Signature Certificate shall invariably upload the scanned copy of the authority letter with the offer of particular tender.

9.4 The Bidder would provide all the information as per this RFP. CSCL would evaluate only those Proposals that are received in the required format and are complete in all respects. Each Proposal shall comprise the following:

A. Part-I Submission

- a. Covering letter in the format set out in Appendix B
- b. Details of the Bidder in the format set out in Appendix C
- c. Copy of the certificate of registration issued by the authority concerned (In case of a registered firm)
- d. Power of Attorney set out in Appendix D.
- e. Anti-Collusion Certificate as per Appendix E
- f. Affidavit for Non Debarment set out in Appendix E1
- g. Proof of Qualification in the format set out in Appendix F
- h. Proof of Purchase of the RFP Document or demand draft in favour of Chandigarh Smart City Limited for Rs. 25000/- (Rupees Twenty-Five Thousand only) in case the RFP is downloaded from the website. The Scanned copy of Demand Draft on account of cost of Bid document shall be submitted online. The Original Demand Draft shall be submitted at the office of Chandigarh Smart City Limited, Sector 17, Chandigarh on the date of opening of Technical Bid.
- i. Technical Presentation as per format set out in Appendix G
- j. Undertaking as per format set out in Appendix K.
- k. Earnest Money Deposit as per Clause 8.
- l. Original RFP document and addendum, if any duly signed by authorized signatory.

B. Part-II Submission

- a. Financial Proposal as per e-bid format provided on <https://etenders.chd.nic.in>.

10 Online Submission

The Tenders shall be called through e-tendering portal of Chandigarh Administration i.e. <http://etenders.chd.nic.in/nicgep>. No Physical documents shall be accepted from the bidders.

Folder - 1:

EMD and Document Fee – “Setting Up of Animal Carcass Incinerator Plant in Chandigarh on Design, Build, Finance, Operate and Transfer Basis”

The Bid Security of the required value under Folder 1 as EMD and document fee.

Folder -2:

Technical Bid - “Setting Up of Animal Carcass Incinerator Plant in Chandigarh on Design, Build, Finance, Operate and Transfer Basis”.

- a) Original RFP document/any addendum, any other correspondence, certificates and samples duly signed by authorized signatory.
- b) Power of Attorney for signing of Bid, Authority Letter after the Resolution passed by the Board of Directors.
- c) Documents / Various Annexure / Formats related to meeting the eligibility criteria as mentioned in Clause 9.4 (A).

Folder -3:

“Financial Bid - “Setting Up of Animal Carcass Incinerator Plant in Chandigarh on Design, Build, Finance, Operate and Transfer Basis”

Financial Proposal as per the Appendix H.

All the Folders viz. ‘1’ ‘2’ and ‘3’ addressed to the Chief Executive Officer, CSCL shall be sent online.

11 Proposal Due Date

- 11.1 Proposals should be submitted before 1500 hours IST of Proposal Due Date, in the manner and form as detailed in this RFP. Proposals submitted through facsimile transmission or telex will not be accepted.
- 11.2 CSCL may, in exceptional circumstances, and at its sole discretion, extend the above Proposal Due Date by issuing an Addendum. Any Addendum thus issued will be posted on the website. The same will also be communicated to those who have downloaded the RFP document from the web site and have duly intimated this fact to CSCL giving their particulars including address for communication.
- 11.3 It is desirable that each Bidder submits its Proposal after visiting the Project Site for ascertaining the location, surroundings, or any other matter considered relevant.
- 11.4 Bidders would be granted permission by CSCL/MCC for visit of the Project Site on receipt to formal written request, reasonably in advance of the proposed date of visit as mentioned in the Schedule of Bidding Process.
- 11.5 It would be deemed that by submitting the Proposal, the Bidder has:
- a. Made a complete and careful examination of this RFP document
 - b. Received all relevant information requested from CSCL/MCC
 - c. Made a complete and careful examination of the various aspects of the Project including but not limited to:
 - (i) the Project Site
 - (ii) the conditions of the access roads and utilities in the vicinity of the Project Site
 - (iii) conditions affecting transportation, access, disposal, handling and storage of materials
 - (iv) statutory clearances for the Project, and
 - (v) All other matters that might affect the Bidder's performance under the terms of this RFP document.

- 11.6 CSCL/MCC shall not be liable for any mistakes or errors on the part of the Bidder in respect to the above.
- 11.7 At any time prior to the Proposal Due Date, CSCL 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 Addenda. Any Addendum thus issued will be posted on the website. The same will also be communicated to those who have downloaded the RFP document from the website and have duly intimated this fact to CSCL giving their particulars including address for communication.

12 Opening of Proposals and Clarifications

- 12.1 CSCL would open the Part I of the Proposal on any working day within a week of the Proposal Due Date for the purpose of evaluation.
- 12.2 CSCL reserves the right to reject any Proposal not submitted on time and which does not contain the information/documents as set out in this RFP document.
- 12.3 To facilitate evaluation of Proposals, CSCL, at its sole discretion, may seek clarifications in writing from any Bidder regarding its Proposal. The request for such clarification or substantiation and the response shall be in writing or by facsimile. No material change in the substance of the Proposal would be permitted by way of such clarification/substantiation.
- 12.4 Information relating to the examination, clarification, evaluation and recommendation of the Proposal shall not be disclosed to any person not officially concerned with the process. CSCL will treat all information submitted as part of the Proposal in confidence and would require all those who have access to such material to treat the same in confidence. CSCL will not divulge any such information unless it is ordered to do so by any authority pursuant to applicable law or order of a competent Court or Tribunal or any Government Authority that has the power under law to require its disclosure.
- 12.5 To clarify and discuss issues with respect to the Project and the RFP, CSCL may hold Pre-Bid meeting.
- 12.6 Prior to the Pre-Bid meeting, the Bidders may submit a list of queries, if

any, to the Project requirements and/or the Concession Agreement. Bidders must formulate their queries and forward the same to CSCL prior to the meeting. CSCL may, in its sole discretion or based on inputs provided by Bidders, amend the RFP.

- 12.7 Bidders may note that CSCL will not entertain any deviations to the RFP at the time of submission of the Proposal or thereafter. The Proposal to be submitted by the Bidders would have to be unconditional and the Bidders would be deemed to have accepted the terms and conditions of the RFP with all its contents including the Concession Agreement. Any conditional Proposal shall be regarded as non-responsive and would be liable for rejection.
- 12.8 CSCL will endeavor to hold the Pre-Proposal meeting as per the schedule of bidding process. The details of the meeting will be separately communicated to the Bidders.
- 12.9 Attendance of the Bidders at the Pre-Proposal meeting is not mandatory.
- 12.10 All correspondence/queries should be submitted to the following in writing by fax/registered post/courier or through email:

Name and Designation of Officer:

Chief Executive Officer,

Chandigarh Smart City Limited

Address: 2nd Floor, New Bridge Building-2,
Near TDI Mall, Sector-17A, Chandigarh-160017

Email: smartcity.chd@nic.in

13 Evaluation

13.1 Proposal Evaluation: Part-I Submission

- 13.1.1 The Part I Submission of the Proposal would first be checked for responsiveness with the requirements of the RFP. The Proposal would be considered as responsive if it meets the following conditions:
- It is received / deemed to be received by the Proposal Due Date including any extension thereof.
 - It is received as stipulated in Clause 9 and Clause 10.
 - It contains all the information and documents as requested in the RFP.
 - It contains information in formats specified in this RFP.

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- e. It mentions the Proposal Validity Period as set out in Clause 6.
- f. It provides information in reasonable detail. (“Reasonable Detail” means that, but for minor deviations, the information can be reviewed and evaluated by CSCL without communication with the Bidder). CSCL reserves the right to determine whether the information has been provided in reasonable detail.
- g. There are no inconsistencies between the Proposal and the supporting documents.
- h. It is received unconditional in all respect.

A Proposal that is substantially responsive is one that conforms to the preceding requirements without material deviation or reservation. A material deviation or reservation is one;

- a). which affects in any substantial way, the scope, quality, or performance of the Project, or
- b). which limits in any substantial way, inconsistent with the RFP, CSCL’s or MCC’s rights or the Bidder’s obligations under the Concession Agreement,
- c). which would affect unfairly the competitive position of other Bidders representing substantially responsive Proposals.

13.1.2 In case the Proposal is found to be responsive, Part I Submission would be evaluated in accordance with the criteria for qualification of Bidders set out in Appendix F based on the Proof of Experience submitted by the Bidders. The Bidders meeting the criteria as per Appendix F would be considered as Qualified Bidders.

The Technical Presentation of the Qualified Bidders as per Appendix F would be evaluated only for adequacy of design and operations so as to comply with the conditions set out in Concession Agreement. The Bidder may be asked to make presentation as per indicative guidelines mentioned in Appendix G. However, no weightage will be given for the Technical Presentation.

13.1.3 As part of the evaluation of the Part I Submission, CSCL may also request the Bidder to submit clarifications.

13.1.4 The evaluation of the Part II Submission would be taken up only after Part I Submission is found to meet the requirements of this RFP. CSCL reserves the right to reject the Proposal of a Bidder without opening the Part II Submission

if, in its opinion, Part I Submission is not meeting with the requirements of this RFP.

13.2 **Proposal Evaluation: Part II Submission**

13.2.1 Part II Submission of all the Bidders whose Part I Submission meets the requirements of the RFP will be evaluated. The format for quoting the Financial Proposal is set out in Appendix H. The Bidders would be required to submit the Proposed Processing Fee Rate as per the Financial Proposal.

13.3 **Selection Methodology**

13.3.1 The Financial Proposals would be ranked in ascending order of the Proposed Processing Fee, with the Bidder quoting the lowest Proposed Processing Fee being ranked first and the Bidder quoting the second lowest Proposed Processing Fee ranked as second and so on.

13.3.2 The Bidder ranked first in accordance with the above procedure would be declared as the Preferred Bidder.

13.3.3 In case there are two or more Bidders submitting the same best Financial Proposal, CSCL may in such case call all such Bidders for negotiations and select the Preferred Bidder based on the outcome of the negotiations. The selection in such cases shall be at the sole discretion of CSCL.

13.3.4 Bidders should also note that any payment to the Concessionaire shall be as per terms and conditions laid down in the draft Concession Agreement, and Financial Proposal.

13.4 CSCL reserves the right to reject any Proposal, if:

- a. At any time, a material misrepresentation is made or discovered; or
- b. The Bidder does not respond promptly and diligently to requests for supplemental information required for the evaluation of the Proposal.
- c. Rejection of a proposal by CSCL as aforesaid would lead to the disqualifications of the Bidder.
- d. If such disqualification / rejection occurs after the Proposals have been opened and the Preferred Bidder gets disqualified / rejected, then CSCL reserves the right to:
 - i. Either select the next best Bidder, or
 - ii. Take any such measures as may be deemed fit in the sole discretion of CSCL, including annulment of the bidding process.

13.5 In the event of acceptance of the Preferred Bidder with or without negotiations, CSCL

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shall declare the Preferred Bidder as the Successful Bidder. CSCL will notify the Successful Bidder through a Letter of Acceptance (hereinafter referred to as “LoA”) that its Proposal has been accepted.

14. The Successful Bidder shall execute the Concession Agreement within four weeks of the issue of LoA or within such further time as CSCL may agree to in its sole discretion.
15. Failure of the Successful Bidder to comply with the requirements of Clause 8.4 or Clause 14 shall constitute sufficient grounds for the annulment of the LoA, and forfeiture of the EMD. In such an event, CSCL reserves the right to
 - a. Either invite the next best Bidder for negotiations, or
 - b. Take any such measures as may be deemed fit in the sole discretion of CSCL, including annulment of the bidding process.
16. To assist in the examination, evaluation, and comparison of Proposals, CSCL may utilize the services of consultant(s) or advisor(s).
17. Notwithstanding anything contained in this RFP, CSCL reserves the right to accept or reject any Proposal, or to annul the bidding process or reject all Proposals, at any time without any liability or any obligation for such rejection or annulment, without assigning any reasons thereof.
18. If it is discovered at any point of time that the bidder has suppressed any fact or given a false statement or has done misrepresentation or fraud or has violated any of the terms of this Bid/ Proposal, the Bid/ Proposal will be cancelled by CSCL. In such an event, the bidder will not be entitled to any compensation whatsoever, or refund of any other amount paid by him.

19. FRAUD AND CORRUPT PRACTICES

- 19.1 The Bidders and their respective 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 Concession Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the Concession Agreement, the Authority i.e. CSCL/MCC may reject a Bid, withdraw the LOI, or terminate the Concession Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder or Concessionaire, as the case may be, if it determines that the Bidder or Concessionaire, 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 in the Bidding Process. In such an event, the Authority shall be entitled to forfeit and appropriate the Bid Security or Construction 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 the Concession Agreement, or otherwise.

- 19.2 Without prejudice to the rights of the Authority under Clause 19.1 hereinabove and the rights and remedies which the Authority may have under the LOA or the Concession Agreement, or otherwise if a Bidder or Concessionaire as the case may be, is found by the Authority 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 during the Bidding Process, or after the issue of the LOA or the execution of the Concession Agreement, such Bidder or Concessionaire shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 2 (two) years from the date such Bidder or Concessionaire as the case may be, is found by the Authority 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.
- 19.3 For the purposes of this Clause 19, the following terms shall have the meaning hereinafter respectively 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 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 Concession Agreement or arising therefrom, 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 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 Concession Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Concession 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;
 - (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 Authority with the objective of canvassing,

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- 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.

Appendix A: Scope of Work

The Scope of Work for the Bidder is as set out below. Detailed specifications are set out in the Concession Agreement and Schedules thereof attached with this RFP document.

1. The various works to be carried out under the Project *inter alia* comprise the following:
 - Procurement and construction of processing plant/cremation system for the disposal of animal carcasses at the land allotted by Concessions Authority.
 - The system will be of latest technology based including pollution control equipments.
 - Preferred system will be gas based – LPG/CNG/PNG.
 - The system will have two machines, one for pet & stray animals of small sizes and one for pet & stray animals of bigger sizes.
 - The system will work under the command of control room set up for this purpose. Control room will work for 24*7 days a week round the clock and have staff & machinery for this purpose always present there for receiving calls/ messages / information etc. regarding dead animals
 - The total jurisdiction area of Chandigarh will be divided in two zones. In each zone there will be staff available with transport vehicle specially designed for this purpose separate for small & big animals. Specially designed mechanized loading & unloading systems will be available at each zone.
 - Provide toll free number for the public
 - Campaigning for disposal system/facility of dead animals through FM Radio or other suitable media.
 - On receiving the call at control room the concerned zone staff will go at site and bring the dead body of animal in specially designed vehicle and unload & handover the same to operator at cremation system.
 - Successful Bidder with the help of specially designed mechanized equipments put the dead animal body in the cremation machine and will start the same.
 - After cremating the body of animal in machine he will check and open the machine and will do necessary cleaning for next body as and when required.
 - Proper record will be maintained for each & every cremation.
 - The system will work under the command of control room set up for this purpose. Control room will work for 24*7 days a week round the clock and have staff & machinery for this purpose always present there for receiving calls/ messages / information etc. regarding dead animals
 - There will be prefabricated quarters for staff & control room fixed at site.
 - The daily journey of vehicles will be recorded and maintained in log book.

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- The journey of vehicle will also be recorded in cremation machine record book and will be cross checked.
 - The total system will work in complete automation.
 - All type of taxes as applicable during operation will be borne by the Successful Bidder.
 - Transportation of animal carcasses collected from roads and all other animal carcass generating sources as per M.V. Act, 1988 or any other relevant rule.
 - The concessionaire shall have provisions for collecting animal carcass from interior areas of the city where the roads/ streets width is not sufficient.
 - Processing of animal carcass as per the applicable rules and CPCC guidelines.
 - Install a cold storage for storing the Animal Carcass / Meat Waste of approximately 2000 kg.
 - To comply with the pollution control norms in operation of plants and processing of animal carcass.
 - To operate & maintain the Animal Carcass Incineration Plant as per the relevant guidelines of concerned statutory authorities.
 - To install (Global Positioning System) GPS system in vehicles to be deployed for transportation of Animal Carcasses.
 - To dispose of the carcasses of pet animals collected from the Roads, private bodies/Gaushalas/Animal Clinics/Animal Houses/Zoos/Animal Dairies etc. to control spread of diseases.
 - To dispose of Meat Waste supplied by MCC.
2. The Successful Bidder would design, procure, finance, construct, operate and maintain the Project during the Concession Period on a Design-Build-Finance-Operate-Transfer (DBFOT) Concession basis. The Project including the land and all immovable components would be transferred back to CSCL at the end of the Concession Period. The Successful Bidder will remove all movable components/assets without damaging the project site.
 3. The Successful Bidder shall at its cost/ expenses and risk make such financing arrangements, in a timely manner as would be necessary to implement the Project, and to meet all of its obligations under the Concession Agreement.
 4. The Successful Bidder shall adhere to the Construction Requirements and achieve Commercial Operations Date (COD) on or before the Scheduled Construction Completion Date, as specified in the Concession Agreement.
 5. The Successful Bidder may undertake Construction Works by itself or through a Contractor possessing requisite technical, financial and managerial expertise/capability; but in either case, the Successful Bidder shall remain solely responsible to meet the Construction Requirements, as specified in the Concession Agreement.

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6. The Successful Bidder shall, at all times, ensure that all aspects of the Project and processes employed in the construction, operation and maintenance thereof shall conform with the laws pertaining to environment, health and safety aspects including applicable rules such as SWM Rules 2016, etc., policies and guidelines related thereto.
7. The Concessionaire shall set up a SCADA system which should provide weigh bridge readings and weight of Dead Animals/ Meat Waste processed at Furnace. The Concessionaire shall invariably share the APIs with CSCL and MCC.
8. The entire project site shall be under the surveillance of CCTV Cameras and the Concessionaire shall invariably share the feeds and APIs with CSCL and MCC.
9. The Concessionaire shall install grinder for grinding burnt bones residue.
10. **TIMELINE AND PROJECT ACTIVITIES:**

Sl. No.	Activity	Time period for completion
1	Handing over the Project Site	30 days from the date of Appointed Date
2	Construction & erection of the plant/ Commercial Operations Date (COD) including fulfilment of Condition Precedent.	Five (5) months from the date of Effective Date

11. DISPOSAL SYSTEM

- First of all, Concessionaire's control room will get information through telephone/sms or any other ways and record it in the daily register, mentioning time, day, date, location of site sources of information, category i.e. big/small animals.
- After completing all formalities in register for record, the concerned operator/Concessionaire give message to field teams as per size of dead animal for bringing the dead animal to incineration site.
- After giving message to field team for bringing the dead animal, the message may be delivered to operator of furnaces, for keeping it ready the furnaces as per category of animals.
- Now after receiving the dead animals at incineration site, through vehicle hmv/lmv (as per category), the animals is off loaded in the shed of the incineration machine

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mechanically and loaded on the charging trolley. It will be carried up to the hearth of incineration machine mechanically through category trolley.

- At the hearth of incineration machine, the animal is off loaded from charging trolley, and gate of incineration machine is closed down mechanically/hydraulically as per requirement.
- After closing the door, all parameters of machine will be checked once again before putting it upon “ON” position i.e. before giving the command to burners for start firing, in incineration chamber.
- Operator can inspect through inspection hole fitted in the gate of incineration machine the status of incineration of concerned dead animal, and get the machine “OFF” on finding complete incineration.
- The vehicle after offloading the dead animals in charging trolley will be taken in washing area, where it will be washed mechanically after every trip, to make ready for next trip.
- Concessionaire shall make all necessary arrangements for removal of ash from the plant to the Sanitary Landfill Site on regular basis.

Appendix B: Format for Covering Letter for Proposal Submission

(On the Letter head of the Bidder)

Date

To

Chief Executive Officer,
Chandigarh Smart City Limited,
2nd Floor, New Bridge Building-2,
Near TDI Mall, Sector 17A,
Chandigarh -160017

Setting Up of Animal Carcass Incineration Plant in Chandigarh on Design, Build, Finance, Operate and Transfer Basis

Dear Sir,

- 1) We are submitting this Proposal on our own.
- 2) I/ We acknowledge that the CSCL will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the Concessionaire 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.
- 3) This statement is made for the express purpose of our selection as Concessionaire for the [development, construction, operation and maintenance] of the aforesaid Project.
- 4) I/ We shall make available to the CSCL any additional information it may find necessary or require to supplement or authenticate the Bid.
- 5) I/ We acknowledge the right of the CSCL 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.
- 6) I/ We certify that in the last three years, we 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.

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- 7) I/ We declare that:
 - a) I/ We have examined and have no reservations to the Bidding Documents, including any Addendum issued by CSCL; and
 - b) I/ We do not have any conflict of interest in accordance with the provisions of the RFP document; and
 - c) I/ We hereby certify that 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
- 8) 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 Bid for the Project, without incurring any liability to the Bidders, in accordance with provisions of the RFP document.
- 9) I/ We certify that in regard to matters other than security and integrity of the country, we or any of our/ their Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
- 10) I/ We further certify that in regard to matters relating to security and integrity of the country, we or any of our/ their Associates have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.
- 11) I/ We further certify that no investigation by a regulatory authority is pending either against us or against our Associates or against our CEO or any of our directors/ managers/ employees.
- 12) I/ We have studied all the Bidding Documents carefully and also surveyed the 'Project Site'. We understand that except to the extent as expressly set forth in the Concession Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the Authority or in respect of any matter arising out of or relating to the Bidding Process including the award of Concession.
- 13) I/ We offer a Bid Security of Rs.5,00,000.00 (Rupees Five Lakhs only) to the Authority in accordance with the RFP Document.
- 14) The Bid Security in the form of a Demand Draft is attached.
- 15) I/ We agree and understand that the Bid is subject to the provisions of the Bidding Documents. In no case, I/we shall have any claim or right of whatsoever nature if the Project / Concession is not awarded to me/us or our Bid is not opened or rejected.

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- 16) I/ We agree and undertake to abide by all the terms and conditions of the RFP document.
- 17) The Fee has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, draft Concession Agreement, our own estimates of costs and demand assessment and after a careful assessment of the site and all the conditions that may affect the project cost and implementation of the Project.
- 18) We agree that if we fail to fulfil any of the conditions mentioned above, Authority has the right to forfeit the Bid Security being furnished by us along with this Bid.
- 19) We understand that the Authority is not bound to accept any or all Bids it may receive.
- 20) We declare that we have disclosed all material information, facts and circumstances, which would be relevant to and have a bearing on the evaluation of our Bid and selection as Concessionaire.
- 21) We declare that in the event that the Authority discover anything contrary to our above declarations, they are empowered to forthwith disqualify us and our Bid from further participation in the Bid evaluation process and forfeit our Bid Security.

Yours faithfully,

For and on behalf of (*Name of Bidder*)

*Duly signed by the Authorized Signatory of
the Bidder (Name, Title and Address of the
Authorized Signatory)*

Appendix C- Details of Bidder

(On the Letter Head of the Bidder)

1.
 - (a) Name of Bidder
 - (b) Address of the office(s)
 - (c) Date of incorporation and/or commencement of business

2. Brief description of the Bidder's mainlines of business.

3. Details of individual(s) who will serve as the point of contact/communication for CSCL with the Bidder:
 - (a) Name :
 - (b) Designation :
 - (c) Company/Firm :
 - (d) Address :
 - (e) Telephone number :
 - (f) E-mail address :
 - (g) Fax number :
 - (h) Mobile number :

4. Name, Designation, Address and Phone Numbers of Authorized Signatory of the Bidder:
 - (a) Name :
 - (b) Designation :
 - (c) Company/Firm :
 - (d) Address :
 - (e) Telephone number :
 - (f) E-mail address :
 - (g) Fax number :
 - (h) Mobile number :

Appendix D- Format for Power of Attorney for signing of Proposal

(On Stamp paper of relevant value)

POWER OF ATTORNEY

Know all men by these presents, We.....(name and address of the registered office) do hereby constitute, appoint and authorize Mr/Ms.....(name and residential address) who is presently employed with us and holding the position of.....as our attorney, to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to, Setting Up of Animal Carcass Incineration Plant in Chandigarh on Design Build Finance Operate and Transfer Basis (hereinafter referred to as “the Project”), including signing and submission of all documents and providing information/responses to CSCL in all matters in connection with our Proposal for the Project.

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

Dated this the Day of 20XX

For

(Name and designation of the person(s) signing on behalf of the Bidder)

Accepted

(Signature)

(Name, Title and Address of the
Attorney)

Date:.....

Note:

- 1. In case of Bidders who are not resident in India, the Power of Attorney may be submitted on plain paper attested by any authorized officer of the Embassy of India and duly stamped by the Department of Stamps & Registration, Chandigarh Administration.*
- 2. The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executants(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure.*
- 3. Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a*

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resolution/power of attorney infamous of the Person executing this Power of Attorney for the delegation of power here under on behalf of the Bidder.

- 4. In case an authorized Director of the Bidder signs the Proposal, a certified copy of the appropriate resolution conveying such authority may have been closed in lieu of the Power of Attorney.*

Appendix E- Format for Anti-Collusion Certificate

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

We further confirm that we have neither offered nor will offer any illegal gratification in cash or kind to any person or agency in connection with the instant Proposal.

Dated this.....Day of....., 2018

.....
(Name of the Bidder)

.....
(Signature of the Authorized Person)

.....
(Name of the Authorized Person)

Note:
On the Letterhead of the Bidder

Appendix E1- Affidavit/ Undertaking

(On Non – judicial stamp paper of Rs 50 duly attested by notary public)

I, _____ authorized signatory of M/s_____ sole proprietorship / partnership firm/ public limited company/private limited company, having its principal place of business/registered office at_____ (Full Address) do hereby solemnly affirm and declare as under:-

- a) That I/We do hereby undertake that I/We have not been black listed / Debarred / suspended by any Govt. or Semi Govt. or Corporation or Private Organization during the last seven years.
- b) That I/We do hereby undertake and confirm that eligible similar works has / have not been executed through another contractor on back to back basis.
- c) That I/We do hereby undertake that no complaint / FIR has been registered / no criminal proceedings against the firm / partners of the firm or its director are pending / ongoing in any court of law regarding any offence punishable under IPC / any other law of the land applicable. If any such fact comes to the notice of the CSCL, the CSCL shall reject the tender / bid straightway without assigning any reason.
- d) That I/We do hereby undertake that he / she / Director / Partner of the firm / company / agency have never been convicted of any criminal offence.
- e) That I/ We do hereby undertake that the particulars given by me are true and correct to the best of my knowledge and belief and nothing has been concealed thereof. I am aware that in case of any discrepancy/ false statement found, it will lead to rejection of my bid / tender and CSCL will debar / blacklist the firm / agency as per policy of blacklisting issued by Chandigarh Administration vide notification dated 27-02-2009.
- f) That I/We do hereby undertake that there are no pending dues to be deposited by the agency with any Government Department / Govt. Undertaking or Board or Organization / Public Sector Undertaking anywhere in the country.
- g) That I/We do hereby undertake that in case any such violation comes to the notice of Department before the date of start of work or during the execution of work, CSCL shall be free to forfeit the entire amount of earnest money and / or performance guarantee deposited by me.

Signed by an authorized Officer of the Co./firm

Name of Officer

Name of Co./Firm

Date

Appendix F- Proof of Qualification

1. Minimum Qualification Criteria

The Bidder must satisfy the following Qualification Criteria for experience in order to qualify for the Project.

Technical Capability:

Bidder shall have experience of cremation machine/system

- i) with minimum 290 Kg/hr burning capacity of one single plant or
- ii) two plants with minimum 216 Kg/hr burning capacity each or
- iii) three plants of 144 Kg/hr burning capacity each

operational for at least one year during the last seven years in any Government / Semi-Government Organizations / Public Sector Undertakings or Private Organizations.

Financial Capability:

For the purpose of Qualification, the Bidder needs to demonstrate the Threshold Financial Capability measured on the following criteria:

Minimum Net worth of Rs. 1.25 Crores (Rupees One Crore and Twenty-Five Lakh only) as at the end of last Financial Year i.e. 2017 – 18 as certified by Independent Auditor.

2. Details of Experience

The Bidder should furnish the details of eligible experience as set out below:

S. No	Qualification Criteria for Experience	Project Name with capacity per hour	Location	Year of Commissioning	Operational Since/ Completed
1.					

3. Supporting Document

The following documents would need to be submitted to support the Bidder's claim of experience stated in the table above.

S. No.	Qualification Criteria for Experience	Supporting Documents
1.	Experience of installing and operating Cremation Machines/Systems	i. Certificate from the Municipal Body or any other client, OR ii. Certificate from independent Auditor ⁴
2.	Net worth at the end of last financial year.	Certificate from Independent Auditor.

Note:

The Bidder should provide the details mentioned above based on its own experience or its subsidiary (ies) or its parent company. In case, the Bidder is selected on the basis of credentials provided by its Parent / Holding/Subsidiary Company, then the Bidder is required to arrange a guarantee from its Parent/Subsidiary Company (as per Format enclosed at **Appendix I**), guaranteeing due and satisfactory performance of the work covered under the said RFP document.

4. Make in India

- The Government of India, Ministry of Commerce and Industry, Department of Industrial Policy and Promotion has issued Public Procurement (Preference to Make in India), Order 2017 vide its Notifications No P-45021/2/2017-B.E. II dated 15.06.2018 and No P-45021/2/2017-B.E.II dated 28.05.2018 to encourage Make in India and to promote manufacturing and production of goods and services in India. Provisions of

⁴The independent audit or issuing the certificate should clearly indicate his/her membership number assigned by the Institute of Chartered Accountants of India (ICAI) or equivalent organization abroad

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the above Order and modifications made from time to time thereof are applicable to this tender. The Minimum local content, the margin of purchase preference and the procedure for preference to Make in India shall be as per the provisions of the above Order. The guidelines mentioned in the abovementioned Order should be strictly adhered to by the bidder. The Copy of the Public Procurement (Preference to Make in India), Order 2017 issued by the Government of India, Ministry of Commerce and Industry, Department of Industrial Policy and Promotion vide its Notifications No P-45021/2/2017-B.E.II dated 28.05.2018 is enclosed as Appendix - J .

- The Bidder participating in the tendering process at the time of tender, bidding or solicitation shall submit an undertaking in their company's letterhead (self-certification) mentioning that the item offered meets the minimum local content and shall give the details of the location(s) at which the local value addition is made (as per Appendix- K).
- The Bidder participating in the RFP has to submit an undertaking (as per Appendix – K) mentioning that the domestic value addition in Bill of Material is ____% for its quoted items and the conditions as mentioned are to be strictly adhered to as per notification issued by Government of India, Ministry of Commerce and Industry, Department of Industrial Policy and Promotion.

Appendix G - Guidelines and Format for Technical Presentation

The Bidder shall submit a Technical Presentation setting out the approach to the Project. The Technical Presentation shall comply with the Construction Requirements as set out in Schedules of the Concession Agreement. The design and approach for implementing the Project shall also be in compliance with the Applicable Law, including the Solid Waste Management Rules amended from time to time.

The Technical Presentation shall set out the following components:

- a. Methodology Statement
- b. Process Flow Chart
- c. Resource Utilization Statement
- d. Area Allocation Statement
- e. Operations & Maintenance Scheme
- f. Time Schedule
- g. Environment, Health & Safety Policy and Practice

a. Methodology Statement

Bidders will submit the following documents along with the technical bid:

- Detailed plan and methodology including working during the Monsoon months.
- Type of Incinerators to be deployed at the site considering the minimum capacity of 250 Kg/hr for Large Incinerator and 80 Kg/hr for Small Incinerator.

b. Process Flow Chart

The Bidder shall provide a process statement setting out the activities and the outputs at each stage. The Bidder should indicate supporting calculations and assumptions, if any.

c. Resource Utilisation Statement

A statement indicating the procurement, deployment and utilization of the resources shall be provided. The statement shall include proposed organizational structure, employee deployment, equipment procurement and utilization, contracting activities, utilization of office and other facilities.

d. Area Allocation Statement

The Bidder shall set out the area utilization plan for the Project Facilities including auxiliary facilities and common areas etc.

e. Operations and Maintenance Scheme

The Bidder shall separately set out the operations and maintenance scheme for Animal Carcass Disposal Facility indicating the operational practices during the Operations and Maintenance Period.

f. Time Schedule

The Bidder shall indicate an activity schedule over the Concession Period including the Construction Activities, O&M Activities.

g. Environment, Health & Safety Policy and Practice

The Bidder shall indicate the environment, health and safety policy and practices, which are proposed to be adopted during the Concession Period. The aspects relating to employee and worker safety, control mechanism for spread of litter, pests, odor, fire, etc. need to be elaborated.

Appendix H- Format for Financial Proposal

As per e-bid format provided on <https://etenders.chd.nic.in>.

Appendix I - Format of Parent / Subsidiary Company Deed of Guarantee
(delete whichever not applicable)

(TO BE MADE ON STAMP PAPER OF REQUISITE VALUE AND NOTARISED)

DEED OF GUARANTEE

THIS DEED OF GUARANTEE executed at _____ this ____ day of _____ by M/s _____ (mention complete name) a company duly organized and existing under the laws of _____ (insert jurisdiction / country), having its Registered Office at _____ hereinafter called “the Guarantor” which expression shall, unless excluded by or repugnant to the subject or context thereof, be deemed to include its successors and permitted assigns.

WHEREAS

A. Chandigarh Smart City Limited (hereinafter called “CSCL”), which expression shall unless excluded by or repugnant to the context thereof, be deemed to include its successor and assigns), had, invited Bids / proposals for the “Project” – Setting up of Animal Carcass Incineration Plant in Chandigarh on Design Build Finance Operate and Transfer Basis by issuing Request For Proposal (“RFP”) document (including its addendums) to the prospective “Bidders” to implement the said Project for and on behalf of the CSCL/MCC.

B. M/s _____ (mention complete name), a company duly organized and existing under the laws of India (insert jurisdiction / country), having its Registered Office at _____ (give complete address) hereinafter called “the Company”, which expression shall, unless excluded by or repugnant to the subject or context thereof, be deemed to include its successor and permitted assigns, , which has in response to the above mentioned RFP document (including its addendums) submitted its Bid / Proposal _____ to CSCL to fulfil the condition that the Company shall arrange a guarantee from its Parent / Subsidiary company, guaranteeing due and satisfactory performance of the work covered under the said RFP document (including its addendums).

C. The Guarantor represents that they have gone through and understood the requirement of the above said RFP document (including its addendums) and are capable of and

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committed to provide technical, financial and such other supports as may be required by the Company for the successful execution of the same.

D. The Guarantor is executing this Deed of Guarantee in favour of _____, wherein the Guarantor and the Company shall be jointly and severally liable towards the Project and the Guarantor shall also be pledging / providing technical, financial and such other supports as may be necessary to the Company for performance of the work relating to the said Project as per the RFP document (including its addendums) and as per the Concession Agreement contained in the RFP document.

E. Accordingly, at the request of the Company and in consideration of and as a requirement for CSCL to enter into agreement(s) with the Company, the Guarantor hereby agrees to give this guarantee and undertakes as follows:

1. The Guarantor (Parent / Subsidiary Company) (Delete whichever not applicable) unconditionally agrees that in case of non-performance by the Company of any of its obligations in any respect, the Guarantor shall, immediately on receipt of notice of demand by CSCL/MCC, take up the Project without any demur or objection, in continuation and without loss of time and without any cost to CSCL/MCC and duly perform the obligations and responsibilities of the Company to the satisfaction of CSCL/MCC. In case the Guarantor also fails to discharge its obligations herein and is not able to complete the Project satisfactorily, CSCL shall have absolute rights for effecting the execution of the Project from any other person at the risks and costs of the Guarantor. The Guarantor also undertakes to make good any loss that may be caused to CSCL/MCC for any non-performance or unsatisfactory performance by the Guarantor or the Company of any of their obligations.

2. The Guarantor agrees that the Guarantee herein contained shall remain valid and enforceable till the satisfactory execution and completion of the Project (including discharge of the warranty obligations) awarded to the Company till the completion of the Concession Period (including any extension).

3. The Guarantor shall be jointly with the Company, as also severally responsible for the satisfactory execution and performance of Project during the currency of the “Concession Agreement” to be entered between the Company, CSCL and MCC.

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4. The Guarantor represents that this Guarantee has been issued after due observance of the appropriate laws in force in India. The Guarantor hereby undertakes that the Guarantor shall obtain and maintain in full force and effect all the governmental and other approvals, permits and consents that are necessary and do all other acts and things necessary or desirable in connection therewith or for the due performance of the Guarantor's obligations hereunder.

5. The Guarantor also agrees that this Guarantee shall be governed and construed in accordance with the laws in force in India and subject to the exclusive jurisdiction of the Courts of only Chandigarh, India.

6. The Guarantor hereby declares and represents that this Guarantee has been given without any undue influence or coercion from any person and that the Guarantor has fully understood the implications of the same.

7. The Guarantor represents and confirms that the Guarantor has the legal capacity, power and authority to issue this Guarantee and that giving of this Guarantee and the performance and observations of the obligations hereunder do not contravene any existing law or any judgment.

8. The Guarantor represents and confirms that in pursuance to Para / Point 7, the Guarantor has submitted and provided to CSCL (with this Deed of Guarantee), a valid Board Resolution duly authorizing the Guarantor to pledge / provide technical, financial and such other supports as may be necessary for performance of the work relating to the said Project as per the RFP and Concession Agreement.

For & on behalf of (Parent / Subsidiary Company) (Delete whichever not applicable)

M/s _____

Signature _____

Designation _____

Common seal of the Company

Witnesses:

- 1.
- 2.

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Appendix J - Public Procurement (Preference to Make in India), Order 2017

No. P-45021/2/2017-PP (BE-II)
Government of India
Ministry of Commerce and Industry
Department of Industrial Policy and Promotion
(Public Procurement Section)

Dated 28th May, 2018
Udyog Bhawan, New Delhi

To
All Central Ministries/Departments/CPSUs/All concerned

ORDER

Subject: Public Procurement (Preference to Make in India), Order 2017 – Revision; regarding.

Department of Industrial Policy and Promotion, in partial modification of Order No.P-45021/2/2017-B.E.-II dated 15.6.2017, hereby issues the revised 'Public Procurement (Preference to Make in India), Order 2017" with immediate effect:-

Whereas it is the policy of the Government of India to encourage 'Make in India' and promote manufacturing and production of goods and services in India with a view to enhancing income and employment, and

Whereas procurement by the Government is substantial in amount and can contribute towards this policy objective, and

Whereas local content can be increased through partnerships, cooperation with local companies, establishing production units in India or Joint Ventures (JV) with Indian suppliers, increasing the participation of local employees in services and training them,

Now therefore the following Order is issued :

1. This Order is issued pursuant to Rule 153 (iii) of the General Financial Rules 2017.
2. **Definitions:** For the purposes of this Order:

'Local content' means the amount of value added in India which shall, unless otherwise prescribed by the Nodal Ministry, be the total value of the item procured (excluding net domestic indirect taxes) minus the value of imported content in the item (including all customs duties) as a proportion of the total value, in percent.

'Local supplier' means a supplier or service provider whose product or service offered for procurement meets the minimum local content as prescribed under this Order or by the competent Ministries / Departments in pursuance of this order.

'L1' means the lowest tender or lowest bid or the lowest quotation received in a tender, bidding process or other procurement solicitation as adjudged in the evaluation process as per the tender or other procurement solicitation.

'margin of purchase preference' means the maximum extent to which the price quoted by a local supplier may be above the L1 for the purpose of purchase preference.

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'Nodal Ministry' means the Ministry or Department identified pursuant to this order in respect of a particular item of goods or services or works.

'Procuring entity' means a Ministry or department or attached or subordinate office of, or autonomous body controlled by, the Government of India and includes Government companies as defined in the Companies Act.

'Works' means all works as per Rule 130 of GFR- 2017, and will also include 'turnkey works'.

3. **Requirement of Purchase Preference** : Subject to the provisions of this Order and to any specific instructions issued by the Nodal Ministry or in pursuance of this Order, purchase preference shall be given to local suppliers in all procurements undertaken by procuring entities in the manner specified hereunder"
- a. "In procurement of goods, services or works in respect of which the Nodal Ministry has communicated that there is sufficient local capacity and local competition, and where the estimated value of procurement is Rs. 50 lakhs or less, only local suppliers shall be eligible. If the estimated value of procurement of such goods or services or works is more than Rs. 50 lakhs, the provisions of sub-paragraph b or c, as the case may be, shall apply";
- b. "In the procurements of goods or works which are not covered by paragraph 3a and which are divisible in nature, the following procedure shall be followed";
- i. Among all qualified bids, the lowest bid will be termed as L1. If L1 is from a local supplier, the contract for full quantity will be awarded to L1.
- ii. If L1 bid is not from a local supplier, 50% of the order quantity shall be awarded to L1. Thereafter, the lowest bidder among the local suppliers, will be invited to match the L1 price for the remaining 50% quantity subject to the local supplier's quoted price falling within the margin of purchase preference, and contract for that quantity shall be awarded to such local supplier subject to matching the L1 price. In case such lowest eligible local supplier fails to match the L1 price or accepts less than the offered quantity, the next higher local supplier within the margin of purchase preference shall be invited to match the L1 price for remaining quantity and so on, and contract shall be awarded accordingly. In case some quantity is still left uncovered on local suppliers, then such balance quantity may also be ordered on the L1 bidder.
- c. "In procurements of goods or works not covered by sub-paragraph 3a and which are not divisible, and in procurement of services where the bid is evaluated on price alone, the following procedure shall be followed":-
- i. Among all qualified bids, the lowest bid will be termed as L1. If L1 is from a local supplier, the contract will be awarded to L1.

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- ii. If L1 is not from a local supplier, the lowest bidder among the local suppliers, will be invited to match the L1 price subject to local supplier's quoted price falling within the margin of purchase preference, and the contract shall be awarded to such local supplier subject to matching the L1 price.
 - iii. In case such lowest eligible local supplier fails to match the L1 price, the local supplier with the next higher bid within the margin of purchase preference shall be invited to match the L1 price and so on and contract shall be awarded accordingly. In case none of the local suppliers within the margin of purchase preference matches the L1 price, then the contract may be awarded to the L1 bidder.
4. **Exemption of small purchases:** Notwithstanding anything contained in paragraph 3, procurements where the estimated value to be procured is less than Rs. 5 lakhs shall be exempt from this Order. However, it shall be ensured by procuring entities that procurement is not split for the purpose of avoiding the provisions of this Order.
5. **Minimum local content:** The minimum local content shall ordinarily be 50%. The Nodal Ministry may prescribe a higher or lower percentage in respect of any particular item and may also prescribe the manner of calculation of local content.
6. **Margin of Purchase Preference:** The margin of purchase preference shall be 20% .
7. **Requirement for specification in advance:** The minimum local content, the margin of purchase preference and the procedure for preference to Make in India shall be specified in the notice inviting tenders or other form of procurement solicitation and shall not be varied during a particular procurement transaction.
8. **Government E-marketplace:** In respect of procurement through the Government E-marketplace (GeM) shall, as far as possible, specifically mark the items which meet the minimum local content while registering the item for display, and shall, wherever feasible, make provision for automated comparison with purchase preference and without purchase preference and for obtaining consent of the local supplier in those cases where purchase preference is to be exercised.
9. **Verification of local content:**
 - a. The local supplier at the time of tender, bidding or solicitation shall be required to provide self-certification that the item offered meets the minimum local content and shall give details of the location(s) at which the local value addition is made.
 - b. In cases of procurement for a value in excess of Rs. 10 crores, the local supplier shall be required to provide a certificate from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.
 - c. Decisions on complaints relating to implementation of this Order shall be taken by the competent authority which is empowered to look into procurement-related complaints relating to the procuring entity.

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- d. Nodal Ministries may constitute committees with internal and external experts for independent verification of self-declarations and auditor's/ accountant's certificates on random basis and in the case of complaints.
- e. Nodal Ministries and procuring entities may prescribe fees for such complaints.
- f. False declarations will be in breach of the Code of Integrity under Rule 175(1)(i)(h) of the General Financial Rules for which a bidder or its successors can be debarred for up to two years as per Rule 151 (iii) of the General Financial Rules along with such other actions as may be permissible under law.
- g. A supplier who has been debarred by any procuring entity for violation of this Order shall not be eligible for preference under this Order for procurement by any other procuring entity for the duration of the debarment. The debarment for such other procuring entities shall take effect prospectively from the date on which it comes to the notice of other procurement entities, in the manner prescribed under paragraph 9h below.
- h. The Department of Expenditure shall issue suitable instructions for the effective and smooth operation of this process, so that:
 - i. The fact and duration of debarment for violation of this Order by any procuring entity are promptly brought to the notice of the Member-Convenor of the Standing Committee and the Department of Expenditure through the concerned Ministry /Department or in some other manner;
 - ii. on a periodical basis such cases are consolidated and a centralized list or decentralized lists of such suppliers with the period of debarment is maintained and displayed on website(s);
 - iii. in respect of procuring entities other than the one which has carried out the debarment, the debarment takes effect prospectively from the date of uploading on the website(s) in the such a manner that ongoing procurements are not disrupted.

10. Specifications in Tenders and other procurement solicitations:

- a. Every procuring entity shall ensure that the eligibility conditions in respect of previous experience fixed in any tender or solicitation do not require proof of supply in other countries or proof of exports.
- b. Procuring entities shall endeavour to see that eligibility conditions, including on matters like turnover, production capability and financial strength do not result in unreasonable exclusion of local suppliers who would otherwise be eligible, beyond what is essential for ensuring quality or creditworthiness of the supplier.
- c. Procuring entities shall, within 2 months of the issue of this Order review all existing eligibility norms and conditions with reference to sub-paragraphs 'a' and 'b' above.
- d. If a Nodal Ministry is satisfied that Indian suppliers of an item are not allowed to participate and/ or compete in procurement by any foreign government, it may, if it deems appropriate, restrict or exclude bidders from that country from eligibility for procurement of that item and/ or other items relating to that Nodal Ministry. A copy of every instruction or decision taken in this regard shall be sent to the Chairman of the Standing Committee.

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e. For the purpose of sub-paragraph 10 d above, a supplier or bidder shall be considered to be from a country if (i) the entity is incorporated in that country, or ii) a majority of its shareholding or effective control of the entity is exercised from that country; or (iii) more than 50% of the value of the item being supplied has been added in that country. Indian suppliers shall mean those entities which meet any of these tests with respect to India.”

11. **Assessment of supply base by Nodal Ministries:** The Nodal Ministry shall keep in view the domestic manufacturing / supply base and assess the available capacity and the extent of local competition while identifying items and prescribing minimum local content or the manner of its calculation, with a view to avoiding cost increase from the operation of this Order.
12. **Increase in minimum local content:** The Nodal Ministry may annually review the local content requirements with a view to increasing them, subject to availability of sufficient local competition with adequate quality.
13. **Manufacture under license/ technology collaboration agreements with phased indigenization:** While notifying the minimum local content, Nodal Ministries may make special provisions for exempting suppliers from meeting the stipulated local content if the product is being manufactured in India under a license from a foreign manufacturer who holds intellectual property rights and where there is a technology collaboration agreement / transfer of technology agreement for indigenous manufacture of a product developed abroad with clear phasing of increase in local content.
14. **Powers to grant exemption and to reduce minimum local content:** Ministries /Departments of Government of India and the Boards of Directors of Government companies or autonomous bodies may, by written order,
 - a. reduce the minimum local content below the prescribed level;
 - b. reduce the margin of purchase preference below 20% ;
 - c. exempt any particular item or procuring or supplying entities or class or classes of items or procuring or supplying entities from the operation of this Order or any part of the Order.

A copy of every such order shall be marked to the Member-Convenor of the Standing Committee constituted under this Order.

15. **Directions to Government companies:** In respect of Government companies and other procuring entities not governed by the General Financial Rules, the administrative Ministry or Department shall issue policy directions requiring compliance with this Order.
16. **Standing Committee:** A standing committee is hereby constituted with the following membership:
 - Secretary, Department of Industrial Policy and Promotion—Chairman
 - Secretary, Commerce—Member
 - Secretary, Ministry of Electronics and Information Technology—Member
 - Joint Secretary (Public Procurement), Department of Expenditure—Member
 - Joint Secretary (DIPP)—Member-Convenor

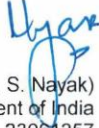
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The Secretary of the Department concerned with a particular item shall be a member in respect of issues relating to such item. The Chairman of the Committee may co-opt technical experts as relevant to any issue or class of issues under its consideration.

17. **Functions of the Standing Committee:** The Standing Committee shall meet as often as necessary but not less than once in six months. The Committee
- shall oversee the implementation of this order and issues arising therefrom, and make recommendations to Nodal Ministries and procuring entities.
 - shall annually assess and periodically monitor compliance with this Order
 - shall identify Nodal Ministries and the allocation of items among them for issue of notifications on minimum local content
 - may require furnishing of details or returns regarding compliance with this Order and related matters
 - may, during the annual review or otherwise, assess issues, if any, where it is felt that the manner of implementation of the order results in any restrictive practices, cartelization or increase in public expenditure and suggest remedial measures
 - may examine cases covered by paragraph 13 above relating to manufacture under license/ technology transfer agreements with a view to satisfying itself that adequate mechanisms exist for enforcement of such agreements and for attaining the underlying objective of progressive indigenization
 - may consider any other issue relating to this Order which may arise.
18. **Removal of difficulties:** Ministries /Departments and the Boards of Directors of Government companies may issue such clarifications and instructions as may be necessary for the removal of any difficulties arising in the implementation of this Order.
19. **Ministries having existing policies:** Where any Ministry or Department has its own policy for preference to local content approved by the Cabinet after 1st January 2015, such policies will prevail over the provisions of this Order. All other existing orders on preference to local content shall be reviewed by the Nodal Ministries and revised as needed to conform to this Order, within two months of the issue of this Order.
20. **Transitional provision:** This Order shall not apply to any tender or procurement for which notice inviting tender or other form of procurement solicitation has been issued before the issue of this Order.


(B. S. Nayak)
Under Secretary to Government of India
Ph. 23061257

Appendix–K: Undertaking Letter to the Authority on the Company’s/Entity’s letterhead

_____.

Sir,

Sub: RFP for _____ (RFP Ref. No. _____ dated _____)

In response to the Request for Proposal (Bank’s tender No. _____ hereinafter referred to as “RFP”) issued by _____, we hereby covenant, warrant and confirm as follows:

We hereby agree to adhere to all the terms and conditions / stipulations as contained in the RFP and the related addendums and other documents including the changes made to the original tender documents if any, issued by the _____ (Authority) and notification issued by Government of India, Ministry of Commerce and Industry, Department of Industrial Policy and Promotion and Ministry of Housing and Urban Affairs.

Further, as per the mentioned Government notifications, we do hereby declare that the domestic value addition in Bill of Material is _____ % for the items i.e. _____ (participating bidder should mention value addition % for its quoted product only).

Yours faithfully,
Authorized Signatory
Designation
Bidder’s corporate name

Part II - DRAFT CONCESSION AGREEMENT

Between

Municipal Corporation Chandigarh

AND

Chandigarh Smart City Limited

AND

Concessionaire

For

**Setting Up of Animal Carcass Incineration Plant in Chandigarh on and
Transfer Basis**

December 2018

Setting Up of Animal Carcass Incineration Plant in Chandigarh on Design, Build, Finance, Operate and Transfer Basis- Request for Proposal

This Concession Agreement mutually agreed and entered into on this _____ day of -----, Two Thousand Eighteen at _____.

BETWEEN

Municipal Corporation Chandigarh, established under the provisions of Punjab Municipal Corporation Act, 1976 (hereinafter referred to as the “**Concessioneing Authority**” or “**MCC**” which expression shall, unless the context otherwise requires, include its successors and assigns) of the FIRST PART;

AND

Chandigarh Smart City Limited, a company incorporated under provisions of the Companies Act, 2013, (hereinafter referred to as the **Confirming Party** or “**CSCL**” which expression shall, unless repugnant to the context include its successor and assigns) of the SECOND PART

AND

M/s *****, a company incorporated under provisions of the Companies Act, 2013, having its registered office at _____, (hereinafter referred to as “**Concessioneire**” which expression shall, unless repugnant to the context include its successors and permitted assigns,) of the OTHER PART.

WHEREAS as per Section 319 of the Punjab Municipal Corporation Act of 1976 (as extended to the Union Territory of Chandigarh with effect from 1994), the Municipal Corporation of Chandigarh is responsible for removal of all dead animals from its jurisdiction area and safe disposal of carcasses. Considering sensibilities and sensitivity of concerned communities, and the threat to environment and public health, scientific and safe disposal of animal carcass is an obligatory function of an urban local body.

AND WHEREAS MCC has been allocated 1 acre of land in the Daddu Majra area near the existing solid waste treatment plant for developing a facility for scientific disposal of animal carcasses. Going forward, MCC now plans to formulate a project for developing such a facility under the ongoing Smart City Project.

AND WHEREAS as part of this endeavor, the Confirming Party, had accordingly invited bids for selection of Concessioneire for developing the Animal Carcass Incineration Plant and Disposal Facilities (the “Project Facilities”) in Chandigarh, through Public Private Partnership (PPP) Mode (‘the Project’).

AND WHEREAS with an objective to seek private sector participation in the aforesaid Project, the Confirming Party, undertook the process of selection of a

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suitable Concessionaire through competitive bidding process, after issuing a Request for Proposal document (RFP) dated _____ inviting Bids/ Proposals from prospective Bidders to implement the said Project.

AND WHEREAS the Concessionaire, selected through the transparent competitive bidding process, met the Eligibility Criteria {as laid down in Section-I (Instructions to Bidders) of the RFP document} and quoted the lowest processing fee for successfully completing the Project. After evaluation of the Proposals so received, the Confirming Party accepted the Proposal of the Concessionaire and issued Letter of Acceptance dated _____ to the Concessionaire requiring, inter alia, the execution of this Concession Agreement.

AND WHEREAS the Successful Bidder/ Concessionaire acknowledges and confirm that it has undertaken a due diligence and audit of all aspects of the Project/ Project Facilities including technical & financial viability and legal due diligence and on the basis of its independent satisfaction hereby accepts the Concession and agrees to implement the Project at its own cost and expense in accordance with the terms and conditions of this Concession Agreement.

AND WHEREAS following the issue of the Letter of Acceptance and submission of the Performance Security of Rs 25,00,000.00 Lakhs (Rupees Twenty Five Lakhs only) by the Concessionaire to the Concessions Authority within 3 (three) weeks of date of receipt of the Letter of Acceptance to the Concessionaire, the Concessions Authority along with Confirming Party hereby agrees and grants to the Concessionaire this Concession on the mutually agreed terms and conditions for the Concession Period to (a) plan, design, procure and install new equipment for Animal carcass Incineration Plant (ACIP) as per CPCC guidelines and Solid waste Management Rules, 2016 and amended thereafter; (b) operate, maintain and manage the ACIP and (c) at the end of the successful Concession Period hand back the Project Facilities, having all the immovable assets/ equipments (and the movable assets) operational and in good working conditions.

AND WHEREAS the Concessionaire hereby accepts the Concession granted and undertakes to implement the Project in accordance to the provisions of this Concession Agreement.

NOW THEREFORE, in view of the offer, mutual promises and consideration set out herein, the Concessions Authority, Confirming Party and the Concessionaire (each individually a “Party” hereto, and collectively the “Parties”) hereby agree to be bound by the provisions of this Concession Agreement.

ARTICLE 1: DEFINITIONS AND INTERPRETATIONS

1.1 Definitions

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

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

“Affected Party” shall mean the Party claiming to be affected by a Force Majeure event in accordance with Article 8.2.

“Agreement” shall mean this Agreement, and include any amendments here to made in accordance with the provisions hereof.

“Animal” shall mean a living creature such as cow, buffalo, horse, donkey, pet/stray dogs, cat, sheep, goat etc. rather than a bird, fish, insect, or human being.

“Animal Carcass Non-Incinerating Penalty” shall have the meaning as ascribed there to in Schedule 3 of the Concession Agreement.

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

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

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

“Arbitration Act” shall mean the Arbitration and Conciliation Act, 1996 and

shall include any amendment to or any re-enactment thereof as in force from time to time.

"Book Value" shall mean the cost of the immovable assets incurred by the Concessionaire for the Project net of accumulated depreciation computed on straight-line basis in accordance with the rates specified in Companies Act, 1956/2013 and as determined by an independent firm of chartered accountants mutually agreed upon and appointed by the Parties.

"Carcass" means a dead body of an animal.

"Change in Law" shall have the meaning ascribed there to in Article 8 of the Concession Agreement.

"COD" shall mean the commercial operations date of the Project which shall be the date on which the Concessionaire has completed the construction work of the Project i.e. Five (5) months from the date of Effective Date.

"Concession" shall have the meaning ascribed there to in Article 2.1.

"Concession Period" shall have the meaning ascribed there to in Article 2.2.

"Concessionaire" shall mean and includes its successors and permitted assigns expressly approved by CSCL.

"Construction Requirements" shall mean collectively Construction Requirements of incineration of Animal Carcasses.

"Contractor" shall mean any Person with whom the Concessionaire has entered into/may enter into any material contract in relation with the Construction Works and O & M Requirements.

"CPCC" shall mean Chandigarh Pollution Control Committee.

"CSCL" shall mean Chandigarh Smart City Limited;

"Drawings" shall mean all of the drawings, designs, calculations and documents pertaining to the Project in accordance with the Construction Requirements as set forth in Schedule 2 of the Concession Agreement.

"Effective Date" shall mean the date on which the Site is handed over to the Concessionaire in accordance with Article 3.

"Emergency" shall mean a condition or situation that is likely to endanger the

safety of the individuals on or about the Project Facilities or which poses an immediate threat of material damage to any of the Project Facilities.

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

“Escrow Agreement” shall have the meaning as set forth in Schedule 6 of the Concession Agreement;

“Expiry Date” shall mean the date on which Operation and Maintenance Period ends.

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

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

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

“Force Majeure” or **“Force Majeure Event”** shall mean an act, event, condition or occurrence as specified in Article 10 of the Concession Agreement.

“GoI” shall mean the Government of India.

“GoC” shall mean the Chandigarh Administration, U.T. Chandigarh

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

“Government Agency” shall mean GoI, GoC, MCC 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 the Concessionaire, the Sites/Project Facilities or any portion thereof, or the performance of all or any of the services or obligations of the Concessionaire under or pursuant to this Agreement.

“Hand back Requirements” shall have the meaning ascribed there to in Article 14.

“Implementation Period” shall mean the period from the Effective Date to COD.

“Incineration” means dead animal and meat waste destruction in a furnace or apparatus by controlled burning at high temperature.

“Incinerator” means a furnace or apparatus for burning animal carcasses.

“Lenders” shall mean financial institutions, banks, funds and trustees for bond holders or debenture holders, who have provided funds to the Concessionaire for financing any part of the Project.

“Land License Agreement” means the agreement pursuant to which Site shall be Licensed out to the Concessionaire for Incinerating (a) the Animal Carcasses collected from roads and other places in Chandigarh and (b) Meat Waste supplied by the Concessioning Authority, the draft of which is provided as Schedule 8 to this Agreement.

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

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

“MCC” shall mean Municipal Corporation Chandigarh.

“Operation and Maintenance Period” shall mean the period commencing from COD to Expiry Date.

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

“Performance Security” shall mean the guarantee for performance of its obligations to be procured by the Concessionaire in accordance with Article 4.1 of this Agreement.

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

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

“Processing” shall mean the scientific processing of animal carcasses & meat waste by way of deploying suitable and adequate number of machinery, equipment, vehicles, etc.

“Processing Fee” shall mean the amounts payable by the CSCL and MCC to Concessionaire in accordance with Article 8 of this Agreement.

“Processing Fee Statement” shall have the meaning as ascribed there to in Article 8.1(b).

“Processing Fee Rate” shall mean the amount payable per kilogramme of animal carcasses and/or meat waste incinerated as set out in Financial Proposal of the Concessionaire.

“Project” shall mean design, financing, construction, operation and maintenance of the Project Facilities in accordance with the provisions of this Agreement and Schedules thereof.

“Project Facilities” shall mean the Site, Animal Carcass Incinerator/cremation system and all other related facilities located there on, and any other off site facilities created for the Project.

“Project Site” shall mean land admeasuring 01 (One) Acre located in Sector 25 (West), Chandigarh (More fully described in Schedule 1) identified and handed over to the Concessionaire, for the purpose of designing, financing,

constructing, operating and maintaining the facilities in accordance with provisions of this agreement and schedules thereof.

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

“Scheduled Construction Completion Date” shall mean five months from the effective Date i.e. Construction and erection of the Incineration Plant at Sector 25 (West), Chandigarh as per the Concession Agreement and Schedules thereof.

“Substitution Agreement” means the agreement substantially in the form set out at Schedule 7 of this Agreement, to be entered into between the Concessions Authority, Lenders and the Concessionaire.

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

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

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

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

“Tests” shall mean the tests as set forth in Article 7.1.3 of the Concession Agreement.

1.2 Interpretation

In this Agreement, unless the context otherwise requires,

- (a) Any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies to, or is capable of being applied to any transactions entered into here under;
- (b) References to Applicable Law shall include the laws, acts, ordinances, rules, regulations, notifications, guidelines or by laws which have the force of law;

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- (c) The words importing in singular shall include plural and vice versa, and words denoting natural persons shall include partnerships firms, companies, corporations, trusts, associations, organizations or other entities (whether or not having a separate legal entity);
- (d) The headings are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;
- (e) The words "include" and "including" are to be construed without limitation;
- (f) Any reference to day, month or year shall mean a reference to a calendar day, calendar month or calendar year respectively;
- (g) The Schedules to this Agreement form an integral part of this Agreement as though they were expressly set out in the body of this Agreement;
- (h) Any reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to that agreement, deed, instrument, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference
- (i) References to recitals, articles, sub- articles, clauses, or Schedules in this Agreement shall, except where the context otherwise requires, be deemed to be references to recitals, Articles, sub-articles, clauses and Schedules of or to this Agreement;
- (j) Any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Agreement from or by any Party shall be valid and effectual only if it is in writing under the hands of duly authorized representative of such Party in this behalf and not otherwise;
- (k) The damages payable by either Party to the other 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
- (l) 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 and dates.

1.3 Measurements and arithmetic conventions

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 Priority of Agreements, Articles and Annexures

1.4.1 This Agreement, and all other agreements and documents forming part of or referred to in this Agreement are to be taken as mutually explanatory and unless otherwise expressly provided else wherein this Agreement, the priority of this Agreement and other documents and agreements forming part hereof or referred to herein shall, in the event of any conflict between them, being the following order:

- a. this Agreement; and
- b. All other agreements and documents forming part hereof or referred to herein; i.e. the Agreement at (a) above shall prevail over the agreements and documents at (b) above.

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

- a. Between two or more Articles of this Agreement, the provisions of a specific Article relevant to the issue under consideration shall prevail over those in other Articles;
- b. Between the Articles of this Agreement and the Annexures, the Articles shall prevail;
- c. Between any two Annexures, the Annexure relevant to the issue shall prevail;
- d. Between the written description on the Drawings and the Specifications and Standards, the latter shall prevail; and
- e. Between any value written in numerals and that in words, the latter shall prevail.

ARTICLE 2: THE CONCESSION AND CONDITIONS PRECEDENT

2.1 Grant of Concession

Subject to and in accordance with the terms and conditions set forth in this Agreement, the Concessioneing Authority hereby grants and authorizes the Concessionaire to investigate, study, design, engineer, procure, finance, construct, operate and maintain the Project Facilities and to exercise and/or enjoy the rights, powers, benefits, privileges, authorizations and entitlements as set forth in this Agreement (“the Concession”).

2.2. Rights Associated with the Grant of Concession

Without prejudice to the generality of foregoing, the Concession hereby granted to the Concessionaire shall entitle the Concessionaire, without requiring any further authorization or authority from the MCC, to enjoy, the following rights, privileges and benefits in accordance with the provisions of this Agreement and Applicable Laws:

(a) to design, engineer, finance, procure, construct, install, commission, operate and maintain the Project either itself or through such Person/Contractor as may be selected by it;

(b) upon achieving COD of Processing Facilities, forming part of the Project, to manage, operate and maintain the same either itself or through such Person as may be selected by it;

(c) to obtain financing for the Project in the form of equity, debt and other sources, from domestic and foreign sources, through public issues, private placements or direct borrowings or investment from the capital markets, banks, lending institutions, mutual funds, insurance companies, pension funds, provident funds and any other source as it may deem necessary for implementing the Project; and

Provided that the MCC shall be informed by the Concessionaire as to the creation of any security interest in favour of the Lenders within a period of 14 (fourteen) days from the date such security interest comes into existence and provide to the

MCC within such time, notarized true copies of any and all documents/agreements relating thereto.

Provided further, nothing contained herein shall (i) absolve the Concessionaire from its responsibilities to perform/discharge any of its obligations under and in accordance with the provisions of this Agreement; (ii) authorise or be deemed to authorise the Lenders to implement and execute Project themselves.

(d) to exclusively hold, possess, control the Site, in accordance with the terms of the Concession Agreement and Land License Agreement, for the purposes of the due implementation of this Project;

(e) to modify, adapt, upgrade or change the technology, from time to time, based on actual operations of the Processing Facility, Good Industry Practices and the requirements of the Project;

2.3 Concession Period

The Concession Period shall be for a period of 10 years from the Appointed Date ("the Concession Period") during which the Concessionaire is authorized to design, finance, construct, operate and maintain the Project Facilities in accordance with the provisions hereof.

Provided that in the event of Termination, the Concession Period shall mean and be limited to the period commencing from the Appointed Date and ending with the Termination Date. For avoidance of doubt, it is hereby clarified that the Concession Period shall also include the time period required by Parties for fulfilment of the Condition Precedent obligations, and in case of any extensions therefor or by other reason as envisaged in terms hereof, Concession Period shall be proportionately extended.

2.4 Renewal of Concession

MCC shall have the option to agree to renew or extend the Concession after the expiry of the Term on same terms and conditions. Provided that any such extension shall also lead to an extension of Land License Agreement for an equal period so as to make the Land License Agreement co-terminus with extended Concession Period.

2.5 Acceptance of Concession

In consideration of the rights, privileges and benefits conferred upon the Concessionaire, and other good and valuable consideration expressed herein, the Concessionaire here by accepts the Concession and agrees and undertakes to perform/discharge all of its obligations in accordance with the provisions hereof.

2.6 CONDITIONS PRECEDENT

Save and except as may otherwise be expressly provided herein, the obligations of a Party under this Agreement except under this Article 2.6 shall be subject to the satisfaction in full of the conditions precedent relating to the other Party (the “Conditions Precedent”). The obligations of a Party under this Article 2.6 shall be effective from the date of execution of this Agreement.

2.6.1. Conditions Precedent for MCC

The obligations of the Concessionaire hereunder are subject to the satisfaction in full of the following Conditions Precedent by the MCC. MCC shall have:

- a. Allocated /demarcated site for processing facility/ Animal Carcass Incineration Plant as a part of the Project on an ‘as is where is basis’;
- b. executed and procured execution of Substitution Agreement;
- c. Facilitated and ensured that Land License Agreement is executed for Site and vacant and unencumbered possession of the Site is handed over to the Concessionaire. It is clarified that MCC shall be responsible for execution of Land License Agreements for Site under their jurisdiction.
- d. Provide Access Roads to the Site as per Good Industry Practices; and
- e. Provide support and assistance to Concessionaire (if required) for obtaining required approvals under Applicable Laws;

2.6.2. Conditions Precedent for Concessionaire

The obligations of MCC hereunder are subject to the satisfaction in full of the following Conditions Precedent of the Concessionaire. The Concessionaire shall have:

- a. provided a certified true copy of its constituent documents;
- b. achieved financial closure i.e. procured and raised all the funds (debt, equity, etc.) necessary to finance the Project as evidenced by the funding

- documents becoming effective and the Concessionaire having immediate access to the funds there under;
- c. executed and procured execution of Escrow Agreement in terms of Article 9 of this Agreement;
 - d. executed and procured execution of Substitution Agreement;
 - e. Submit all the specifications, drawings & designs to MCC/ CSCL for approval.
 - f. executed the Land License Agreement and taken over vacant and unencumbered possession of the Site from the MCC
 - g. procured at its own cost, water connection, power connection and other service connections to the Site, help shall be provided by MCC/CSCL in procurement of the same.
 - h. Obtain Environmental Clearance for the project.

Provided that upon request in writing by the Concessionaire, the MCC/CSCL may in its sole discretion, waive fully or partially any or all the Conditions Precedent set forth in this Article 2.6.

2.6.3. Satisfaction of Conditions Precedent

- a. Each Party shall make all reasonable endeavors at its respective cost and expense to procure the satisfaction in full of the Conditions Precedent relating to it within a period of 120 (One Hundred & twenty) days from the Appointed Date (the “Compliance Period”) unless specified otherwise.
- b. The later of the date within such time when the MCCs or the Concessionaire fulfils its Conditions Precedent (unless the MCCs waives the same for the Concessionaire) shall be the date from which the relevant and respective obligations of the Parties hereunder shall commence (“Compliance Date”).

2.6.4. Non-Compliance with Conditions Precedent

- a. In the event the Conditions Precedent for Concessionaire have not been satisfied within the stipulated time and MCC has not waived, fully or partially, such conditions relating to the Concessionaire, this Agreement shall cease to have any effect as of that date and shall be deemed to have been terminated by the mutual agreement of the Parties and no Party shall subsequently have any rights or obligations under this Agreement and MCC shall not be liable in any manner whatsoever to the Concessionaire or Persons claiming through or under it.

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- b. In the event this Agreement fails to come into effect on account of non-fulfilment of the Concessionaire's Conditions Precedent, MCC shall be entitled to forfeit and encash the Performance Security.
- c. In the event the Conditions Precedent for MCC have not been satisfied within the stipulated time, then the Concessionaire shall have the option of either: (i) mutually extend the time period for satisfaction of the Conditions Precedent for MCC or (ii) terminate this Agreement, in which event, MCC shall pay to the Concessionaire, reasonable development costs, as determined through the mechanism enumerated below. In case of extension of time period for fulfilment of Conditions Precedent for MCC beyond a period of 120 (One Hundred and twenty) days from the Appointed Date, the Concession Period shall be proportionately extended for the same period. Parties hereby agree that for determination of the said development cost, MCC may appoint a financial consultant for determining such development cost, whose determination shall be final, conclusive and binding. The Parties shall share the cost of such financial consultant.
- d. In the event this Agreement fails to come into effect on account of the non-fulfilment of MCC Conditions Precedent, MCC shall return the Performance Security to the Concessionaire; provided there are no outstanding claims of the MCC on the Concessionaire.
- e. Instead of terminating this Agreement as provided in this Article 2.6, the Parties shall have the option to extend the time for fulfilling the Conditions Precedent by mutual agreement.

ARTICLE 3: PROJECT SITE

3.1 Handover of Site

- a) MCC shall, within Thirty (30) days from the Appointed Date, hand over to the Concessionaire on as-is-where-is basis, vacant and peaceful physical possession of the Site free from Encumbrance, for the purpose of implementing the Project having right of way on License basis at a nominal lease rental of Re. 1 per annum for the Term and the Concessionaire shall execute a separate License Agreement with MCC together with the execution of this Agreement. The license rental can be paid in advance for such period of time as the Concessionaire may deem fit. Land required for the Project will be provided to the Concessionaire by MCC on license, co-terminus with the Concession Agreement.
- b) Upon the Site being handed over pursuant to the preceding sub-article (a), the Concessionaire shall, subject to the provisions of Article 4, have the right to enter upon, occupy and use the same and to make at its costs, charges and expenses such investigation, development and improvements in the Site as may be necessary or appropriate to implement the Project and provide the Project Facilities in accordance with the provisions of this Agreement.

3.2 Rights, Title and Use of the Site

- (a) The Concessionaire shall have the right to the use of the Site in accordance with the provisions of this Agreement and for this purpose, it may regulate the entry into and use of the same by third parties.
- (b) The Project Facilities shall be and continue to be the property of the MCC.
- (c) The Concessionaire shall not part with or create any Encumbrance on the whole or any part of the Project Facilities, including the Site save and except as set forth and permitted under this Agreement.
- (d) The Concessionaire shall not, without the prior written approval of the MCC, use the Project Facilities for any purpose other than for the purpose of the Project and purposes incidental or ancillary thereto.
- (e) The Concessionaire shall allow access to and use of the Site for

laying/installing/maintaining telegraph lines, electric lines or for such other public purposes as the MCC may specify.

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

Provided further, that to the extent such access and use allowed by the Concessionaire affects the performance of any of its obligations here under, the Concessionaire shall not be deemed or construed to be in breach of its obligations nor shall it incur/suffer any liability on account thereof.

3.3 Peaceful Possession

The MCC here by warrants that:

- (a) The Site together with the necessary right of way/way-leaves
 - (i) Has been acquired through the due process of law
 - (ii) Belongs to, or has been licensed to the MCC and is vested in the MCC and that the MCC have full powers to hold, dispose of and deal with the same consistent, inter alia, with the provisions of this Agreement and that the Concessionaire shall in respect of the Site, have no liability regarding any compensation payment on account of land acquisition or rehabilitation/resettlement of any Persons affected thereby.

- (b) The Concessionaire shall, subject to complying with the terms and conditions of this Agreement, remain in peaceful possession and enjoyment of the whole of the Site during the Concession Period, and in the event the Concessionaire is obstructed by any Person claiming any right, title or interest in or over the Site or any part thereof or in the event of any enforcement action including any attachment, appointment of receiver or liquidator or being initiated by any Person claiming to have any interest in/charge on the Site or any part thereof, the MCC shall, if called upon by the Concessionaire, defend such claims and proceedings and also keep the Concessionaire indemnified against any consequential loss or damages which the Concessionaire may suffer, on account of any such right, title, interest or charge.

3.4 Applicable Permits

The Concessionaire shall obtain and maintain the Applicable Permits in such sequence as is consistent with the requirements of the Project. The Concessionaire shall be responsible and shall be in compliance with the terms and conditions subject to which Applicable Permits have been issued.

ARTICLE 4: CONCESSIONAIRE’S OBLIGATIONS

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

4.1. Performance Security

- (a) The Concessionaire shall, for the due and punctual performance of its obligations hereunder relating to the Project simultaneously with the execution of this Agreement, furnish an unconditional and irrevocable bank guarantee from a scheduled bank acceptable to MCC, in favour of the MCC i.e. the “Municipal Corporation Chandigarh in the form set out in Schedule 4, (“Performance Security”) for a sum equivalent to Rs. 25,00,000.00 Lakhs (Rupees Twenty-Five Lakh only) during the entire Concession Period.
- (b) The Performance Security shall be kept valid and in force for the entire duration of the Concession Period, through periodical renewals, at least one month prior to the expiry of the subsisting Performance Security. In the event the Concessionaire fails to provide the renewed/ extended/ enhanced performance security at least 1 (one) month prior to the expiry of the subsisting Performance Security, so as to maintain the Performance Security valid throughout the term of the Agreement, the MCC shall have the right to forfeit and appropriate the subsisting Performance Security. Failure of the Concessionaire to maintain the Performance Security in full force and effect throughout the term, in accordance with the provisions hereof, shall constitute Concessionaire Event of default in terms hereof.
- (c) In the event, the Concessionaire is in default or breach of the due, faithful and punctual performance of its obligations under this Agreement, in the event of there being any claims or demands whatsoever whether liquidated or which may at any time be made or have been made on behalf of the MCC for or against the Concessionaire under this Agreement or against the MCC in respect of this Agreement, the MCC shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to appropriate the relevant amounts from the Performance Security as damages for such default, or loss suffered due to non-completion of services within the time period specified herein, or in respect of any dues, demands damages or claims against the Concessionaire.
- (d) The decision of the MCC as to any breach/ delay having been committed, liability

accrued or loss or damage caused or suffered shall be conclusive, absolute and binding on the Concessionaire and the Concessionaire specifically confirms and agrees that no proof of any amount of liability accrued or loss or damages caused or suffered by the MCC under this Concession Agreement is required to be provided in connection with any demand made by the MCC to recover such compensation through appropriation of the relevant amounts from the Performance Security under this Agreement.

- (e) In the event of encashment of the Performance Security by the MCC, in full or part, the Concessionaire shall within 15 (fifteen) days of receipt of the encashment notice from MCC provide a fresh Performance Security or replenish (in case of partial appropriation) the existing Performance Security, as the case may be. The provisions of this Article shall apply mutatis mutandis to such fresh Performance Security. The Concessionaire's failure to comply with this provision shall constitute a default or breach of the Concession Agreement by the Concessionaire, which shall entitle the MCC to terminate this Concession Agreement in accordance with the provisions hereof.
- (f) Provided that if the Agreement is terminated due to any event other than a Concessionaire Event of Default, the Performance Security if subsisting as of the Termination Date shall, subject to the MCC's right to receive amounts, if any, due from the Concessionaire under this Agreement, be duly discharged and released to the Concessionaire.

4.2. General Obligations

The Concessionaire shall at its own cost and expense:

- a) investigate, study, design, construct / renovate, operate and maintain the Project Facilities in accordance with the provisions concession agreement and Schedules thereof;
- b) obtain all Applicable Permits as required by or under the Applicable Law and be in compliance thereof at all times during the Concession Period;
- c) comply with Applicable Law governing the operations of Incinerating of Animal Carcasses at all times during the Concession Period;
- d) right to enter into sub-contracts for the purposes of and subject to the terms of this Agreement;
- e) ensure disposal of Animal carcasses/ Meat Waste, in a manner which is not detrimental to the environment;
- f) endeavor to improve the ancillary conditions and infrastructure related to

the Project,

- g) procure and maintain in full force and effect, as necessary, appropriate proprietary rights, licenses, agreements and permissions for materials, methods, processes and systems used in or incorporated into the Project;
- h) make efforts to maintain harmony and good industrial relations among the personnel employed in connection with the performance of its obligations under this Agreement and shall be solely responsible for compliance with all labor laws and solely liable for all possible claims and employment related liabilities of its staff employed in relation with the Project and here by indemnifies MCC/CSCL against any claims, damages, expenses or losses in this regard and that in no case and for no purpose shall MCC/CSCL be treated as employer in this regard;
- i) make its own arrangements for construction materials and observe and fulfill the environmental and other requirements under the Applicable Law and Applicable Permits;
- j) Be responsible for all the health, security, environment and safety aspects of the Project at all times during the Concession Period.
- k) Ensure that the Project Facilities remain free from all encroachments and take all steps necessary to remove encroachments, if any;
- l) Upon receipt of a request thereof, afford access to the Project Facilities to the authorized representatives of MCC/CSCL for the purpose of ascertaining compliance with the terms, covenants and conditions of this Agreement.
- m) Pay all Taxes, duties and outgoings, including utility charges relating to the Project Facilities.
- n) Arrangement of water and electricity required for the project will be the responsibility of the Concessionaire at his own cost. Concessionaire will also ensure power back up for the smooth operation of weighbridge, critical electrical system, security & surveillance system, etc.
- o) Dispose of all types of fallen animal from the city and sub-urban areas of Chandigarh. It should be mandatory not to de-skin the dead animals and should be brought to the plant premises for disposal. Carcass in its original form shall be put into the furnace/incinerator.

4.3 No Breach of Obligations

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

affected by or on account of any of the following:

- (a) Force Majeure Event;
- (b) MCC Event of Default;
- (c) Compliance with the instructions of the MCC or the directions of any Government Agency other than instructions issued as a consequence of a breach by the Concessionaire of any of its obligations here under;
- (d) Closure of the Project Facilities or part thereof with the approval of the MCC.

4.4. Penalties & Damages

In case the Concessionaire fails to fulfil the obligations as set under this Agreement, penalties for non-fulfilment/ damages shall be imposed according to provisions of Schedule 3.

4.5 Financing Arrangement

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

4.6. Concessionaire's Representative

The Concessionaire shall deploy a representative on its behalf to be designated as the Project Manager who shall have full authority to act on behalf of the Concessionaire for all matters relating to this Agreement and shall be an overall incharge to ensure implementation of the Project in accordance with the provisions hereof. The Project Manager shall closely co-ordinate with the Project Management Unit and shall be responsible to ensure redressal on an immediate basis, any objections, observations, shortcomings, defects or defaults pointed out by the Project Management Unit during routine inspections and project review meetings and submit action take report to the Project Management Unit within a period no later than 7 (seven) days from the date of conveying of such defect/ shortcoming. The Project Manager or its nominee shall make themselves available for meetings as and when called upon by the Project Management Unit.

4.7. Sole purpose of the Concessionaire

The Concessionaire having been set up for the sole purpose of exercising the rights and observing and performing its obligations and liabilities under this Agreement, the Concessionaire or any of its subsidiaries shall not, except with the previous

written consent of MCC, be or become directly or indirectly engaged, concerned or interested in any business other than as envisaged herein.

4.8. Employment of trained personal

The Concessionaire 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.

4.9. Obligations relating to Project Agreements

- (a) It is expressly agreed that the Concessionaire 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 Concessionaire from its obligations or liability hereunder.
- (b) The Concessionaire shall submit to MCC the drafts of all Project Agreements or any amendments or replacements thereto for its review and comments, and MCC shall have the right but not the obligation to undertake such review and provide its comments, if any, to the Concessionaire within 15 (fifteen) days of the receipt of such drafts. Within 7 (seven) days of execution of any Project Agreement or amendment thereto, the Concessionaire shall submit to MCC a true copy thereof, duly attested by a Director of the Concessionaire, 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 any failure or omission of MCC to review and/ or comment hereunder shall not be construed or deemed as acceptance of any such agreement or document by MCC. No review and / or observation of MCC and / or its failure to review and / or convey its observations on any document shall not relieve the Concessionaire of its obligations and liabilities under this Agreement in any manner nor shall MCC be liable for the same in any manner whatsoever.
- (c) The Concessionaire shall procure that each of the Project Agreements contains provisions that entitle the MCC to step into such agreement, in its sole discretion, in substitution of the Concessionaire in the event of Termination. For the avoidance of doubt, it is expressly agreed that in the event the MCC does not exercise such rights of substitution within a period not exceeding 30 (thirty) 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 MCC and the covenant shall expressly provide for such eventuality.
- (d) The Concessionaire 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 MCC an acknowledgment and undertaking, in a form

acceptable to the MCC, 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 MCC in the event of Termination.

4.10 Weighment of Animal Carcasses

- a. The Concessionaire shall set up a computerised weigh bridge of required capacity with facility of RFID tag for weighment of the animal carcasses collected from the roads and other places in Chandigarh as also meat waste supplied by Concessioning Authority. This weighment system shall be installed at the entry gate of the proposed processing facility to be decided in consultation with MCC and should meet the conditions as prescribed in the Schedule to this agreement.
- b. The Concessionaire hereby undertakes to pay Penalties to MCC on account of delays in execution, violations, tempering, malfunction, etc. (“Animal Carcass Non-Incineration Penalty”) as defined in the Schedule 3 to this Agreement.

4.11 Incineration and Processing

The Concessionaire has to set up processing facility to dispose off animal carcasses collected from the roads and other places in Chandigarh and meat waste transported by MCC through scientific processing within Concession Period by way of deploying suitable and adequate number of machinery, equipment, vehicles, and treatment technology. The Concessionaire shall increase the capacity of incinerators in the case the existing facility is not enough to dispose of animal carcass/ meat waste.

It is the responsibility of the Concessionaire to ensure that the entire processing system, as the case may be, shall be established in accordance with Solid Waste Management Rules 2016 (SWM Rules 2016) and other applicable rules & norms as amended from time to time. The Concessionaire shall also take all necessary measures to prevent water pollution, air pollution, dust emission and noise emission.

After disposing of the Carcasses, the residual comprises quantity of ash shall be safely disposed of in Sanitary Landfill site.

4.12 Maintenance of Records

The Concessionaire shall maintain records of quantity of animal carcasses collected from the roads and other places in Chandigarh as also meat waste transported/supplied by the Concessioneing Authority, which shall be disposed of after scientific processing and provide monthly, quarterly and annual reports of the same to the MCC/CSCL.

ARTICLE 5: FINANCIAL CLOSURE AND SUBSTITUTION AGREEMENT

5.1. General Obligations

- 5.1.1. The Concessionaire expressly agrees and undertakes that it shall itself be responsible to arrange for financing and/ or meeting all financing requirements for the Project at its cost and shall enter into Financing Agreements with the Lenders for the same.
- 5.1.2. The Concessionaire hereby agrees and undertakes that it shall achieve Financial Closure within 180 (one hundred and eighty days) days from the date of this Agreement 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 MCC in a sum calculated at the rate of 0.1 % (zero point one per cent) of the Performance Security for each day of delay.
- 5.1.3. Damages specified herein shall be payable every week in advance and the period beyond the said 180 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 Closure has occurred solely as a result of any default or delay by the MCC in procuring satisfaction of the Conditions Precedent specified in Article 2.6 or due to Force Majeure. For the avoidance of doubt, the Damages payable hereunder by the Concessionaire shall be in addition to the Damages, if any, due and payable under the provisions of penalties.
- 5.1.4. The Concessionaire shall, upon occurrence of Financial Closure, notify the MCC forthwith, and shall have provided to the MCC, at least 2 (two) days prior to Financial closure, 3 (three) true copies of the Financial Package and the Financial Model, duly attested by a Director of the Concessionaire, along with 3 (three) soft copies of the Financial Model in MS Excel version or any substitute thereof, which is acceptable to the Senior Lenders.

5.2. Termination due to failure to achieve Financial closure

Notwithstanding anything to the contrary contained in this Agreement, in the event that Financial closure does not occur, for any reason whatsoever, within the period set forth in Article 5.1.2 or the extended period provided thereunder, all rights, privileges, claims and entitlements of the Concessionaire under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Concessionaire, and the Concession Agreement shall be deemed to have been terminated by mutual agreement of the Parties. For the avoidance of doubt, it is agreed that in the event the Parties hereto have, by mutual

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consent, determined the Appointed Date to precede the financial closure, the provisions of this Article 5.2 shall not apply.

5.3. Substitution Agreement

5.3.1. This Agreement shall not be assigned by the Concessionaire. Provided however, subject to the provisions of this Agreement, Lenders may be given the right of substitution by execution of the Substitution Agreement in the form annexed hereto as Schedule 7.

5.3.2. The Lenders may exercise the rights of step in or substitution as provided in the Substitution Agreement provided that the Nominated Company substituting the Concessionaire shall enjoy all rights and be responsible for performing/ fulfilling all obligations of the Concessionaire under this Agreement.

Provided that in the event the Lenders are unable to substitute the Concessionaire by Nominated Company as per the provisions of the Substitution Agreement, MCC shall proceed to terminate the Agreement.

ARTICLE 6: MCC's and CSCL's OBLIGATIONS

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

6.1 Specific Obligations

MCC:

- (a) MCC shall make timely payments to concessionaire as prescribed in Article 9 of this Agreement.
- (b) MCC shall earmark / allocate parcel of land (1 Acre) for the purpose of setting up of Animal Carcass Incineration Plant
- (c) MCC shall subscribe to the Substitution Agreement within Thirty (30) days of the intimation regarding financial close given by the Concessionaire.
- (d) MCC shall facilitate in a timely manner all such approvals, permissions and authorizations which the Concessionaire may require or is obliged to seek from MCC under this Agreement, in connection with implementation of the Project and the performance of its obligations. Provided where authorization for availing of utilities such as power, water, sewerage, telecommunications or any other incidental services/utilities is required, the same shall be provided by the MCC in the form as set out in Schedule 5, within thirty days (30) days from receipt of request from the Concessionaire to make available such authorization. However, the cost of these utilities will be borne by the Concessionaire.
- (e) MCC shall make all arrangement to supply and transport meat waste generated from the meat market to the incineration plant for further processing.

CSCL:

- (a) During Construction Period, CSCL through its Representative/Consultant shall supervise, monitor and inspect the construction works and make report

of such inspection stating in reasonable detail the defects or deficiencies, if any as set forth in Article 7.1 of this Agreement.

- (b) For determining that the Construction Works conform to the requirements of this Agreement, CSCL or its Representative/Consultant may specify the Tests from time to time in accordance with Good Industry Practice for quality assurance as set forth in Article 7.1 of this Agreement.
- (c) CSCL shall make timely payments to concessionaire as prescribed in Article 9 of this Agreement.

6.2 General Obligations

The MCC/CSCL shall:

- (a) provide necessary assistance to the Concessionaire in securing Applicable Permits;
- (b) Observe and comply with all its obligations set forth in this Agreement.

6.3 Minimum Assured Quantity

Subject to the provisions of Concession Agreement and in consideration of the Concessionaire accepting the concession and undertaking to perform and discharge its obligations in accordance with the terms, conditions and covenants set forth in the Concession Agreement, the Concessioneing Authority and Confirming Party agree and undertake to pay to Concessionaire fixed monthly processing fees for the daily quantity of 700 kg Animal Carcasses/Dead Animals/ Meat Waste at the rate mentioned in Financial Proposal of the Concessionaire during the project term. Payment Mechanism of processing Fee to be paid by Concessioneing Authority and/or Confirming Party, as the case may be, has been described in Article 8 of the draft Concession Agreement.

ARTICLE 7: MONITORING AND INSPECTION

7.1. During Pre-COD Period

7.1.1. Monthly Progress Reports

During the Pre-COD Period, the Concessionaire shall, no later than 7 (seven) days after the close of each month, furnish to the CSCL, a monthly report on the progress of the Construction Works and promptly give such other relevant information as may be required by the CSCL's representative/Consultant.

7.1.2. Inspection

During the Pre-COD Period, the CSCL's Representative/ Consultant shall inspect the Construction Works i.e. the Processing Facility and Project Assets at least once a month or at such shorter intervals as may be considered essential by the CSCL and make report of such inspection (the "**Pre-COD Inspection Report**") stating in reasonable detail the defects or deficiencies, if any, with particular reference to the scope of the Project, specifications and standards and Good Industry Practices.

It shall send a copy of such a Report to the Concessionaire within 2 (two) days of such inspection/ observation and upon receipt thereof, the Concessionaire shall rectify and remedy the observations, if any, stated in the Inspection Report. Provided however, such inspection or submission of Inspection Report by the CSCL's Representative/Consultant shall not relieve or absolve the Concessionaire of its obligations and liabilities hereunder in any manner whatsoever.

7.1.3. Tests

For determining that the Construction Works i.e. Processing Facility and Project Assets conform to the specifications and requirements of this Agreement, the CSCL or its CSCL's Representative/Consultant may specify the tests from time to time, in accordance with Good Industry Practice for quality assurance. The Concessionaire shall, with due diligence, carry out or cause to be carried out all the tests in accordance with the instructions of the CSCL/its representative. For the avoidance of doubt, the costs to be incurred on any such test undertaken shall be borne solely by the Concessionaire.

In the event that results of any tests conducted under this Article 7.1.3 above establish any defects or deficiencies in the works, the Concessionaire shall carry out remedial measures and furnish a report to the CSCL or its Representative in this behalf. For the avoidance of doubt, it is agreed that tests pursuant to this Article 7.1.3 shall be undertaken in addition to and independent of the tests that shall be carried out by the Concessionaire 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 Concessionaire to the CSCL or its Representative forthwith.

7.2. Post COD period

7.2.1. Monthly Status Reports

During Post COD Period, the Concessionaire shall, no later than 7 (seven) days after the close of each month, furnish to the MCC a monthly report stating in reasonable detail the condition of the Project including its compliance or otherwise with the maintenance requirements, the quantity of animal carcass/meat waste processed and shall promptly give such other relevant information as may be required by the MCC. In particular, such report shall separately identify and state in reasonable detail the defects and deficiencies that require rectification.

7.2.2. Inspection

The MCC shall inspect or cause to be inspected the execution of the Project at least once a month. It shall make a report of such inspection (the “**Post COD Inspection Report**”) stating in reasonable detail the defects or deficiencies, if any, with reference to the maintenance requirements, performance parameters or requirements as set forth in this Agreement including Schedules, and send a copy thereof to the Concessionaire within 7 (seven) days of such inspection and upon receipt thereof, the Concessionaire shall rectify and remedy the defects or deficiencies, if any, stated in the Post COD Inspection Report. Such inspection or submission of Post COD Inspection Report by the MCC shall not relieve or absolve the Concessionaire of its obligations and liabilities hereunder in any manner whatsoever.

7.2.3. Remedial measures

The Concessionaire shall repair or rectify the defects or deficiencies, which have impact on the operations/ efficiency of the Project, if any, set forth in the Post COD Inspection Report and furnish a report in respect thereof to the MCC within 15 (fifteen) days of receiving the Post COD Inspection Report; provided that where the remedying of such defects or deficiencies is likely to take more than 15 (fifteen) days, the Concessionaire shall submit progress reports to the MCC of the repair works once every week until such works are completed in conformity with this Agreement.

In the event that remedial measures are not completed by the Concessionaire in conformity with the provisions of this Agreement, the MCC shall be entitled to recover Damages from the Concessionaire as per provisions of this Agreement.

7.2.4. MCC's right to take Remedial measures

7.2.4.1. In the event the Concessionaire does not maintain and/ or repair the Processing Facility/ Project Assets or any part thereof in conformity with the maintenance requirements or performance parameters requirements or requirements as set forth in this Agreement including Schedules, and fails to commence remedial works within 15 (fifteen) days of receipt of Post COD Inspection Report or notice in this behalf from the MCC, as the case may be, the MCC shall, without prejudice to its right under this Agreement including Termination thereof, be entitled to undertake such remedial measures at the risk and cost of the Concessionaire, and to recover its cost from the Concessionaire. In addition to recovery of the aforesaid cost, an additional sum equal to 10% (ten percent) of such cost shall be paid by the Concessionaire to the MCC as Damages.

7.2.4.2. The MCC shall have the right, and the Concessionaire hereby expressly grants to the MCC the right, to recover the costs and Damages specified in Article 7.2.4.1 directly from the Escrow Account, and for that purpose, the Concessionaire hereby agrees to give irrevocable instructions to the Escrow Bank to make payment from the Escrow Account in accordance with the instructions of the MCC under this Article 7.2.4.2. Any demand from MCC stating that a specified amount is payable shall be final, binding and conclusive qua the Concessionaire and Escrow Bank and Escrow Bank shall pay and Concessionaire shall cause the Escrow Bank to pay such amount without any demur, delay, cavil or protest on receiving a demand for such costs and Damages.

ARTICLE 8: PROCESSING FEE

8.1 Processing Fee

- (a) Subject to the provisions of this Agreement and in consideration of the Concessionaire accepting the Concession and undertaking to perform and discharge its obligations in accordance with the terms, conditions and covenants set forth in this Agreement, the Concessions Authority/Confirming Party agree and undertake to pay to Concessionaire, the Processing Fee calculated in accordance with the Processing Fee rates mentioned in Financial Proposal of the Concessionaire.
- (b) The amount will be paid on the basis of the invoice and it shall be verified by the MCC. The Concessionaire shall raise monthly invoice and attach daily weights sheets of the electronic weigh bridge installed at the entrance of the Processing Facility site. The Concessionaire shall submit to MCC a statement (“Processing Fee Statement”) providing the following details:
- (i) Total quantity of Animal Carcasses/ Meat Waste incinerated at the project site;
 - (ii) Quantity of Animal Carcasses/ Meat Waste and transported to Processing Plant on each day of the previous Month;
 - (iv) Aggregate quantity of Animal Carcasses/ Meat Waste for the previous Month,
 - (v) Amount of Processing Fee for the previous Month calculated in accordance with the processing fee rate quoted by the Concessionaire as in Financial Proposal of the Concessionaire; and the criteria given below in (vi).
 - (vi) MCC shall pay to the Concessionaire Processing Fee in any given month after COD till the end of the Concession Period. Monthly processing fee will be calculated as follows:

$$MPF = PFK * W$$

Where MPF is the Monthly Processing Fee, PFK is the Processing Fee Rate Per Kilogramme, W is the weight of animal carcasses/

meat waste incinerated during any given month at the project.
Accordingly, $W = B+S+M$

Where

B is the weight of the Big Animals; and S is the weight of the Small Animals and M is the weight of meat waste which will be safely disposed of by the Concessionaire at the Project Site. The Concessionaire shall measure the weight of Animal Carcasses and submit records to MCC accordingly for every month.

8.1.1 Minimum Assured Quantity

Subject to the provisions of Concession Agreement and in consideration of the Concessionaire accepting the concession and undertaking to perform and discharge its obligations in accordance with the terms, conditions and covenants set forth in the Concession Agreement, the Concessions Authority and Confirming Party agree and undertake to pay to Concessionaire fixed monthly processing fees for the daily quantity of 700 kg Animal Carcasses/Dead Animals// Meat Waste at the rate mentioned in Financial Proposal of Concessionaire during the project term. Payment Mechanism of processing Fee to be paid by Concessions Authority and/or Confirming Party, as the case may be, has been described in Article 8 of the draft Concession Agreement.

8.2 Payment Mechanism

- (a) The Concessionaire shall raise by 5th day of a Month, the bill/ invoice for Fixed Monthly Processing Fees and the Differential Amount (i.e. Total Monthly Processing Fee as calculated in Article 8.1 - Fixed Monthly Processing Fees as mentioned in Clause 8.1.1) for the preceding month. The invoice thus raised shall, subject to due performance by Concessionaire and other terms and conditions of this Agreement, and submitted to MCC for release of payment.
- (b) MCC/CSCL shall pay 90% of the bill amount, to the Concessionaire by the end of the month in which the bill has been raised. The remaining 10% of the bill amount shall be paid by MCC by the end of the third month, subject to deductions as applicable. It is pertinent to mention here that the Fixed Monthly Processing Fees for the first two years of Concession Period shall be paid by the Confirming Party to the Concessionaire and the Differential Amount as calculated in Clause 8.2 (a) above for the same period shall be paid by the Concessions Authority. Thereafter, the Fixed Monthly Processing Fees along with Differential Amount for the remaining Concession Period shall be paid by the Concessions Authority.

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- (c) Any delay in making any payment in accordance with the Processing Fee Statements shall, without prejudice to any other consequences under this Agreement, entail payment of interest on the amount in default at State Bank of India one year MCLR (Marginal Cost of Funds Based Lending Rate) plus 3% p.a. for the duration of delay.
- (d) CSCL and MCC shall pay the amount against bills of the Concessionaire through the Escrow Account mechanism by deposit of the relevant amount in the Escrow Account. Further, subject to due performance of obligations by the Concessionaire, the CSCL and MCC shall, by way of additional security for payment, deposit and maintain for the first two years of Concession Period, an amount equivalent to fee for corresponding to next two months payment in the Escrow Account. After completing Two Years of Concession Period, MCC shall deposit and maintain at all times, an amount equivalent to fee for corresponding to next two months payment in the Escrow Account.

By way of illustration, the aforesaid payment mechanism of fee is shown as following:

Month	Activity
T1	Month of processing of waste
5th of T2	Bills raised by the Concessionaire,
15th of T2	Bill submission to MCC
End of T2	90% payment by CSCL/MCC
End of T3	10% payment by CSCL/MCC

- (e) Payment will be released after ensuring that animal carcasses/meat waste is processed as per the applicable rules in force and removed from the site for further disposal. If any malpractice is observed in this, heavy penalty shall be imposed as per Schedule 3. If malpractice is observed second time, MCC and CSCL may even cancel the contract & initiate legal action against the Concessionaire which may also include blacklisting.

ARTICLE 9. ESCROW ACCOUNT

9.1. Escrow Account

9.1.1. The Concessionaire shall, prior to the Compliance Date, open and establish an Escrow Account with a Bank (the “**Escrow Bank**”) in accordance with the terms and conditions of this Agreement and the Escrow Agreement.

- The nature and scope of the Escrow Account to be entered into amongst the Concessionaire, the Concessioneing Authority i.e. MCC, the Confirming Party i.e. CSCL, the Escrow Bank and the Senior Lenders (if any) through the Lenders’ Representative, shall be substantially in the form set forth in Schedule 6 (the “Escrow Agreement”)

9.2. Deposits into Escrow Account

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

- a) all funds constituting the financial package disbursed by Lenders in terms of the Financing Agreements;
- b) revenues, if any from or in respect of the Project received, and all proceeds of insurance claims;
- c) all payments made by the CSCL and MCC after deduction of any outstanding dues payable by the Concessionaire to MCC/CSCL;

Provided that the Senior Lenders may make direct disbursements to the EPC Contractor in accordance with the express provisions contained in this behalf in the Financing Agreements.

The CSCL and MCC shall for the first two years of Concession Period and in any month of the Concession of such period, ensure that in the Reserve Sub-Account (“**Reserve Fund**”) under the Escrow Account, an amount equivalent to immediately next two months fee payable to Concessionaire in accordance with terms hereof, is deposited and maintained. Thereafter, the MCC shall at all times and in any month of the Concession, ensure that in the Reserve Sub- Account (“**Reserve Fund**”) under the Escrow Account, an amount equivalent to immediately next two months fee payable to Concessionaire in accordance with terms hereof, is deposited and maintained. The Parties agree that so long as the Concessionaire performs its obligations hereunder and MCC/CSCL does not notify the Escrow Bank in

respect of any non-performance or breach of obligation by Concessionaire directing Escrow bank to stop any appropriation from Reserve Fund; in case of any delay by CSCL/MCC in payment of due and undisputed amount to Concessionaire subject to and in accordance with terms hereof; the Concessionaire shall be entitled to tap the Reserve Fund to withdraw the amount due, which would be deposited and applied as per the application order agreed herein. In case of such tapping, the CSCL/MCC shall forthwith top up and maintain the required reserve in the Reserve Fund.

9.3. Withdrawals during Concession Period

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

- (a) all taxes due and payable by the Concessionaire for and in respect of the Project;
- (b) all payments relating to construction of the Project, subject to and in accordance with the conditions, if any, set forth in the Financing Documents;
- (c) O&M Expenses, subject to the ceiling, if any, set forth in the Financing Agreements;
- (d) O&M Expenses and other costs and expenses incurred by the MCC/CSCL in accordance with the provisions of this Agreement, and certified by the MCC/CSCL as due and payable to it;
- (e) All payments and Damages certified by the MCC as due and payable to it by the Concessionaire;
- (g) monthly proportionate provision of Debt Service due in an Accounting Year;
- (j) any reserve requirements set forth in the Financing Agreements; and
- (k) balance, if any, in accordance with the instructions of the Concessionaire.

9.3.2. The Concessionaire shall not in any manner modify the order of payment specified in Article 9.3.1, except with the prior written approval of the MCC and CSCL.

9.4 Withdrawals upon Termination

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

- (a) all taxes due and payable by the Concessionaire for and in respect of the Project;
- (b) 90% (ninety per cent) of Debt Due;
- (c) all payments and Damages certified by the MCC as due and payable to it by the Concessionaire;
- (d) retention and payments relating to the liability for defects and deficiencies;

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- (e) O&M Expenses;
- (f) any other payment required to be made under this Agreement; and
- (g) balance, if any, in accordance with the instructions of the Concessionaire:

Provided that no appropriations shall be made under Sub-Article (g) of this Article 9.4.1 until a vesting certificate has been issued by the MCC.

9.4.2 The provisions of this Article 9 and the instructions contained in the Escrow Agreement shall remain in full force and effect until the obligations set forth in Article 9.4.1 have been discharged.

ARTICLE 10: FORCE MAJEURE

10.1 Force Majeure Event

Any of the following events which is beyond the control of the Party claiming to be affected thereby (“Affected Party”) and which the Affected Party has been unable to overcome or prevent despite exercise of due care and diligence, and results in Material Adverse Effect shall constitute Force Majeure Event:

- (a) earthquake, flood, inundation and land slide
- (b) storm, tempest, hurricane, cyclone, lightning, thunder or other extreme atmospheric disturbances
- (c) fire caused by reasons not attributable to the Concessionaire or any of the employees, Contractors or agents appointed by the Concessionaire for purposes of the Project;
- (d) acts of terrorism;
- (e) strikes, labor disruptions or any other industrial disturbances not arising on account of the acts or omissions of the Concessionaire or the Contractor
- (f) action of a Government Agency having Material Adverse Effect including but not limited to
 - (i) acts of expropriation, compulsory acquisition or takeover by any Government Agency of the Project / Project Facilities or any part thereof or of the Concessionaire’s or the Contractor’s rights in relation to the Project
 - (ii) any judgment or order of a court of competent jurisdiction or statutory authority in India made against the Concessionaire in any proceedings which is non-collusive and duly prosecuted by the Concessionaire, and
 - (iii) any unlawful, unauthorized or without jurisdiction refusal to issue or to renew or there vocation of any Applicable Permits, in each case, for reasons other than Concessionaire’s or the Contractor’s breach or failure in complying with the Project

Requirements, Applicable Laws, Applicable Permits, any judgment or order of a Governmental Agency or of any contract by which the Concessionaire or the Contractor as the case may be is bound.

- (g) Early termination of this Agreement by MCC for reasons of national emergency or national security.
- (h) any failure or delay of a Contractor caused by any of the sub-clauses (f) and (g) herein above, for which no offsetting compensation is payable to the Concessionaire by or on behalf of the Contractor.
- (i) War, hostilities (whether declared or not), invasion, act of foreign enemy, rebellion, riots, weapon conflict or military actions, civil war, ionizing radiation, contamination by radioactivity from nuclear fuel, any nuclear waste, radioactive toxic explosion, volcanic eruptions, any failure or delay of a Contractor caused by the events mentioned in this sub clause for which no off setting compensation is payable to the Concessionaire by or on behalf of the Contractor.

10.2 Notice of Force Majeure Event

- (a) As soon as practicable and in any case within 7 days of the date of occurrence of a Force Majeure Event or the date of knowledge thereof, the Affected Party shall notify the other Party of the same setting out, inter alia, the following in reasonable detail:
 - (i) The nature and extent of the Force Majeure Event;
 - (ii) The estimated Force Majeure Period;
 - (iii) The nature of and the extent to which, performance of any of its obligations under this Agreement is affected by the Force Majeure Event;
 - (iv) The measures which the Affected Party has taken or proposes to take to alleviate / mitigate the impact of the Force Majeure Event and to resume performance of such of its obligations affected thereby; and
 - (v) Any other relevant information concerning the Force Majeure Event, and/or the rights and obligations of the Parties under this Agreement.

- (b) As soon as practicable and in any case within 5 days of notification by the Affected Party in accordance with the preceding clause (a), the Parties shall meet, hold discussions in good faith and where necessary conduct physical inspection/survey of the Project Facilities in order to:
 - (i) Assess the impact of the under lying Force Majeure Event,
 - (ii) To determine the likely duration of Force Majeure Period and,
 - (iii) To formulate damage mitigation measures and steps to be undertaken by the Parties for resumption of obligations, the performance of which shall have been affected by the under lying Force Majeure Event.

- (c) The Affected Party shall during the Force Majeure Period provide to the other Party regular (not less than weekly) reports concerning the matters set out in the preceding clause (b) as also any information, details or document, which the other Party may reasonably require.

10.3 Performance of Obligations

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

- (a) Due notice of the Force Majeure Event has been given as required by the preceding **Clause 10.2**;
- (b) The excuse from performance shall be of no greater scope and of no longer duration than is necessitated by the Force Majeure Event;
- (c) The Affected Party has taken all reasonable efforts to avoid, prevent, mitigate and limit damage, if any, caused or is likely to be caused to the Project Facilities as a result of the Force Majeure Event and to restore the Project Facilities, in accordance with the Good Industry Practice and its relative obligations under this Agreement;
- (d) When the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party written notice to that

effect and shall promptly resume performance of its obligations hereunder, the non-issue of such notice being no excuse for any delay for resuming such performance;

- (e) The Affected Party shall continue to perform such of its obligations which are not affected by the Force Majeure Event and which are capable of being performed in accordance with this Agreement; and
- (f) Any insurance proceeds received shall be, subject to the provisions of Financing Documents, entirely applied to repair, replace or restore the assets damaged on account of the Force Majeure Event, or in accordance with Good Industry Practice.

10.4 Termination due to Force Majeure Event

(a) Termination

If a Force Majeure Event, excluding events described under Clauses 10.1 (f), 10.1(g) and 10.1(h), continues or is in the reasonable judgement of the Parties likely to continue beyond a period of 120 days, the Parties may mutually decide to terminate this Agreement or continue this Agreement on mutually agreed revised terms. If the Parties are unable to reach an agreement in this regard, the Affected Party shall after the expiry of the said period of 120 days, be entitled to terminate this Agreement.

Notwithstanding anything inconsistent contained in this Agreement, if a Force Majeure Event described under Clauses 10.1(f), or 10.1(h), and the same subsists for a period exceeding 365 days, then either Party shall be entitled to terminate this Agreement.

Provided that Concessioneing Authority may at their sole discretion have the option to terminate this Agreement any time after the occurrence of any event described under Clauses 10.1(f) or 10.1(h).

(b) Termination Notice

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

- (i) In sufficient detail the underlying Force Majeure Event;
- (ii) The Termination Date which shall be a date occurring not earlier than 60 days from the date of Termination Notice;
- (iii) The estimated Termination Payment including the details of

- computation thereof and;
- (iv) Any other relevant information.

(c) Obligation of Parties

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

- (i) The Termination Payment, if any, payable by the Concessioneing Authority in accordance with the following **clause (d)** is paid to the Concessionaire on the Termination Date and
- (ii) The Project Facilities are handed back to the Concessioneing Authority by the Concessionaire on the Termination Date free from all Encumbrance.

(d) Termination Payment

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

- (i) If Termination is due to a Force Majeure Event, described under Clauses 10.1 (a) to 10.1(e), no Termination Payment shall be made by the Concessioneing Authority to the Concessionaire but, the Concessionaire shall be entitled to receive and appropriate the proceeds of any amounts under insurance policies and
- (ii) If Termination is due to the occurrence of any event described under Clauses 10.1(f), 10.1(g) or 10.1(h), the Concessioneing Authority shall pay to the Concessionaire Termination Payment as calculated in the following clause (e).
- (iii) If Termination is due to the occurrence of any event described under Clause 10.1 (i), the Concessioneing Authority shall subject to the certification of MCC, pay to the Concessionaire, Termination payment as calculated in the following clause (e). Provided the Concessioneing Authority shall be entitled to deduct from the Termination Payment any amount due and recoverable by the Concessioneing Authority from the Concessionaire as on the Termination Date.

(e) Calculation of Termination Payment

Termination Payment shall be calculated as set out below:

- (i) If Termination is due to the occurrence of any event described under **Clauses 10.1(f), 10.1(g) or 10.1(h)**:

Termination Payment = 100% of Book Value as on the Date of Termination Notice.

- (ii) If Termination is due to the occurrence of any event described under **Clause 10.1 (i)**:

Termination Payment = 100% of Book Value as on the Date of Termination Notice

10.5 Liability for other losses, damages etc.

Save and except as expressly provided in this **Article 10**, neither Party hereto shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event.

ARTICLE 11: CHANGES IN LAW

- (a) Change in Law shall mean the occurrence or coming into force of any of the following, after the Appointed Date:
- (i) The enactment of any new Indian law including laws related to environment;
 - (ii) The repeal, modification or re-enactment of any existing Indian law
 - (iii) A change in the interpretation or application of any Indian law by a court of record.
- Provided that Change in Law shall not include:
- (i) Coming into effect, after the Appointed Date, of any provision or statute which is already in place as of the Appointed Date,
 - (ii) Any new law or any change in the existing law under the active consideration of or in the contemplation of any government as of the Appointed Date which is a matter of public knowledge (including interalia, bye laws, directions, orders, regulations to be issued under the SWM Rules),
 - (iii) Any change in the rates of the Taxes which have a direct effect on the Project.
- (b) Subject to Change in Law resulting in Material Adverse Effect and subject to the Concessionaire taking necessary measures to mitigate the impact or likely impact of Change in Law on the Project, if as a direct consequence of a Change in Law, the Concessionaire is obliged to incur Additional Costs, and MCC shall subsequently reimburse to the Concessionaire 50% of such Additional Costs.
- (c) Upon occurrence of a Change in Law, the Concessionaire may, notify MCC of the following:
- (i) The nature and the impact of Change in Law on the Project
 - (ii) In sufficient detail, the estimate of the Additional Cost likely to be incurred by the Concessionaire on account of Change in Law
 - (iii) The measures, which the Concessionaire has taken or proposes to take to mitigate the impact of Change in Law, including in particular, minimizing the Additional Cost
 - (iv) The relief sought by the Concessionaire

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- (d) Upon receipt of the notice of Change in Law issued by the Concessionaire pursuant to preceding sub-clause, MCC and the Concessionaire shall hold discussions and take all such steps as may be necessary including determination / certification by the Concessioneing Authority of the quantum of the Additional Cost to be borne and paid by MCC.
- (e) MCC shall within 45 days from the date of determination of quantum of Additional Cost, provide relief to the Concessionaire in the manner as mutually agreed upon by the Parties.

ARTICLE 12: EVENTS OF DEFAULT AND TERMINATION

12.1 Events of Default

Event of Default shall mean either Concessionaire's Event of Default or MCC's/CSCL's Event of Default or both as the context may admit or require.

(a) Concessionaire Event of Default

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

- (i) The Concessionaire has failed to adhere to the Construction Requirements as set forth in Schedule 2 of the Concession Agreement;
- (ii) The Concessionaire has failed to achieve COD within Sixty (60) days of the Scheduled Construction Completion Date for any reason whatsoever;
- (iii) The Concessionaire is in Material Breach of any of its obligations under this Agreement in respect of which a specified time period has not been specified in this Agreement and the same has not been remedied for more than 30 (thirty) days;
- (iv) Any representation made or warranty given by the Concessionaire under this Agreement is found to be false or misleading;
- (v) A resolution for voluntary winding up has been passed by the shareholders of the Concessionaire;
- (vi) Any petition for winding up of the Concessionaire has been admitted and liquidator or provisional liquidator has been appointed or the Concessionaire has been ordered to be wound up by Court of competent jurisdiction, except for the purpose of amalgamation or reconstruction with the prior consent of MCC/CSCL, provided that, as part of such amalgamation or reconstruction and the amalgamated or reconstructed entity has

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

- (vii) Abandonment of the Project by the Concessionaire;
- (viii) The Concessionaire has unlawfully repudiated this Agreement or has otherwise expressed an intention not to be bound by this Agreement;
- (ix) The Concessionaire has suffered an attachment levied on any of its assets which has caused or is likely to cause a Material Adverse Effect on the Project and such attachment has continued for a period exceeding 90 (ninety) days.
- (x) The Concessionaire fails to obtain and maintain a valid Performance Bank Guarantee for the requisite amounts in terms of this Agreement.

(b) MCC's Event of Default

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

- (i) The Sites has not been handed over by the Concessioneing Authority to the Concessionaire within Thirty (30) days of Appointed Date;
- (ii) CSCL/MCC has failed to make any payments due to the Concessionaire and more than 180 days have elapsed since such default;
- (iii) MCC 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 Concessionaire;
- (iv) CSCL/MCC has unlawfully repudiated this Agreement or otherwise expressed its intention not to be bound by this Agreement;

- (v) MCC/CSCL has unreasonably withheld or delayed grant of any approval or permission which the Concessionaire is obliged to seek under this Agreement, and there by caused or likely to cause Material Adverse Effect.
- (vi) Any representation made or a warranty given by MCC under this Agreement has been found to be false or misleading.

12.2 Termination due to Event of Default

(a) Termination for Concessionaire's Event of Default

- (i) Without prejudice to any other right or remedy which MCC may have in respect thereof under this Agreement, upon the occurrence of a Concessionaire Event of Default, MCC shall, subject to the provisions of the Substitution Agreement, be entitled to terminate this Agreement in the manner as set out under **Clause 11.2 (a) (ii) and Clause 11.2 (a) (iii)**.

Provided however that upon the occurrence of a Concessionaire Event of Default as specified under **Clause 11.1 (a)**, the Concessioning Authority may terminate this Agreement by issue of Termination Notice in the manner set out under **Clause 11.2 (c)**.

- (ii) If MCC decides to terminate this Agreement pursuant to preceding **clause (i)**, it shall in the first instance issue Preliminary Notice to the Concessionaire. Within fifteen (15) days of receipt of the Preliminary Notice, the Concessionaire shall submit to MCC in sufficient detail, the manner in which it proposes to cure the underlying Event of Default (the "Concessionaire's Proposal to Rectify"). In case of non-submission of the Concessionaire's Proposal to Rectify within the said period of 15 days, MCC shall be entitled to terminate this Agreement by issuing Termination Notice, and to appropriate the Performance Security.

If the Concessionaire's Proposal to Rectify is submitted within the period stipulated therefor, the Concessionaire shall have further period of 30 days to remedy/cure the underlying Event of Default. If, however the Concessionaire fails to remedy/cure the

underlying Event of Default within such further period allowed, MCC shall be entitled to terminate this Agreement, by issue of Termination Notice and to appropriate the Performance Security.

(b) Termination for MCC's Event of Default

- (i) Without prejudice to any other right or remedy which the Concessionaire may have in respect thereof under this Agreement, upon the occurrence of MCC Event of Default, the Concessionaire shall be entitled to terminate this Agreement by issuing Termination Notice.
- (ii) If the Concessionaire decides to terminate this Agreement pursuant to preceding clause (i) it shall in the first instance issue Preliminary Notice to MCC. Within 15 days of receipt of Preliminary Notice, MCC shall forward to the Concessionaire its proposal to remedy/cure the underlying Event of Default (the "MCC Proposal to Rectify"). In case of non-submission of MCC Proposal to rectify within the period stipulated therefore, Concessionaire shall be entitled to terminate this Agreement by issuing Termination Notice.
- (iii) If MCC Proposal to Rectify is forwarded to the Concessionaire within the period stipulated therefore, MCC shall have further period of 30 days to remedy/cure the underlying Event of Default. If, however MCC fails to remedy/cure the underlying Event of Default within such further period allowed, the Concessionaire shall be entitled to terminate this Agreement by issuing Termination Notice.

(c) Termination Notice

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

- (i) In sufficient detail the underlying Event of Default;
- (ii) The Termination Date which shall be a date occurring not earlier than 45 days from the date of Termination Notice;

- (iii) The estimated termination payment including the details of computation thereof; and,
- (iv) Any other relevant information.

(d) Obligation of Parties

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

- (i) Until Termination the Parties shall, to the fullest extent possible, discharge their respective obligations so as to maintain the continued operation of the Project Facilities;
- (ii) The termination payment, if any, payable by MCC in accordance with the following **sub-article (f)** is paid to the Concessionaire on the Termination Date; and
- (iii) The Project Facilities are handed back to MCC as instructed by MCC, by the Concessionaire on the Termination Date free from any Encumbrance along with any payment that may be due by the Concessionaire to MCC.

(e) Withdrawal of Preliminary Notice

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

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

(f) Termination Payments

Upon Termination of this Agreement on account of MCC Event of Default, the Concessionaire shall be entitled to withdraw the Performance Security, if subsisting, and receive from CSCL,

termination payment.

The calculation is explained below:

Termination Payment= (100% of Book Value as on the Date of Termination Notice)

(g) Termination Payment for Concessionaire Event of Default

Upon Termination of this Agreement on account of Concessionaire Event of Default, no Termination Payment shall be made to the Concessionaire and the MCC shall be entitled to forfeit the Performance Security of the Concessionaire.

12.3 Rights of MCC on Termination

- (a) Upon Termination of this Agreement for any reason whatsoever, MCC shall upon making the Termination Payment, if any, to the Concessionaire, have the power and authority to:
 - (i) Enter upon and take possession and control of the Project Facilities forth with;
 - (ii) Prohibit the Concessionaire and any person claiming through or under the Concessionaire from entering upon/dealing with the Project Facilities;

- (b) Notwithstanding anything contained in this Agreement, the Concessioning 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 the Concessionaire in connection with the Project, and the hand back of the Project Facilities by the Concessionaire to MCC shall be free from any such obligation.

- (c) Termination Payment shall become due and payable to the Concessionaire within 15 (fifteen) days of a demand being made by the Concessionaire to the MCC with the necessary particulars, and in the event of any delay, the MCC shall pay interest at a rate equal to 3% (three per cent) above the Bank Base Rate on the amount of Termination Payment remaining unpaid; provided that such delay shall not exceed 90 (ninety) days. For the

avoidance of doubt, it is expressly agreed that the Termination Payments shall become due and payable by the MCC upon actual or constructive transfer of the Project Assets by the Concessionaire to the MCC clear from all encumbrances, charges and liens whatsoever, unless expressly agreed by the Parties otherwise.

- (d) The MCC and the Concessionaire hereby unconditionally acknowledge and agree that, without prejudice to their any other right or remedy, the MCC shall be entitled to pay the Termination Payment [to the extent required] to the Lenders' Representative for procuring discharge/release of the any charge/Hypothecation created by Concessionaire on the moveable project assets for securing payment of Debt Due; and for this purpose the Lender is entitled to receive from the MCC, without any further reference to or consent of the Concessionaire, the Debt Due upon Termination of the Concession Agreement. For realisation of the Debt Due as aforesaid, the Lenders' Representative shall be entitled to make its claim from the Escrow Account in accordance with the provisions of the Concession Agreement and the Escrow Agreement; and Concessionaire hereby irrevocably agree that such payment by MCC shall be full and final settlement of Proportionate claim of Termination Payment to the Concessionaire under this Agreement.

12.4 Accrued Rights of Parties

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

ARTICLE 13: SUBSTITUTION OF THE CONCESSIONAIRE

13.1. Substitution by Lenders' Representative

In the event of Concessionaire's default, MCC shall, if there be any Lenders, send copy of the Termination Notice to the Lenders' Representative to inform and grant 15 (Fifteen) days to the Lenders' Representative, for making representation on behalf of the Lenders stating the intention to substitute the Concessionaire. In case MCC receives representation on behalf of the Lenders, within the aforesaid period, MCC shall withhold the termination for period not exceeding 180 (one hundred and eighty) days, for enabling the Lenders' Representative to exercise the Lenders' right of substitution in accordance with the Substitution Agreement, and substitute the Concessionaire with Nominated Company.

13.2. Substitution by MCC

In the event that no company is nominated by the Lender's Representative to act as the Nominated Company or the company nominated by the Lenders' Representative in terms of Article 13.1 is not acceptable to MCC, MCC may either substitute the Concessionaire with Nominated Company, in accordance with the Substitution Agreement, or terminate the Agreement.

13.3. Substitution Process

While carrying out substitution, the Lender's Representative or MCC, as the case may be, shall invite competitive bids from the prospective parties for acting as the Nominated Company and substituting the Concessionaire. Such Nominated Company shall have to agree to bear all the liabilities of the Concessionaire in terms of this Agreement and Financing Agreement.

13.4. Consequences of Substitution

MCC shall grant, to the Nominated Company, the right to develop, design, finance, construct, operate and maintain the Project (including entering into Sub-Contracts) together with all other rights of the Concessionaire under this Agreement, subject to fulfilment of the Concessionaire's entire obligation under this Agreement by such Nominated Company, for the remainder of the term of this Agreement. Such rights shall be granted by MCC through the Novation of the Agreement, if applicable, in favour of the Nominated Company.

MCC shall also execute new Substitution Agreement with the Nominated Company and the Lenders, if there be any. All Sub-Contracts and agreements in respect of the Project including Financing Agreements and all Sub-Contracts executed by the Concessionaire shall stand transferred and novated in favour of the Nominated Company. Further all

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rights of the Concessionaire on the Site and Project Assets in terms of the Agreement shall stand transferred and novated in favour of the Nominated Company. All approvals/clearances of MCC received by the Concessionaire shall stand transferred and novated in favour of the Nominated Company. The Concessionaire shall get replaced by the Nominated Company for all purposes related to the Project.

ARTICLE 14: HANDBACK OF PROJECT FACILITIES

14.1 Ownership

Without prejudice and subject to the Concession, the ownership of the Project Facilities, including all improvements made there in by the Concessionaire, shall at all times remain that of Concessioneing Authority.

14.2 Condition Survey

(a) The Concessionaire agrees that on the service of a Termination Notice or 180 (one hundred and eighty) days prior to the expiry of the Term by efflux of time, it shall conduct or cause to be conducted by the MCC, a survey (“**Condition Survey**”) and inventory of the Project to ascertain the condition thereof, verify compliance with the Concessionaire’s obligations under this Agreement and to prepare an inventory of the assets comprised in the Project;

(b) If, as a result of the Condition Survey, the MCC shall observe/notice that the Project or any part thereof is not in the condition required thereof under this Agreement (except normal wear and tear) the Concessionaire shall, at its cost and expenses, take all necessary steps to put the same in the requisite conditions well before the Termination Date.

(c) In the event the Concessionaire fails to comply with the provisions of this Agreement, the MCC may itself cause the Condition Survey and inventory of Project to be conducted. The MCC shall be compensated by the Concessionaire for any costs incurred in conducting such survey and preparation of inventory as also in putting the Project in the requisite condition. In event, the Concessionaire fails to pay the cost incurred, the MCC shall be entitled to recover the amount from its invoices and/ or the Performance Security.

14.3 Concessionaire’s Obligations upon Termination

Without prejudice to any other consequences or requirements under this Agreement or under any law, the following consequences shall follow upon termination due to a Force Majeure Event or Event of Default or expiry of the Term by efflux of time.

(a) The Concessionaire shall subject to the provisions of this Agreement:

(i) hand over to the MCC or its nominated agency free of cost the vacant and peaceful possession of the Project.

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(ii) hand over/transfer to the MCC all its rights, titles and interest in or over the assets comprised in the Project and the Project Assets (including movable assets which the MCC agrees to take over) which are required to be transferred to the MCC in accordance with this Agreement and execute such deeds and documents as may be necessary for the purpose and complete all legal or other formalities required in this regard.

(iii) hand over to the MCC all documents, Proprietary Material, including as built designs, drawings, data, engineering, manuals and records relating to the Project Assets and Project.

It is clarified that only the assets of the Concessionaire shall be taken over, free of cost and no liabilities, including without limitation liabilities relating to labour and personnel related obligations of the Concessionaire shall be taken over by the MCC. The Concessionaire's employees shall be the Concessionaire's/Successful Bidder's responsibility even after the expiry of the Term.

(iv) transfer or cause to be transferred/assigned to the MCC any Project Agreements which are (A) valid and subsisting, (B) capable of being transferred to the MCC and (C) those the MCC has chosen to take over, and cancel or cause to be cancelled entirely at its cost such Project Agreements not transferred to the MCC.

(v) at its cost, transfer to the MCC all such Applicable Approvals which the MCC may require and which can be legally transferred.

(vi) at its cost remove from the Site all such moveable assets which are not taken over by or transferred to the MCC. In the event the Concessionaire fails to remove such objects within the stipulated time, the MCC may remove and transport or cause removal and transportation of such objects, after giving the Concessionaire notice of its intention to do so to a suitable location for safe storage. The Concessionaire shall be liable to bear the reasonable cost and the risk of such removal, transportation and storage.

(b) All proceeds of insurance claims shall be deposited in a separate account and the Concessionaire or Persons claiming through or under it shall have no claim thereon or rights thereto unless and until all dues of/damages payable to the MCC or any Government Authority or in respect of the Project have been cleared and no amounts payable/refundable to either of them by the Concessionaire pursuant to this Agreement are outstanding.

(c) The Concessionaire and the Persons claiming through or under it shall forthwith vacate the Site without any delay or demur.

(d) The MCC shall be entitled to encash any subsisting Performance Security/bank guarantee(s) provided by the Concessionaire, if the Termination is on account of Event of Default – Concessionaire

14.4 Divestment Certificate

(a) On the Termination Date the MCC shall verify, in the presence of the Concessionaire or of a representative of the Concessionaire, compliance by the Concessionaire with the requirements of this Agreement, as the case may be. In the event the MCC notifies the Concessionaire of shortcomings, if any, in the Concessionaire's compliance with such requirements, the Concessionaire shall forthwith cure the same.

(b) Upon Termination (due to Force Majeure Event or Event of Default or expiry of the Term by efflux of time), the divestment by the Concessionaire of all rights, title and interest in the Project and the Project Assets and the Project Facilities shall be deemed to be complete on the Termination Date but no later than 30 (thirty) days thereafter, by when all the requirements of this Agreement shall be fulfilled. The MCC shall upon fulfilment of the requirements of this Agreement issue a certificate (the “**Divestment Certificate**”).

ARTICLE 15: DISPUTE RESOLUTION

15.1 Amicable Resolution

- (a) Save where expressly stated to the contrary in this Agreement, any dispute, difference or controversy of whatever nature between the Parties, howsoever arising under, out of or in relation to this Agreement, including those arising with regard to acts, decision or opinion of the MCC/CSCL (the "Dispute") shall in the first instance be attempted to be resolved amicably in accordance with the procedure set forth in **clause (b)** below.
- (b) The Parties may refer such Dispute to the Chief Executive Officer, CSCL (or the Person holding charge) for the time being, for amicable settlement. Upon such reference, the Parties shall meet at the earliest mutual convenience and in any event within 15 days of such reference to discuss and attempt to amicably resolve the Dispute. If the Disputes not amicably settled within 15 (fifteen) days of such meeting between the two, either Party may refer the Dispute to Arbitration in accordance with the provisions of **Article 15.2** below.

15.2 Arbitration

Any dispute, difference or claim arising out of or in connection with this Agreement which is not resolved amicably shall be settled by Arbitration in accordance with the Chandigarh Arbitration Centre (CAC) Rules, 2018 and shall be subject to provisions of the Arbitration & Conciliation Act, 1996 or any statutory amendment thereof. The appointment of Arbitrator(s) shall be made in accordance with the provisions of the Chandigarh Arbitration Centre (CAC) Rules, 2018 by the parties. In case of disagreement on the appointment of Sole Arbitrator by the parties, there shall be a Board of Three (3) Arbitrators of whom one shall be appointed by the Concessing Authority/Confirming Party, one shall be appointed by the Concessionaire, and the third shall be appointed by the two arbitrators appointed as aforesaid. The award resulting from arbitration shall be final and binding upon the Parties and shall be enforceable in accordance with the provisions of the Arbitration Act subject to the rights of the aggrieved parties to secure relief from any higher forum. The fees of the Arbitral Tribunal and the cost of the arbitration proceedings shall be

Setting Up of Animal Carcass Incineration Plant in Chandigarh on Design, Build, Finance, Operate and Transfer Basis- Request for Proposal

borne by the Parties in equal proportions. Each Party shall bear its own legal fees incurred as a result of any Dispute under this Clause. The arbitration proceedings shall be conducted in Chandigarh and the venue of the Arbitration proceedings shall be the Chandigarh Arbitration Centre. The arbitration proceedings shall be conducted in the English language. 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.

ARTICLE 16: INSURANCE

16.1 Insurance Cover

The Concessionaire shall, at its cost and expense, purchase and maintain effective from the Compliance Date and during the Term such insurance policies for such maximum sums as are necessary and customary under Financing Documents and Applicable Laws, and/or in accordance with Good Industry Practice (or may in the future become available) on commercially reasonable terms and reasonably required to be maintained consistent with projects and facilities of the size and type of the Project, including but not limited to the following:

- (a) Loss, damage or destruction of the Project Assets, including assets handed over by the Authority to the Concessionaire, at replacement value;
- (b) liability to third parties for goods or property damage;
- (c) Statutory insurances such as workmen's compensation insurance or any other insurance required by the Applicable Laws;
- (d) Comprehensive Third Party liability insurance including injury or death to Persons who may enter the Site;
- (e) the Concessionaire's general liability arising out of the Concession;
- (f) any other insurance that may be necessary to protect the Concessionaire and its employees, including all Force Majeure Events that are insurable at commercially reasonable premiums and not otherwise covered in items (a) to (e) above.

16.2 Insurance Companies and Costs

- (a) The Concessionaire shall insure all insurable Project Assets comprised in the Project and/or the Project.
- (b) All insurance policies supplied by the Concessionaire shall include a waiver of any right of subrogation of the insurers there under against, inter alia, the MCC, and its assigns, 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.
- (c) The Concessionaire hereby further releases, assigns and waives any and all rights of recovery against, inter alia, the MCC, and its affiliates, subsidiaries, employees, successors, assigns, insurers and underwriters, which the Concessionaire may otherwise have or acquire in or from or in any way connected with any loss covered by policies of insurance maintained or required to be maintained by the Concessionaire pursuant to this Agreement (other than Third Party liability insurance policies) or because of deductible Articles in or inadequacy of limits of any such policies of insurance, unless otherwise mentioned in this Agreement.

16.3 Evidence of Insurance Cover

The Concessionaire shall, from time to time, provide to the MCC copies of all insurance policies (or appropriate endorsements, certifications or other satisfactory evidence of insurance) obtained by the Concessionaire in accordance with this Agreement.

16.4 Application of Insurance Proceeds

All moneys received under insurance policies shall be promptly applied by the Concessionaire towards repair or renovation or restoration or substitution or replacement of the Project or any part

thereof, which may have been damaged or destroyed. The Concessionaire shall carry out such repair or renovation or restoration or substitution or replacement to the extent possible in such manner that the Project or any part thereof, shall, after such repair or renovation or restoration or substitution or replacement be as far as possible in the same condition as they were before such damage or destruction, normal wear and tear excepted.

16.5 Validity of the Insurance Cover

The Concessionaire shall pay the premium payable on such insurance policies so as to keep the policies in force and valid throughout the Term and furnish copies of the same to the MCC. Each insurance policy shall provide that the same shall not be cancelled or terminated unless 10 (ten) days' clear notice of cancellation is provided to the MCC in writing. If at any time the Concessionaire fails to purchase and maintain in full force and effect any and all of the insurances required under this Agreement, the MCC may at its option purchase and maintain such insurance and all sums incurred by the MCC in this behalf shall be reimbursed by the Concessionaire forthwith on demand, failing which the same shall be recovered by the MCC by exercising right of set off or otherwise from the Performance Security.

ARTICLE 17: INTELLECTUAL PROPERTY AND CONFIDENTIALITY

17.1 Proprietary Material

(a) The property in all designs, drawings, processes, methods, details, plans, concepts, technology, specifications, schedules, programs, reports, calculations, documents and other works relating to the Project, including intellectual property rights therein or thereto, whether registered or not, hereafter referred to as "**Proprietary Material**", which have been or are hereafter written, originated, made or generated by the Concessionaire or any of its employees, Contractors, consultants or agents in connection with this Agreement or the design, development, construction, operation and maintenance of the Project/ Project, shall be and remain at all times the property of the Concessionaire, vest exclusively in the Concessionaire and ensure to the exclusive benefit of the Concessionaire.

(b) The Concessionaire, as beneficial owner, hereby grants to the MCC a perpetual non-exclusive license to use such Proprietary Material in connection with the Project. Such license shall carry the right to use the Proprietary Material for all purposes connected with the Project; however, it shall not be transferable to a Third Party. Such license shall automatically get extended to the MCC for Project purpose only, and not for Third Party use or transfer, upon the Termination or expiration of this Agreement or the discharge by the Concessionaire of its duties hereunder.

(c) Nothing in this Article 17.1 shall be construed to grant the MCC or Persons claiming through or under it any right or licence with respect to such Proprietary Material, save and except as otherwise expressly herein.

17.2 Confidentiality

(a) The MCC shall not at any time divulge or disclose or suffer or permit its servants or agents to divulge or disclose, transfer, communicate to any Person or use in any manner for any purpose unconnected with the Project any Proprietary Material or other information, material, documents, records or data, concerning the Project, the Concessionaire and the MCC (including any information concerning the contents of this Agreement) except to its directors, officials, employees, Contractors, consultants, agents or representatives on a need to know basis or as may be required by any law, rule, regulation or any judicial process.

(b) The MCC shall use such Proprietary Material and information only for the purposes of this Agreement or as otherwise expressly permitted by the Concessionaire in writing.

(c) The Concessionaire shall ensure that all its directors, employees, Subcontractors, consultants, agents or representatives execute, deliver and comply with customary confidentiality and non-disclosure agreements reasonably required by the MCC, which have been duly approved by the MCC, with respect to the Project.

(d) The aforesaid provisions shall not apply to the following information: -
i. obtained from a Third Party who is free to divulge the same and which was not obtained under any obligation of confidentiality; or
ii. already in the public domain otherwise than by breach of this Agreement;

iii. disclosed due to a court order or under any Act of GoI/GoC.

17.3 Survival

The Concessionaire and the MCC accepts and confirms that the provisions of this Article 17 shall survive the expiration or any earlier termination of this Agreement.

ARTICLE 18: REPRESENTATIONS AND WARRANTIES

18.1 Representations and Warranties of the Concessionaire

The Concessionaire represents and warrants to Concessioneing Authority that:

- (a) It is duly organized, validly existing and in good standing under the laws of India;
- (b) It has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- (c) It has taken all necessary corporate and other action under Applicable Laws and its constitutional documents to authorize the execution, delivery and performance of this Agreement;
- (d) It has the financial standing and capacity to undertake the Project;
- (e) This Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- (f) The execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under or accelerate performance required by any of the terms of the Concessionaire's Memorandum and Articles of Association or any Applicable Laws or any covenant, agreement, understanding, decree or order to which it is a party or by which it or any of its properties or assets are bound or affected;
- (g) There are no actions, suits, proceedings or investigations pending or to the Concessionaire's knowledge threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may constitute Concessionaire Event of Default or which individually or in the aggregate may result in Material Adverse Effect;
- (h) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Agency which may result in Material Adverse Effect;
- (i) it has complied with all Applicable Laws and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have Material Adverse Effect;
- (j) subject to receipt by the Concessionaire from MCC of any amount due under any of the provisions of this Agreement, in the manner and to the extent provided for under the applicable provisions of this Agreement all rights and interests of the Concessionaire in and to the Project Facilities shall pass to and vest in the MCC on the Termination Date free and clear of all Encumbrances without any further

act or deed on the part of the Concessionaire or Concessing Authority;

- (k) no representation or warranty by the Concessionaire contained herein or in any other document furnished by it to Concessing Authority or to any Government Agency in relation to Applicable Permits contains or will contain any untrue statement of material fact omits or will omit to state a material fact necessary to make such representation or warranty not misleading;
- (l) no bribe or illegal gratification has been paid or will be paid in cash or kind by or on behalf of the Concessionaire to any person to procure the Concession.
- (m) Without prejudice to any express provision contained in this Agreement, the Concessionaire acknowledges that prior to the execution of this Agreement, the Concessionaire has after a complete and careful examination made an independent evaluation of the Project Facilities, and the information provided by Concessing Authority, and has determined to its satisfaction the nature and extent of risks and hazards as are likely to arise or may be faced by the Concessionaire in the course of performance of its obligations here under.
- (n) The Concessionaire also acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth above and hereby confirms that Concessing Authority shall not be liable for the same in any manner whatsoever to the Concessionaire.

18.2 Representations and Warranties of Concessing Authority

Concessing Authority represents and warrants to the Concessionaire that:

- (a) Concessing Authority has full power and authority to grant the Concession;
- (b) Concessing Authority has taken all necessary action to authorize the execution, delivery and performance of this Agreement;
- (c) There are no suits or other legal proceedings pending or threatened against Concessing Authority in respect of the Project Facilities or the Project.

18.3 Obligation to Notify Change

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

ARTICLE 19: MISCELLANEOUS

19.1 Assignment and Charges

- (a) The Concessionaire shall not assign in favor of any person this Agreement or the rights, benefits and obligations here under save and except with prior consent of MCC.
- (b) The Concessionaire shall neither create nor shall permit to subsist any Encumbrance over the Project Facilities except with prior consent in writing of MCC, which consent MCC be entitled to decline without assigning any reason whatsoever.
- (c) Restraint set forth in clauses(a) and (b) above shall not apply to:
 - (i) Liens/encumbrances arising by operation of law (or by an agreement evidencing the same) in the ordinary course of business of the Concessionaire:
 - (ii) Pledges/hypothecation of goods / moveable assets, revenue and receivables as security for indebtedness, in favor of the Lenders and working capital providers for the Project;
 - (iii) Assignment of Concessionaire's rights and benefits under this Agreement to or in favor of the Lenders as security for financial assistance provided by them.

19.2 Interest and Right of Set Off

Any sum which becomes payable under any of the provisions of this Agreement by one Party to the other Party shall, if the same be not paid within the time allowed for payment thereof, shall be deemed to be a debt owed by the Party responsible for payment thereof to the Party entitled to receive the same. Such sum shall until payment thereof carry interest at prevailing State Bank of India per annum MCLR (Marginal Cost of Funds Based Lending Rate) plus 3% p.a.from the due date for payment thereof until the same is paid to or otherwise realized by the Party entitled to the same. Without prejudice to any other right or remedy that may be available under this Agreement or otherwise under law, the Party entitled to receive such amount shall also have the right of set off.

Provided the stipulation regarding interest for delayed payments contained in this Article 19.2 shall neither be deemed or construed to authorize any delay in payment of any amount due by a Party nor be deemed or construed to be a waiver of the underlying breach of payment obligations.

19.3 Governing Law and Jurisdiction

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

19.4 Waiver

- (a) Waiver by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement:
 - (i) Shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions or obligations under this Agreement;
 - (ii) shall not be effective unless it is in writing and executed by a duly authorized representative of such Party; and
 - (iii) shall not affect the validity or enforceability of this Agreement in any manner.
- (b) Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation here under 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.

19.5 Survival

Termination of this Agreement

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

19.6 Amendments

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

19.7 Notices

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

If to the Concessioneing Authority/ Confirming Party	If to the Concessionaire
<p>The Commissioner, Municipal Corporation, Deluxe Building, Sector 17, Chandigarh Email: _____</p> <p>The Chief Executive Officer, Chandigarh Smart City Limited, 2nd Floor, New Bridge Building-2, Near TDI Mall, Sector 17 A, Chandigarh. Email: smartcity.chd@nic.in</p>	<p>Managing Director Address_____</p>

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

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

19.8 Severability

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

19.9 No Partnership

Nothing contained in this Agreement shall be construed or interpreted as

constituting a partnership between the Parties. Neither Party shall have any authority to bind the other in any manner whatsoever.

19.10 Language

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

19.11 Exclusion of Implied Warranties etc.

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

19.12 Counter parts

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

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

SIGNED SEALED AND DELIVERED

For and on behalf of Concessioneing Authority by:

(Signature) (Name)
(Designation)

For and on behalf of Confirming Party by:

(Signature) (Name)
(Designation)

For and on behalf of Concessionaire by:

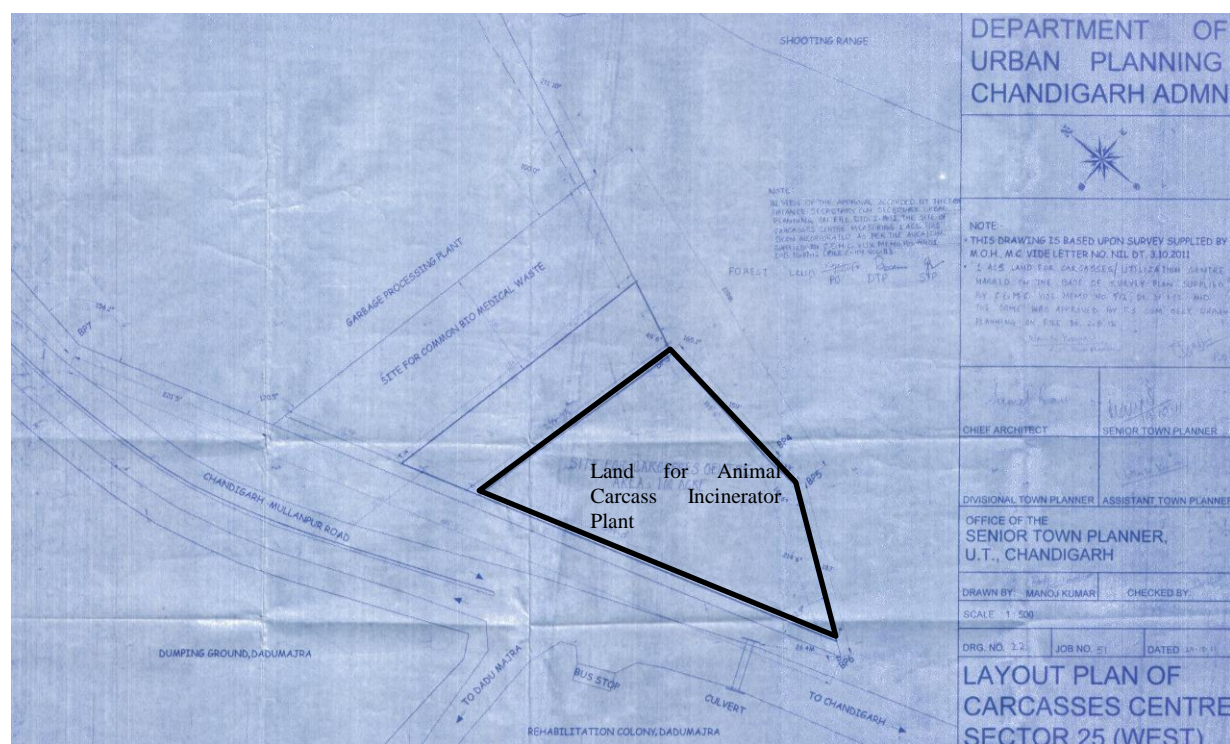
(Signature) (Name)
(Designation)

In the presence of:

- 1)
- 2)

SCHEDULE 1: DETAILS OF PROJECT SITE AND SCOPE OF WORK

An area of approx 1 Acre has been earmarked by the Concessioneing Authority at Sector 25 (West) for the purpose of setting up an animal carcass disposal facility. This site is located in Village Daddu Majra near to the existing Garbage processing Plant and Dumping Ground Chandigarh. The site is opposite the junction of the Chandigarh Mullanpur Road and the Daddu Majra Road. It is easily accessible and also located at a reasonable distance from habitations. Layout Plan and Aerial View of the Proposed Project Site are enclosed herewith.



Layout Plan for Animal Carcass Disposal Facility

2. SCOPE OF WORK

2.1 The Scope of Work for the Concessionaire is as set out below. Detailed specifications are set out in this Concession Agreement and Schedules thereof.

2.2.1 The various works to be carried out under the Project *inter alia* comprise the following:

- Procurement and construction of processing plant/cremation system for the disposal of animal carcasses at the land allotted by Concessioneing Authority.
- The system will be of latest technology based including pollution control equipments.
- Preferred system will be gas based – LPG/CNG/PNG.
- The system will have two machines, one for pet & stray animals of small sizes and one for pet & stray animals of bigger sizes.

- The system will work under the command of control room set up for this purpose. Control room will work for 24*7 days a week round the clock and have staff & machinery for this purpose always present there for receiving calls/ messages / information etc. regarding dead animals
- The total jurisdiction area of Chandigarh will be divided in two zones. In each zone there will be staff available with transport vehicle specially designed for this purpose separate for small & big animals. Specially designed mechanized loading & unloading systems will be available at each zone.
- Provide toll free number for the public
- Campaigning for disposal system/facility of dead animals through FM Radio or other suitable media.
- On receiving the call at control room the concerned zone staff will go at site and bring the dead body of animal in specially designed vehicle and unload & handover the same to operator at cremation system.
- Successful Bidder with the help of specially designed mechanized equipments put the dead animal body in the cremation machine and will start the same.
- After cremating the body of animal in machine he will check and open the machine and will do necessary cleaning for next body as and when required.
- Proper record will be maintained for each & every cremation.
- The Successful Bidder will provide whole staff & machinery for this purpose that will work 24*7. Operations are expected to be at least in two shifts.
- There will be prefabricated quarters for staff & control room fixed at site.
- The daily journey of vehicles will be recorded and maintained in log book.
- The journey of vehicle will also be recorded in cremation machine record book and will be cross checked.
- The total system will work in complete automation.
- All type of taxes as applicable during operation will be borne by the Concessionaire.
- Transportation of animal carcasses collected from roads and all other animal carcass generating sources as per M.V. Act, 1988 or any other relevant rule.
- The concessionaire shall have provisions for collecting animal carcass from interior areas of the city where the roads/ streets width is not sufficient.
- Processing of animal carcass as per the applicable rules and CPCC guidelines.
- Install a cold storage for storing the animal carcass / meat waste of approximately 2000 kg.
- To comply with the pollution control norms in operation of plants and processing of animal carcass.
- To operate & maintain the Animal Carcass Incineration Plant as per the relevant guidelines of concerned statutory authorities.
- To install (Global Positioning System) GPS system in vehicles to be deployed for transportation of Animal Carcasses.
- To dispose of the carcasses of pet animals collected from the Roads, private bodies/Gaushalas/Animal Clinics/Animal Houses/Zoos/Animal Dairies etc. to control spread of diseases.
- To dispose of Meat waste supplied by MCC.

2.2.2 The Concessionaire would design, procure, finance, construct, operate and maintain the Project during the Concession Period on a Design-Build-Finance-Operate-Transfer (DBFOT) Concession basis. The Project including the land and all immovable components would be transferred back to CSCL at the end of the

Concession Period. The Successful Bidder will remove all movable components/assets without damaging the project site.

- 2.2.3 The Concessionaire shall at its cost/ expenses and risk make such financing arrangements, in a timely manner as would be necessary to implement the Project, and to meet all of its obligations under the Concession Agreement.
- 2.2.4 The Concessionaire shall adhere to the Construction Requirements and achieve Commercial Operations Date (COD) on or before the Scheduled Construction Completion Date, as specified in the Concession Agreement.
- 2.2.5 The Concessionaire may undertake Construction Works by itself or through a Contractor possessing requisite technical, financial and managerial expertise/capability; but in either case, the Successful Bidder shall remain solely responsible to meet the Construction Requirements, as specified in the Concession Agreement.
- 2.2.6 The Concessionaire shall, at all times, ensure that all aspects of the Project and processes employed in the construction, operation and maintenance thereof shall conform with the laws pertaining to environment, health and safety aspects including applicable rules such as SWM Rules 2016, etc., policies and guidelines related thereto.
- 2.2.7 The Concessionaire shall set up a SCADA system which should provide weigh bridge readings and weight of dead animals/ meat waste processed at Furnace. The Concessionaire shall invariably share the APIs with CSCL and MCC.
- 2.2.8 The entire project site shall be under the surveillance of CCTV Cameras and the Concessionaire shall invariably share the feeds and APIs with CSCL and MCC.
- 2.2.9 The Concessionaire shall install grinder for grinding burnt bones residue.

3. TIMELINE AND PROJECT ACTIVITIES:

Sl. No.	Activity	Time period for completion
1	Handing over the Project Site	30 days from the date of Appointed Date
2	Construction & erection of the plant/ Commercial Operations Date (COD) including fulfilment of Condition Precedent.	Five (5) months from the date of Effective Date

4. DISPOSAL SYSTEM

- a. First of all, Concessionaire's control room will get information through telephone/sms or any other ways and record it in the daily register, mentioning time, day, date, location of site sources of information, category i.e. big/small animals.
- b. After completing all formalities in register for record, the concerned operator/Concessionaire give message to field teams as per size of dead animal for bringing the dead animal to incineration site.
- c. After giving message to field team for bringing the dead animal, the message may be delivered to operator of furnaces, for keeping it ready the furnaces as per category of animals.
- d. Now after receiving the dead animals at incineration site, through vehicle hmv/lmv (as per category), the animals are off loaded in the shed of the incineration machine mechanically and loaded on the charging trolley. It will be carried up to the hearth of incineration machine mechanically through category trolley.
- e. At the hearth of incineration machine, the animal is off loaded from charging trolley, and gate of incineration machine is closed down mechanically/hydraulically as per requirement.
- f. After closing the door, all parameters of machine will be checked once again before putting it upon "ON" position i.e. before giving the command to burners for start firing, in incineration chamber.
- g. Operator can inspect through inspection hole fitted in the gate of incineration machine the status of incineration of concerned dead animal, and get the machine "OFF" on finding complete incineration.
- h. The vehicle after offloading the dead animals in charging trolley will be taken in washing area, where it will be washed mechanically after every trip, to make ready for next trip.
- i. Concessionaire shall make all necessary arrangements for removal of ash from the plant to the Sanitary Landfill Site on regular basis.

SCHEDULE 2: CONSTRUCTION REQUIREMENTS

A. At site the following equipment/requirements will be required for complete system: -

- **OFF loading arrangement (mechanically/hydraulically combination):** A mechanical / hydraulic mechanism shall be provided for offloading dead animal / meat waste from Carrying vehicle to charging trolley and then again from charging trolley to hearth of incineration machine. A shed/building shall be constructed for this purpose
- **Fuel Storage:** In case of L.P.G, cylinder banks will be used for storage of gas and through gas train/line it will be supplied to the burners of both incinerators (large & Small). Source of supply and gas train will be same i.e. single unit for both the machines. This all system will work automatically.
- **Cold Storage:** Install a cold storage for storing the animal carcasses / meat waste of minimum 2000 kg.
- **Stainless Steel Container(s):** The Concessionaire shall arrange/provide the Stainless Steel Container(s) (SS 304) for keeping of meat wastage brought by the Concessioneing Authority i.e. MCC.
- **Incineration Machines:** Incinerators (large & Small) units will be used for incineration of dead animals as per their size and category, and temp of machine will be kept as per requirement. The minimum capacity of large incinerator shall be 250 Kg per hour and small incinerator shall be 80 Kg per hour.
- **Pollution Control Equipments Exhaust Chimney:** Pollution Control Equipments (wet scrubber) shall be installed for keeping all the system eco-friendly and human friendly. All exhaust gases shall be out in atmosphere at a height of more than 100 feet from ground level or as per the prevalent CPCC guidelines/ directions at the time of installation of Chimney. The pollution control equipment/exhaust chimney shall also be a single unit and shall be used for both machines.
- **Vehicle washing Arrangement:** A mechanically operated vehicle washing arrangement in the washing area shall be provided and after off-loading the dead animals in the charging trolley, the vehicle(s) shall be sent into washing area to clean the vehicle (s) prior to next trip.
- **Electric Control Room:** An Electric control panel room will be made at one corner, keeping in mind the requirement of electricity for running of machines auxiliary as well as for lighting purposes of office and residential quarters.
- **Quarters:** Quarters for workers/staff and watchman shall be constructed at the site. All necessary utilities will be provided. Site development and boundary wall shall be constructed all around the site.
- **Landscaping & Lighting:** The Complex/site shall be equipped with the LED lights and the Complex shall be suitably landscaped.
- **Pucca/Metalled Road:** A Pucca/metalled road width 20' will be made for entry and exit of vehicles carrying dead animals/ meat waste.
- **Certification:** All the equipment / machines of adequate sizes and capacity and manufactures shall be ISO & CE certified.

B. Indicative Minimum Deployment for Animal Carcass Furnace

1. MAIN ANIMAL CARCASS FURNACE CONSISTING OF

a)	Fabricated frame for housing refractory bricks and other equipment's	01 No.
b)	Ash removing door, Ash collecting door and Ash Tray.	01 Set.
c)	Body loading door.	01 No.
d)	Furnace supporting frame.	01 Set.
e)	Body Charging Door open close mechanism.	01 Set.
f)	Automatic Gas Burners.	01 Set.
g)	Ash removing tools.	01 Set.
h)	Any other accessories required to complete furnace.	01 Set.

2. REFRACTORY MATERIALS:

Refractory materials for furnace shall consist of IS 8 fire Bricks and "whyheat K" castables, Grooved refractory to increase mechanical strength Hot face & cold face insulating bricks, ceramic blankets covering slabs of different sizes, body resting bricks, arch bricks and other shaped bricks consisting of refractory materials to build a furnace chamber with all fresh air & smoke exhaust trench construction for heat retaining in the chamber. Door insulation is filled with ceramic blanket & castables	01 Set.
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3. AUTOMATIC GAS BURNERS

Gas burners should be of such type that they have ability to create mixture of gas air ratio to achieve maximum burning rate. The burners shall be such so as to achieve low ratio of Gas with maximum temp at chamber area	01 Set.
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4. BODY LOADING & CHARGING TROLLEY:

Body loading system to load the animal body into the burning Chamber, using a loading trolley	01 Set.
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5. COMBUSTION AIR DUCT:

Suitably designed capacity combustion Fan with combustion air distribution duct and air controlling dampers.	01 Set.
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6. FLUE DRAUGHT SYSTEM

Flue draught fan with motor with ducting's and dampers	01 Set.
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7	Gear box and Motor arrangement for operating furnace main charging door	01 No.
8	Venturi Scrubbings System with mist collector (optional)	01 Set.
9	Control cables connecting from control panel to all operating equipment's	01 No.
10	Connecting earthing from all equipment's to earth pit	01 Set.
11	Erection materials consisting of supporting structure, hardware, paints etc	01 Set.
12	A self Supporting Chimney of 30 Meters height shall be provided for disposal of Flue gases	01 Set.

13. The following foundation details shall be provided by the Concessionaire before installation:

- a) Furnace foundation detail.
- b) Trolley foundation detail
- c) Motor's foundation detail.
- d) Trench details.
- e) Chimney foundation and construction detail.
- f) Furnace equipment layout showing positioning of all equipment's.
- g) While designing the floor, the load should be approx. 20 Tons.

14. Complete Erection, installation, commissioning with trial run of the furnace.

SCHEDULE 3: ANIMAL CARCASS NON-INCINERATION PENALTY

Penalties for non-performance will be applicable as listed and defined below. The powers to relax/condone the penalties fully or partially shall vest with the Commissioner, Municipal Corporation Chandigarh who will decide each case on merit.

PENALTIES ON ACCOUNT OF DELAYS IN EXECUTION, VIOLATIONS, TEMPERING, MALFUNCTION AND OTHERS

Sl. No.	Particulars	Penalty
1	Delay in commencement of the project after completion of mobilization & construction period i.e. 5 months from Effective Date.	Rs. 20,000/- per day
2	Violation of applicable rules or other environmental norms notified by competent authorities	Rs.5,000/- per incident
3	Tampering of records at weighbridge or submission of manipulated records or any malpractice which will affect quantity & quality of work done.	100 % of the value of monthly Processing Fee certified for three preceding months from the month of incidence noticed + Loss incurred to MCC due to such event
4	Malfunction/technical problems in weighment system is not rectified within 24 hrs	Rs. 2,000 per hour starting after 24 hrs of permissible repairing time.
5	Plant closure longer than a continuous period of 3 days	Rs. 5,000 for every day of plant closure.
6	Operation of the plant less than 22 day in a month	Rs. 5,000 for every day less than 22 days in a month.
7	If fire at site is not stopped within 24 hrs.	Rs. 25,000 per hr.
8	Safety/Remedial measures not taken as per guidelines issued by Central Pollution Control Board from time to time and the manual on Solid Waste Management published by the Ministry of Urban Development and updated from time to time	Rs.5000 per fault per Incident

**SCHEDULE 4: PERFORMANCE SECURITY
(PROFORMA OF BANK GUARANTEE) ²**

THIS GUARANTEE executed on this the _____ day of _____ at _____ office at _____ by _____ (*Name of the Bank*) having its Registered

office at _____ hereinafter referred to as “the Guarantor” which expression shall unless it be repugnant to the subject or context thereof include successors and assigns;
In Favor of _____

MCC, constituted under the _____ Act, (hereinafter referred to as “MCC”) which expression shall, unless repugnant to the context or meaning thereof include its administrators, successors or assigns.

WHEREAS

By the Concession Agreement (“the Concession Agreement”) being entered into between MCC and a company in corporate under the Companies Act, 2013, having its registered office at _____

, (“the Concessionaire”), the Concessionaire has been granted the Concession to implement the project envisaging design, financing, construction, operations, maintenance of Animal Carcass Incineration Plant at Chandigarh on Build-Operate-Transfer basis (hereinafter referred to as “ the Project”).

- A. In terms of Article 4.1 of the Concession Agreement, _____ the Concessionaire is required to furnish to MCC, an unconditional and irrevocable bank guarantee for an amount of Rs.25,00,000.00 (Rupees Twenty-Five Lakh Only), as security for due and punctual performance/discharge of its obligations under the Concession Agreement.
- B. At the request of the Concessionaire, the Guarantor has agreed to provide bank guarantee, being these presents guaranteeing the due and punctual performance/discharge by the Concessionaire of its obligations relating to the Project.

NOW THEREFORE THIS DEED WITNESSETH AS FOLLOWS:

² To be issued by a Scheduled Bank in India

Setting Up of Animal Carcass Incineration Plant in Chandigarh on Design, Build, Finance, Operate and Transfer Basis- Request for Proposal

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

1. The Guarantor here by irrevocably guarantees the due and punctual performance by M/s (hereinafter called “the Concessionaire”) of all its obligations relating to the Project by the Concessionaire in accordance with the Concession Agreement.
2. The Guarantor shall, without demur, pay to MCC sums not exceeding in aggregate Rs.25,00,000.00 (Rupees Twenty-Five Lakh Only), of receipt of a written demand therefore from MCC stating that the Company has failed to meet its obligations under the Concession Agreement. The Guarantor shall not go into the veracity of any breach or failure on the part of the Concessionaire or validity of demand so made by MCC and shall pay the amount specified in the demand notwithstanding any direction to the contrary given or any dispute whatsoever raised by the Concessionaire or any other Person. The Guarantor’s obligations here under shall subsist until all such demands are duly met and discharged in accordance with the provisions hereof.
3. In order to give effect to this Guarantee, MCC shall be entitled to treat the Guarantor as the principal debtor. The obligations of the Guarantor shall not be affected by any variations in the terms and conditions of the Concession Agreement or other documents or by the extension of time for performance granted to the Concessionaire or postponement/non exercise/delayed exercise of any of its rights by MCC or any indulgence shown by MCC to the Concessionaire and the Guarantor shall not be relieved from its obligations under this Guarantee on account of any such variation, extension, postponement, non-exercise, delayed exercise of any of its rights by MCC or any indulgence shown by MCC, provided nothing contained herein shall enlarge the Guarantor’s obligation here under.
4. This Guarantee shall be irrevocable and shall remain in full force and effect until ~~discharged~~ discharged/released earlier by MCC in accordance with the provisions of the Concession Agreement. The Guarantor’s liability in aggregate is limited to a sum of Rs.25,00,000.00 (Rupees Twenty-Five Lakh Only).
5. This Guarantee shall not be affected by any change in the constitution or winding up of the Concessionaire/the Guarantor or any absorption, merger or amalgamation of the Concessionaire/the Guarantor with any other Person.

Setting Up of Animal Carcass Incineration Plant in Chandigarh on Design, Build, Finance, Operate and Transfer Basis- Request for Proposal

6. The Guarantor has power to issue this guarantee and discharge the obligations contemplated herein, and the undersigned is duly authorized to execute this Guarantee pursuant to the power granted under .

IN WITNESS WHERE OF THE GUARANTOR HAS SET ITS HANDS
HERE UNTO ON THE DAY, MONTH AND YEAR FIRST HEREIN
ABOVE WRITTEN.

SIGNED AND DELIVERED

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

SCHEDULE 5: LETTER OF AUTHORISATION

Date: ____

To whom so ever it may Concern

This is to confirm that to pursuant to the Concession Agreement dated_____ entered into between MCC, CSCL and the - _____Concessionaire, the Concessionaire has been authorized to construct, operate and maintain the Animal Carcass Incineration Plant at Chandigarh and for that purpose, to apply for and obtain all approvals, licenses and permits required therein and to avail the utilities such as power, water, telecommunication and any other incidental utilities or services required in connection there with on his own costs.

Yours faithfully,

Name and Designation of Officer of MCC

Address

SCHEDULE 6-ESCROW AGREEMENT

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

i. Limited, a company incorporated under the provisions of the Companies Act, 2013 and having its registered office at (hereinafter referred to as the “**Concessionaire**” which expression shall, unless repugnant to the context or meaning thereof, include its successors, permitted assigns and substitutes);

ii. (name and particulars of the Lender’s 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 “**Lender’s Representative**” which expression shall, unless repugnant to the context or meaning thereof, include its successors and substitutes);

iii. (name and particulars of the Escrow Bank) and having its registered office at (hereinafter referred to as the “**Escrow Bank**” which expression shall, unless repugnant to the context or meaning thereof, include its successors and substitutes);

iv. The Municipal Corporation Chandigarh (hereinafter referred to as the “**Concessions Authority**” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns); and

v. The Chandigarh Smart City Limited (hereinafter referred to as the “**Confirming Party**” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns).

WHEREAS:

(A) The Concessions Authority and Confirming Party has entered into a Concession Agreement dated with the Concessionaire (the “**Concession Agreement**”) for setting of Animal Carcass Incineration Plant on DBFOT basis, and a copy of which is annexed hereto.

(B) The Concession Agreement requires the Concessionaire to establish an Escrow Account, *inter alia*, on the terms and conditions stated therein.

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

6.1 Definitions and Interpretation

6.1.1 Definitions

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

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

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

“**Cure Period**” means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Concessionaire, and shall commence from the date on which a notice is delivered by the Concessioneing Authority to the Concessionaire asking the latter to cure the breach or default specified in such notice;

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

“**Escrow Default**” shall have the meaning ascribed thereto in Clause 6;

“**Lenders’ Representative**” means the person referred to as the Lenders’ Representative in the foregoing Recitals;

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

“**Payment Date**” means, in relation to any payment specified in this RFP, the date(s) specified for such payment; and

“**Sub-Accounts**” means the respective Sub-Accounts of the Escrow Account, into which the monies specified in Clause 6.4.1 of Concession Agreement, would be credited every month and paid out if due, and if not due in a month then appropriated proportionately in such month and retained in the respective Sub Accounts and paid out therefrom on the Payment Date(s).

6.1.2 Interpretation

i. The words and expressions beginning with capital letters and defined in this Agreement shall have the meaning ascribed thereto herein, and the words and expressions used in this Agreement and not defined herein but defined in the Concession Agreement shall, unless repugnant to the context, have the meaning ascribed thereto in the Concession Agreement.

- ii. References to Clauses are, unless stated otherwise, references to Clauses of this Agreement.
- iii. The rules of interpretation stated in the Concession Agreement shall apply, mutatis mutandis, to this Agreement.

6.2 Escrow Account

6.2.1 Escrow Bank to act as trustee

1. The Concessionaire hereby appoints the Escrow Bank to act as trustee for the Concessions Authority, Confirming Party and the Concessionaire in connection herewith and authorises the Escrow Bank to exercise such rights, powers, authorities and discretion as are specifically delegated to the Escrow Bank by the terms hereof together with all such rights, powers, authorities and discretion as are reasonably incidental hereto, and the Escrow Bank accepts such appointment pursuant to the terms hereof.

6. The Concessionaire hereby declares that all rights, title and interest in and to the Escrow Account shall be vested in the Escrow Bank and held in trust for the Concessions Authority and the Concessionaire, and applied in accordance with the terms of this Agreement. No person other than the Concessions Authority, Confirming Party and the Concessionaire shall have any rights hereunder as the beneficiaries under this Agreement.

6.2.2 Acceptance of Escrow Bank

The Escrow Bank hereby agrees to act as such and to accept all payments and other amounts to be delivered to and held by the Escrow Bank pursuant to the provisions of this Agreement. The Escrow Bank shall hold and safeguard the Escrow Account during the term of this Agreement and shall treat the amount in the Escrow Account as monies deposited by the Concessionaire or the Concessions Authority and the Confirming Party with the Escrow Bank. In performing its functions and duties under this Agreement, the Escrow Bank shall act in trust for the benefit of, and as agent for, the Concessions Authority, Confirming Party and the Concessionaire or their nominees, successors or assigns, in accordance with the provisions of this Agreement.

6.2.3 Establishment and operation of Escrow Account

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

2. The Escrow Bank shall maintain the Escrow Account in accordance with the terms of this Agreement and its usual practices and applicable regulations, and pay the maximum

rate of interest payable to similar customers on the balance in the said account from time to time.

7. The Escrow Bank and the Concessionaire shall agree on the detailed mandates, terms and conditions, and operating procedures for the Escrow Account, but in the event of any conflict or inconsistency between this Agreement and such mandates, terms and conditions, or procedures, this Agreement shall prevail.

6.2.4 Escrow Bank's fee

The Escrow Bank shall be entitled to receive its fee and expenses in an amount, and at such times, as may be agreed between the Escrow Bank and the Concessionaire. For the avoidance of doubt, such fee and expenses shall form part of the O&M Expenses and shall be appropriated from the Escrow Account in accordance with Clause 6.4.1

6.2.5 Rights of the parties

The rights of the Concessioneing Authority and the Concessionaire in the monies held in the Escrow Account are set forth in their entirety in this Agreement and the Concessioneing Authority and the Concessionaire shall have no other rights against or to the monies in the Escrow Account.

6.3 Deposits into Escrow Account

6.3.1 Deposits by the Concessionaire

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

- a) all funds constituting the financial package disbursed by Lenders in terms of the Financing Agreements;
- b) all revenues from or in respect of the Project received, and all proceeds of insurance claims;

Provided that, notwithstanding the provisions of Clause 6.3.1, the Concessionaire may at any time make deposits of its other funds into the Escrow Account, provided that the provisions of this Agreement shall apply to such deposits.

6.3.2 Deposits by the Concessioneing Authority

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

- (a) all payments made by the CSCL and MCC after deduction of any outstanding dues payable by the Concessionaire to MCC/CSCL;
- (b) Termination Payments

6.3.3 Interest on deposits

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

6.4 Withdrawals from Escrow Account

6.4.1 Withdrawals during Concession Period

1. At the beginning of every month, or at such shorter intervals as the Concessionaire may by written instructions determine, the Escrow Bank shall withdraw amounts from the Escrow Account and appropriate them in the following order by depositing such amounts in the relevant Sub-Accounts for making due payments, and if such payments are not due in any month, then retain such monies in such Sub-Accounts and pay out therefrom on the Payment Date(s):

- (a) all taxes due and payable by the Concessionaire for and in respect of the Project;
- (b) all payments relating to construction of the Project, subject to and in accordance with the conditions, if any, set forth in the Financing Documents;
- (c) O&M Expenses, subject to the ceiling, if any, set forth in the Financing Agreements;
- (d) O&M Expenses and other costs and expenses incurred by the MCC/CSCL in accordance with the provisions of this Agreement, and certified by the MCC/CSCL as due and payable to it;
- (e) All payments and Damages certified by the MCC as due and payable to it by the Concessionaire;
- (g) monthly proportionate provision of Debt Service due in an Accounting Year;
- (j) any reserve requirements set forth in the Financing Agreements; and
- (k) balance, if any, in accordance with the instructions of the Concessionaire.

8. No later than 60 (sixty) days prior to the commencement of each Accounting Year, the Concessionaire shall provide to the Escrow Bank, details of the amounts likely to be required for each of the payment obligations set forth in this Clause 6.4.1; provided that such amounts may be subsequently modified, with prior written approval of the Concessioning Authority and Confirming Party if fresh information received during the course of the year makes such modification necessary.

6.4.2 Withdrawals upon Termination

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

- (a) all taxes due and payable by the Concessionaire for and in respect of the Project;
- (b) 90% (ninety per cent) of Debt Due;
- (c) all payments and Damages certified by the MCC as due and payable to it by the Concessionaire;
- (d) retention and payments relating to the liability for defects and deficiencies;
- (e) O&M Expenses;
- (f) any other payment required to be made under this Agreement; and
- (g) balance, if any, in accordance with the instructions of the Concessionaire:

Provided that no appropriations shall be made under Sub-Article (g) of this Article 9.4.1 until a vesting certificate has been issued by the MCC.

Provided that the disbursements specified in Sub-clause (i) of this Clause shall be undertaken only after the Vesting Certificate has been issued by the Concessions Authority.

6.4.3 Application of insufficient funds Funds in the Escrow Account shall be applied in the serial order of priority set forth in Clauses 6.4.1 and 6.4.2, as the case may be. If the funds available are not sufficient to meet all the requirements, the Escrow Bank shall apply such funds in the serial order of priority until exhaustion thereof.

6.4.4 Application of insurance proceeds

Notwithstanding anything in this Agreement, the proceeds from all insurance claims, except life and injury, shall be deposited into and/or credited to the Escrow Account and utilised for any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation of the Project, and the balance remaining, if any, shall be applied in accordance with the provisions contained of this Agreement.

6.4.5 Withdrawals during Suspension

Notwithstanding anything to the contrary contained in this Agreement, the Concessions Authority may exercise all or any of the rights of the Concessionaire during the period of Suspension under the provisions of the Concession Agreement. Any instructions given by the Concessions Authority to the Escrow Bank during such period shall be complied with as if such instructions were given by the Concessionaire under this Agreement and all actions of the Concessions Authority hereunder shall be deemed to have been taken for and on behalf of the Concessionaire.

6.5 Obligations of the Escrow Bank

6.5.1 Segregation of funds

Monies and other property received by the Escrow Bank under this Agreement shall, until used or applied in accordance with this Agreement, be held by the Escrow Bank in trust for the purposes for which they were received, and shall be segregated from other funds and property of the Escrow Bank.

6.5.2 Notification of balances

7 (seven) business days prior to each Payment Date (and for this purpose the Escrow Bank shall be entitled to rely on an affirmation by the Concessionaire to the relevant Payment Dates), the Escrow Bank shall notify the Concessions Authority and Confirming Party of the balances in the Escrow Account and Sub-Accounts as at the close of business on the immediately preceding business day.

6.5.3 Communications and notices

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

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

6.5.4 No set off

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

case of bankruptcy or liquidation of the Escrow Bank, be wholly excluded from the assets of the Escrow Bank in such bankruptcy or liquidation.

6.5.5 Regulatory approvals

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

6.6 Escrow Default

6.6.1 Escrow Default

1) Following events shall constitute an event of default by the Concessionaire (an “**Escrow Default**”) unless such event of default has occurred as a result of Force Majeure or any act or omission of the Concessioneing Authority:

a) the Concessionaire commits breach of this Agreement by failing to deposit any receipts into the Escrow Account as provided herein and fails to cure such breach by depositing the same into the Escrow Account within a Cure Period of 5 (five) business days;

b) the Concessionaire causes the Escrow Bank to transfer funds to any account of the Concessionaire in breach of the terms of this Agreement and fails to cure such breach by depositing the relevant funds into the Escrow Account or any Sub-Account in which such transfer should have been made, within a Cure Period of 5 (five) business days; or

c) the Concessionaire commits or causes any other breach of the provisions of this Agreement and fails to cure the same within a Cure Period of 5 (five) business days.

2) Upon occurrence of an Escrow Default, the consequences thereof shall be dealt with under and in accordance with the provisions of the Agreement.

6.7 Termination of Escrow Agreement

6.7.1 Duration of the Escrow Agreement

This Agreement shall remain in full force and effect so long as any of its obligations to the Concessioneing Authority remain to be discharged, unless terminated earlier by consent of all the Parties or otherwise in accordance with the provisions of this Agreement.

6.7.2 Substitution of Escrow Bank

The Concessionaire may, by not less than 45 (forty five) days prior notice to the Escrow Bank and the Concessions Authority and the Confirming Party, terminate this Agreement and appoint a new Escrow Bank, provided that arrangements are made satisfactory to the Concessions Authority and the Confirming Party for transfer of amounts deposited in the Escrow Account to a new Escrow Account established with the successor Escrow Bank. The termination of this Agreement shall take effect only upon coming into force of an Escrow Agreement with the substitute Escrow Bank.

6.7.3 Closure of Escrow Account

The Escrow Bank shall, at the request of the Concessionaire made on or after the payment by the Concessionaire of all outstanding amounts under the Concession Agreement including the payments specified in Clause 6.4.2, and upon confirmation of receipt of such payments, close the Escrow Account and Sub-Accounts and pay any amount standing to the credit thereof to the Concessionaire. Upon closure of the Escrow Account hereunder, the Escrow Agreement shall be deemed to be terminated.

6.8 Supplementary Escrow Agreement

6.8.1 Supplementary escrow agreement

Any lender providing financial assistance for the Project and the Concessionaire shall be entitled to enter into a supplementary escrow agreement with the Escrow Bank providing, *inter alia*, for detailed procedures and documentation matters not covered under this Agreement such as the rights and obligations of lenders, investment of surplus funds, restrictions on withdrawals by the Concessionaire in the event of breach of this Agreement or upon occurrence of an Escrow Default, procedures relating to operation of the Escrow Account and withdrawal therefrom, reporting requirements and any matters incidental thereto; provided that such supplementary escrow agreement shall not contain any provision which is inconsistent with this Agreement and in the event of any conflict or inconsistency between provisions of this Agreement and such supplementary escrow agreement, the provisions of this Agreement shall prevail.

6.9 Indemnity

6.9.1 General indemnity

1. The Concessionaire will indemnify, defend and hold the Concessions Authority, Confirming Party and Escrow Bank harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of any breach by the Concessionaire of any of its obligations under this Agreement or on account of failure of the Concessionaire to comply with Applicable Laws and Applicable Permits.

2. The Concessing Authority will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Concessing Authority to fulfil any of its obligations under this Agreement materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement or this Agreement other than any loss, damage, cost and expense arising out of acts done in discharge of their lawful functions by the Concessing Authority, its officers, servants and agents.

3. The Escrow Bank will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Escrow Bank to fulfill its obligations under this Agreement materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Escrow Bank, its officers, servants and agents.

6.9.2 Notice and contest of claims

In the event that any Party hereto receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under Clause 6.9.1 or in respect of which it is entitled to reimbursement (the "**Indemnified Party**"), it shall notify the other Party responsible for indemnifying such claim hereunder (the "**Indemnifying Party**") within 15 (fifteen) days of receipt of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim, it may conduct the proceedings in the name of the Indemnified Party and shall bear all costs involved in contesting the same. The Indemnified Party shall provide all cooperation and assistance in contesting any claim and shall sign all such writings and documents as the Indemnifying Party may reasonably require.

6.10 Dispute Resolution

6.10.1 Dispute Resolution

1. Any dispute, difference or claim arising out of or in connection with this Agreement, which is not resolved amicably, shall be decided finally by reference to arbitration to a Sole Arbitrator decided by the parties. In case of any disagreement on the appointment of Sole Arbitrator by the parties, the dispute shall be decided by reference to arbitration to a Board of Arbitrators comprising one nominee of each Party to the dispute, and where the number of such nominees is an even number, the nominees shall elect another person to such Board. Such arbitration shall be held settled by Arbitration in accordance with the Chandigarh Arbitration Centre (CAC) Rules, 2018 and shall be subject to provisions of the Arbitration & Conciliation Act, 1996 or any statutory amendment thereof.

2. The Arbitrators shall issue a reasoned award and such award shall be final and binding on the Parties. The venue of arbitration shall be Chandigarh and the language of the arbitration shall be English.

6.11 Miscellaneous Provisions

6.11.1 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the Courts at Chandigarh shall have jurisdiction over all matters arising out of or relating to this Agreement.

6.11.2 Waiver of sovereign immunity

The Concessioneing 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 the Concessioneing Authority 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).

6.11.3 Priority of agreements

In the event of any conflict between the Concession Agreement and this Agreement, the provisions contained in the Concession Agreement shall prevail over this Agreement.

6.11.4 Alteration of terms

All additions, amendments, modifications and variations to this Agreement shall be effectual and binding only if in writing and signed by the duly authorised representatives of the Parties.

6.11.5 Waiver

1. Waiver by any Party of a default by another Party in the observance and performance of any provision of or obligations under this Agreement:

(a) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;

(b) shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and

(c) shall not affect the validity or enforceability of this Agreement in any manner.

2. Neither the failure by any Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation thereunder nor time or other indulgence granted by any Party to another Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

6.11.6 No third party beneficiaries

This Agreement is solely for the benefit of the Parties and no other person or entity shall have any rights hereunder.

6.11.7 Survival

I. Termination of this Agreement:

(a) shall not relieve the Parties of any obligations hereunder which expressly or by implication survive termination hereof; and

(b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of, or caused by, acts or omissions of such Party prior to the effectiveness of such termination or arising out of such termination.

II. 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.

6.11.8 Severability

If for any reason whatever any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other

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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 6.10.1 of this Agreement or otherwise.

6.11.9 Successors and assigns

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

6.11.10 Notices

All notices or other communications to be given or made under this Agreement shall be in writing and shall either be delivered personally or sent by courier or registered post with an additional copy to be sent by facsimile or e-mail. The address for service of each Party, its facsimile number and e-mail are set out under its name on the signing pages hereto. A notice shall be effective upon actual receipt thereof, save that where it is received after 5.30 (five thirty) p.m. on a business day, or on a day that is not a business day, the notice shall be deemed to be received on the first business day following the date of actual receipt. Without prejudice to the foregoing, a Party giving or making a notice or communication by facsimile or e-mail shall promptly deliver a copy thereof personally, or send it by courier or registered post to the addressee of such notice or communication. It is hereby agreed and acknowledged that any Party may by notice change the address to which such notices and communications to it are to be delivered or mailed. Such change shall be effective when all the Parties have notice of it.

6.11.11 Language

All notices, certificates, correspondence and proceedings under or in connection with this Agreement shall be in English.

6.11.12 Authorised representatives

Each of the Parties shall, by notice in writing, designate their respective authorised representatives through whom only all communications shall be made. A Party hereto shall be entitled to remove and/or substitute or make fresh appointment of such authorised representative by similar notice.

6.11.13 Original Document

This Agreement may be executed in five counterparts, each of which when executed and delivered shall constitute an original of this Agreement.

**Setting Up of Animal Carcass Incineration Plant in Chandigarh on Design, Build,
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SIGNED, SEALED AND DELIVERED

For and on behalf of CONCESSIONAIRE

[***] by:

(Signature)

(Name)

(Designation)

(Address)

(Fax No.)

SIGNED, SEALED AND DELIVERED

For and on behalf of ESCROW BANK:

(Signature)

(Name)

(Designation)

(Address)

(Fax)

SIGNED, SEALED AND DELIVERED

For and on behalf of CONCESSIONING AUTHORITY:

(Signature)

(Name)

(Designation)

(Address)

(Fax)

SIGNED, SEALED AND DELIVERED

For and on behalf of CONFIRMING PARTY:

(Signature)

(Name)

(Designation)

(Address)

(Fax)

SIGNED, SEALED AND DELIVERED

For and on behalf of LENDERS by the Lenders' Representative:

(Signature)

(Name)

(Designation)

(Address)

(Fax)

In the presence of:

SCHEDULE 7: SUBSTITUTION AGREEMENT

THIS SUBSTITUTION AGREEMENT is entered into on this the-----day of --
------(Month)----(Year)at-----.

AMONGST,

MCC, established under the provisions of the
(hereinafter referred to as “MCC” which expression shall unless
excluded by or repugnant to the context, be deemed to include its successors
and assigns);

AND

, a company incorporated under provisions of the Companies Act,
2013, having its registered office at , herein after referred to as
“Concessionaire” which expression shall unless repugnant to the context include
its successors and permitted assigns, OF THE OTHER PART.

AND

YYYY (Financial Institution/Bank) having its Registered Office/Head Office at-----

-----herein after referred to as“ **the**

Lender”. OR

ZZZZ (Financial Institution/Bank) having its Registered Office/Head Office at-----
-----acting for and on behalf of the Lenders listed in Schedule
I here to (hereinafter referred as“**the Lenders' Representative**”).

WHEREAS

MCC intends to install the Animal Carcass Disposal Facility in Chandigarh
through private participation on Design, Build, Finance, Operate and Transfer
(DBFOT) basis;

A. By the Concession Agreement dated entered into between MCC,
CSCL and the Concessionaire (herein after referred to as “the Concession
Agreement”) the Concessionaire has been granted the Concession to

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implement the Project on DBFOT basis;

- B. With a view to facilitate financing of the Project by the Concessionaire, MCC and the Concessionaire have agreed to enter into a Substitution Agreement being these presents with the Lender/s/Lenders' Representative.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH AS FOLLOWS:

ARTICLE 1

DEFINITIONS AND INTERPRETATION

1.1 Definitions

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

“Agreement” means this agreement and includes any amend mentor modification made to this agreement in accordance with the provisions hereof.

“Financial Assistance” means the financial assistance set forth in Schedule I hereto, agreed to be provided by the Lender(s) to the Concessionaire for financing the Project.

“Lender(s)” means the financial institutions/banks whose name(s) and addresses are set out in Schedule I hereto.

“Residual Concession Period” means the period which shall be the remainder of the Concession Period computed from the date of substitution of the Concessionaire by the Selectee.

“Selectee” means a Person proposed by the Lender/Lender’s Representative pursuant to this Agreement and approved by the MCC for substituting the Concessionaire for the Residual Concession Period, in accordance with the provisions of this Agreement.

“Suspension Period” means the period commencing from the expiry of the Date of Termination specified in the Preliminary Notice and ending on the date on which all formalities connected with substitution of the Concessionaire by the Selectee including handing over of Sites /Project Facilities, in accordance with this Agreement are completed and the substitution has become effective.

1.2 Capitalized terms used in this Agreement but not defined shall have the meaning assigned to them respectively in the Concession Agreement.

ARTICLE 2

SUBSTITUTION OF THE CONCESSIONAIRE BY THE SELECTEE

2.1 Lenders right to Substitute

MCC and the Concessionaire here by irrevocably agree that upon Termination of the Concessionaire simultaneously by XXX, the Lender(s) shall, without prejudice to any other rights or remedies available to them under law/Financing Documents and without being required to exercise or exhaust such rights or remedies, have the right to seek substitution of the Concessionaire by Selectee for the Residual Concession Period under the Concession Agreement in accordance with the provisions of this Agreement.

2.2 Preliminary Notice of Termination

MCC shall as soon as possible but in any case not later than 15 days of its knowledge of the occurrence of such Termination issue Preliminary Notice of Termination to the Concessionaire in terms of **Article 12.2(a)** of the Concession Agreement, with a copy thereof simultaneously to the Lenders. Provided, if the Concessionaire Event of Default is the one set out in **Article 12.1 (a)** of the Concession Agreement, MCC shall not be obliged to issue Preliminary Termination Notice until receipt by MCC of their call notice issued by the Lender(s) to the Concessionaire.

2.3 Suspension of Concession and Takeover of the Project Facilities

The Concessionaire irrevocably agrees that if the Cure Period specified in the Preliminary Notice of Termination lapses without the Concessionaire Event of Default having been cured, the Concession shall be effective from the expiry of such Cure Period stand suspended, without any further notice or other act of MCC being required, and that MCC shall have the right to enter upon and take over the Sites/Project Facilities and to take all such steps as are necessary for the continued operation and maintenance of the Project Facilities, subject to servicing the payment obligations under the Financing Documents, and the substitution of the Concessionaire by the Selectee in accordance with this Agreement. The Concessionaire hereby irrevocably consents to the takeover of the Project

Facilities/Sites by MCC forth with upon suspension becoming effective.

2.4 Substitution Notice

MCC and the Concessionaire hereby irrevocably agree that in the event of the Concessionaire's failure to cure the Event of Default specified in the Preliminary Notice of Termination, the Lender/Lender's Representative may, within 30 (thirty) days of the expiry of the Cure Period specified there in, notify MCC and the Concessionaire about the intention of the Lender(s) to seek substitution of the Concessionaire by the Selectee for the Residual Concession Period (the "Substitution Notice").

Criteria for selection of the Selectee.

The Lender/Lenders' Representative shall in addition to any other criteria that it may deem fit and necessary, apply the following criteria in the selection of the Selectee:

- (a) The Selectee shall possess the net worth, experience, technical capability and managerial ability to perform and discharge all the residual duties, obligations and liabilities of the Concessionaire in respect of the Concession, under the Concession Agreement;
- (b) The Selectee shall have the capability and shall unconditionally consent to assume the liability for the payment and discharge of dues, if any, of the Concessionaire to MCC under and in accordance with the Concession Agreement, and also payment of amounts due to the Lender(s) under the Financing Documents upon terms and conditions as agreed to between the Selectee and the Lenders.

ARTICLE 3 MODALITY FOR SUBSTITUTION

3.1 Modalities for Substitution.

The following modalities shall be followed for substitution of the Concessionaire by the Selectee pursuant to this Agreement:

- (a) The Lender(s)/Lenders' Representative shall be entitled, within a period of 15(fifteen) days from the date of delivery of the Substitution Notice pursuant to the preceding **Article 2.2** to invite or procure offers either through private negotiations or public auction or process of tender or otherwise from the eligible Persons, for the substitution of the Concessionaire by the Selectee and propose to MCC for their approval, the Selectee (the "Proposal"). The Proposal of the Lender/Lender's Representative shall contain the particulars and information in respect of the Selectee, particulars of the amounts due to the Lenders under the Financing Documents, the terms of Substitution and such data and information would be necessary and relevant for MCC to decide as to the acceptability of the Selectee. The Lender/Lender's Representative shall provide to MCC additional information and clarification in respect of any data, particulars or information contained in the Proposal, as MCC may reasonably require.
- (b) The Proposal shall be accompanied by an unconditional undertaking of the Selectee to the effect that it shall upon acceptance by MCC of the Proposal observe, comply with, perform and fulfill the residual terms, conditions and covenants of the Concession Agreement as if the Selectee had been the Concessionaire under the Concession Agreement, and to assume, takeover, discharge and pay the Concessionaire's obligations under the Financing Documents on the terms and conditions agreed to by the Selectee with the Lenders. The Selectee shall also under take to enter into such documents and writings with MCC and the Lender(s) as may be necessary or required to give effect to the substitution of the Concessionaire by the Selectee.
- (c) MCC shall convey to the Lender/Lenders' Representative its acceptance or otherwise of the Selectee within 30 (thirty) days of

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- (a) the date of receipt of the Proposal by MCC, or (b) the date of receipt of the additional information and clarifications in respect of any data, particulars or information comprised in the Proposal, provided by the Lender/Lender's Representative to MCC, whichever is later.
- (d) At any time prior to the acceptance of the Selectee by XXX pursuant to this Agreement, MCC may require the Lender/Lenders' Representative to satisfy it as to the eligibility of the Selectee and the decision of MCC as to acceptance or rejection of any Selectee (which shall be reasonable), shall be final, conclusive and binding on the Lender(s), the Selectee and the Concessionaire. In the event that MCC fails to communicate its acceptance or otherwise or the objections if any it has to the acceptance of the Proposal/the Selectee within a period of 30days prescribed in preceding sub-article 3.1 (c), MCC shall be deemed to have accepted the Proposal/the Selectee
- (e) The rejection of the Selectee if made by MCC shall be reasoned and be made after hearing the Lender/Lenders' Representative. Following the rejection of the Proposal, the Lender/Lenders' Representative shall have the right to submit a fresh Proposal, proposing another Selectee, within 30 days of receipt of communication regarding rejection of the Selectee previously proposed. The provisions of proceeding sub-article 3.1 (c) and 3.1(d) shall apply mutatis mutandis to such fresh Proposal.
- (f) If MCC accepts the Proposal/fresh Proposal, The Lender/Lender's Representative shall take all necessary steps to substitute the Concessionaire by the Selectee by amendment of the Concession Agreement or by execution of fresh agreement or such other writing as may be required or necessary to give effect to the Substitution of the Concessionaire by the Selectee for the Residual Concession Period.
- (g) The substitution of the Concessionaire by the Selectee shall be deemed to be complete upon the Selectee executing all necessary documents and writings with or in favor of MCC and the Lender(s) so as to give full effect to the terms and conditions of substitution,

subject to which the Selectee has been accepted by the Lender(s) and MCC and upon the delivery by MCC of the Sites/Project Facilities to the Selectee. Upon the substitution becoming effective pursuant to this sub-article all the rights of the Concessionaire under the Concession Agreement shall cease to exist. Provided nothing contained in this sub-article shall prejudice any pending/subsisting claims of the Concessionaire against MCC or any claim of MCC against the Concessionaire and the Selectee shall incur no liability or consequence on account of any previous breach/default and shall subject to the terms and conditions of the substitution, have a period of 90 days to cure any breach/default subsisting on the date of substitution and required or agreed to be cured.

- (h) The decision of the Lenders and MCC in the selection of the Selectee shall be final and binding on the Concessionaire and shall be deemed to have been made with the concurrence of the Concessionaire. The Concessionaire hereby expressly waives all rights to object to or challenge such selection of the Selectee on any ground whatsoever.

3.2 Termination and Termination Payment.

- (a) Where the Lender/ Lenders' Representative (on behalf of all the Lenders)communicates in writing that (i) the Lender/Lender's Representative does not intend to seek substitution of the Concessionaire, or (ii) that the Lender/Lenders' Representative has not been able to find suitable Selectee or (iii) that MCC has declined to accept the Selectee proposed by the Lender/Lenders' Representative, MCC shall proceed to terminate the Concession and to make Termination Payment, in accordance with the provisions of the Concession Agreement.
- (b) Nothing contained in these presents shall mean or be interpreted as provision of any guarantee or surety by MCC and it is expressly agreed that MCC has not provided any surety, guarantee or counter guarantee whether directly or indirectly for the recovery of amounts advanced by the Lenders to the Concessionaire.

ARTICLE 4

MODE OF TERMINATION PAYMENTS

4.1 Mode of Payment

MCC and Concessionaire hereby irrevocably agree, and confirm that so long as the liabilities of the Concessionaire under the Financing Documents are outstanding the Termination Payment and any other amounts due and payable by MCC to the Concessionaire under any of the provisions of the Concession Agreement shall be paid only by way of credit directly to a bank account designated therefore by the Lender(s)/Lenders' Representative and advised to MCC and the Concessionaire in writing. The Lender(s) shall be entitled to receive and appropriate the same without any further

Reference to or consent of the Concessionaire towards the satisfaction of the amounts outstanding, due and payable under the Financing Documents, subject to payment by the Lender(s) of the surplus amount, if any remaining after discharge of the liabilities of the Concessionaire under the Financing Documents, to the Concessionaire. Any payment so made shall to the extent of such payment constitute a valid discharge to MCC of its obligations with regard to the Termination Payment and of any other monies due to the Concessionaire under the Concession Agreement.

ARTICLE 5 GENERAL

GENERAL:

- (a) The Parties here to expressly represent and warrant that they are duly empowered to sign and execute this Agreement.
- (b) Notices under this Agreement shall be sent to the Addresses first herein above mentioned. Any change in the address of any Party shall be duly notified by a Registered post acknowledgement due and delivered to the other parties.
- (c) The expressions “MCC”, the “Concessionaire”, the “Lender “and the “Lenders’ Representative” herein used shall unless there be anything repugnant to the subject or context include the respective successors, legal representatives, administrators and permitted assigns.
- (d) This Agreement shall not be affected by reorganization of any Lender, the Concessionaire or MCC and the successor in interest of the Lender or MCC shall have the benefit of this Agreement.
- (e) Any dispute, difference or claim arising out of or in connection with this Agreement, which is not resolved amicably, shall be decided finally by reference to` arbitration to a Sole Arbitrator decided by the parties. In case of any disagreement on the appointment of Sole Arbitrator by the parties, the dispute shall be decided by reference to arbitration to a Board of Arbitrators comprising one nominee of each Party to the dispute, and where the number of such nominees is an even number, the nominees shall elect another person to such Board. Such arbitration shall be held settled by Arbitration in accordance with the Chandigarh Arbitration Centre (CAC) Rules, 2018 and shall be subject to provisions of the Arbitration & Conciliation Act, 1996 or any statutory amendment thereof. The arbitrators shall issue a reasoned award. The arbitration proceedings shall be conducted in Chandigarh. The Award shall be final and binding on the Parties.

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The Parties agree and undertake to carry out the award of the arbitrators (the "Award") without delay. The language of arbitration shall be English.

- (f) This Agreement and rights and obligations of the Parties shall remain in full force and effect pending the Award in any arbitration proceeding hereunder. The Courts in Chandigarh alone shall have jurisdiction overall matters arising out of or relating to the arbitration agreement contained herein or proceedings arising out of or relating to the arbitration proceedings there under.
- (g) The consultation, recommendation or approval of the Lenders' Representative under this Agreement shall always be taken as consultation, recommendation or approval of every concerned Lender and each such Lender shall be bound by the same.
- (h) This Agreement shall be in addition to and shall not be in derogation of the terms of the Financing Documents.
- (i) It shall not be necessary for the Lender(s) or the Lenders' Representative to enforce or exhaust any other remedy available to them before invoking the provisions of this Agreement.
- (j) No amendment, variation or modification to this Agreement shall be valid and effectual unless made in writing and executed by the duly authorized representatives of all the Parties hereto.
- (k) All stamp duties or other imposts and charges as are applicable on this Agreement or on amendment of the Concession Agreement or execution of fresh Concession Agreement for the purpose of substitution as aforesaid, irrespective of the Lenders making such payment for the time being, shall be borne by and be to the account of the Concessionaire.
- (l) The Parties hereby expressly agree that for the purpose of giving full and proper effect to this Agreement, the Concession Agreement and this Agreement shall be read together and construed harmoniously. The terms of this Agreement shall prevail in the event of any inconsistency with the Concession Agreement.

SCHEDULE I

PARTICULARS OF FINANCIAL ASSISTANCE.

Name and Address of the Lender	Nature and Amount of Financing Assistance

IN WITNESS WHERE OF THE PARTIES HERE TO HAVE SET THEIR HANDS HERE UNTO ON THE DAY, MONTH AND YEAR HEREIN ABOVE MENTIONED.

SIGNED AND DELIVERED ON BEHALF
OF.....

.....LIMITED

BY:
Name:
Title:

SIGNED AND DELIVERED ON BEHALF OF MCC

BY:
Name:
Title:

SIGNED AND DELIVERED ON BEHAL FOF
-----ON BEHALF OF THE LENDER SET
FORTH IN SCHEDULE I

BY:
Name:

SCHEDULE 8: FORMAT OF LAND LICENCE AGREEMENT

This LICENCE AGREEMENT (hereinafter referred to as the Licence Agreement/Agreement) is made on the _____ day of ____ in the year Two Thousand and Nineteen at Chandigarh.

AMONGST

Municipal Corporation, Chandigarh (MCC), a Municipal Corporation established under the Municipal Corporation Act and having its offices at <Location here>, acting through its Commissioner (hereinafter referred to as “the Licensor” which expression shall wherein the context or subject implies include its successors) of the FIRST PART

AND

M/s -----, a company incorporated under the Company’s Act 2013, having its registered office at -----, -----, India (hereinafter referred to as “Licensee” which expression shall unless it be repugnant to the subject or context be deemed to include its successors and permitted assigns), through Mr. -----, duly authorized in this behalf by way of a Board Resolution dated -----, of the SECOND PART

Licensor and Licensee are hereinafter referred to individually as the “Party” and collectively as the “Parties”.

WHEREAS

A. The Municipal Corporation Chandigarh has entered into a Concession Agreement dated: _____ with M/s -----, the Concessionaire under which it has authorized the Licensee to implement the Project i.e. Setting up of Animal Carcass

Incineration Plant in Chandigarh on Design Build Finance Operate and Transfer Basis (“Project”).

B. The Municipal Corporation Chandigarh in order to enable the due implementation of the Project and to discharge its obligations under the Concession Agreement is hereby providing the Licensee (the Concessionaire under the Concession Agreement), by way of this License Agreement (“this Agreement”), the Demised Premises (more particularly delineated in Schedule-1 hereto and shown in the Site map attached thereto) for the purposes of implementing the Project and disposing off Dead Animals/ Animal Meat Waste on the Demised Premises, on the terms and conditions and subject to the covenants and stipulations hereinafter contained.

NOW THIS INDENTURE OF LICENCE WITNESSETH AS FOLLOWS:

1. This Agreement shall be co-terminus with the Concession Agreement (including the initial Term and any extension thereof) and is to be read, for any interpretation, together with the provisions of the Concession Agreement.
2. The capitalized terms that are used but not defined in this Agreement shall have the same meaning as given to them in the Concession Agreement.
3. In consideration of the Licensee undertaking to implement the Project in accordance with the provisions of the Concession Agreement and undertaking to pay the Licence payment stipulated in Article 4 below; the Licensor hereby demises unto the Licensee, all the land admeasuring (together with any physical structures existing thereon) which is described, delineated and shown in the Schedule-1 hereto (the “Demised Premises”), to hold the said Demised Premises, without interruption or interference together with the full and free right and liberty of way and passage and other rights in relation thereto, for as long as the Concession Agreement does not lapse due to expiry of its Term or is not terminated earlier in accordance with the provisions thereof.

The term of this Agreement shall be co-terminus with the Concession Agreement. The Licensor hereby agrees and authorizes the construction, operation and maintenance of the plant and disposal of dead animals/meat waste on the Demised Premises in accordance with the terms of the Concession Agreement.

4. In consideration of the transfer of the Demised Premises under this Agreement, the Licensor shall, effective from COD (Commercial Operation Date), receive a rent of Rupee one (Re. 1 Only) per annum (Licence Payment), or such other rental rate as may be fixed by the Licensor, on or before the 10th day of the first calendar month in each year provided however, the Licence Payment can be paid in advance for such period of time as the Licensee may deem fit. The Licensor undertakes and assures the Licensee that the Licence Payment for the Demised Premises shall remain fixed for the entire period that this Agreement remains valid and binding.

5. The Demised Premises are being vested with the Licensee, under this Agreement, free from any Encumbrances (other than the existing physical structures thereon which has been inspected by the Licensee and agreed to be taken over in accordance with the terms of the Concession Agreement), whether legal or physical in nature. At any time during the term of this Agreement if the Licensee discovers any Encumbrances upon or under the Demised Premises which materially and/or adversely affect its rights in relation to the Demised Premises/the Project, it shall notify the Licensor, which shall, within twenty-one (21) days from the receipt of the notice, either remove or cause to be removed such Encumbrances at its own cost. In the event that the Licensor fails to remove such Encumbrances within twenty-one (21) days from the notice thereof, the Licensee may remove or cause to be removed such Encumbrance.

6. The Demised Premises are being vested with the Licensee, under this Agreement only for the purposes of the Project including for the purposes of developing, establishing, designing, constructing, operating and maintaining the Project facilities as per the Concession Agreement, which the Licensor is desirous of being constructed, operated

and maintained on the Demised Premises in accordance with the Concession Agreement.

7. The Licensor hereby authorizes the Licensee, to construct, erect, own, operate and maintain any superstructure, facility or any movable or immovable structures constituting the Plant (including each of the Project Facilities) on the Demised Premises and for that purpose also renovate, use or demolish any structure that may be existing on the Project Facility.

8. The Licensee by virtue of a No Objection Certificate from the MCC shall have the right to vest with the Lenders the power to take over the control, possession and all rights and interests in relation to the facilities situated on the Demised Premises by appointing a person, the substitute entity, to replace the Concessionaire and undertake the construction, operation and maintenance of the Plant upon the occurrence of an event of default by the Licensee as detailed in the Concession Agreement, under any of the Financing Agreements. The Licensor shall novate this Agreement in favour of the substitute entity on the terms and conditions of this Agreement as existing at the time of such novation.

9. The Licensor hereby covenants and assures the Licensee that to the best of its knowledge and belief:

a) All the land comprising the Site is of non-agricultural status and is permitted and duly authorized and earmarked for purposes of establishment, construction, operation and maintenance of the Project;

b) The Site is free from any encroachment or Encumbrances whatsoever and is not subject to any acquisition or other legal proceedings by any authority, body or government nor is any claim of any third party subsisting in respect thereof or relating thereto;

c) Licensor controls the land constituting the Demised Premises and it shall, in that capacity, defend or satisfy all actions or claims against the use of the Demised Premises

for the Project;

d) Licensor shall not demand or in any manner claim or seek to recover the Licence Payment prior to the COD under the provisions of this Agreement;

e) Licensor shall not interfere with or impede in any manner or otherwise limit, restrict or impose any conditions or restrictions on the complete, free and full enjoyment and use of the Demised Premises and all rights in relation thereto, including the creation of security interest on the facilities in the Demised Premises in favour of the Lenders in accordance with the provisions of the Concession Agreement;

f) There are no litigation, claim, demand or any proceedings (whether administrative, legal or quasi-judicial) pending before any authority in respect of the Demised Premises or its use for the purposes of managing, Processing and disposing Dead Animals; and

g) The Licensee shall have lawful and uninterrupted, possession, control and use of the Demised Premises.

10. The Licensee hereby covenants with the Licensor as follows:

a) That it shall implement the Project in accordance with the Concession Agreement; and

b) That it shall observe and perform all terms, covenants, conditions and stipulations of this Agreement.

c) That it shall use the Demised Premises only for the purposes stated herein or in the Concession Agreement and for no other purpose.

d) That it shall not create or cause to be created on the Demised Premises any Encumbrance in any manner and shall keep the Licensor indemnified at all time during

the term of this Agreement against any such Encumbrance that may be arising out of the actions and/or omissions of the Licensee except what has been permitted under this Agreement.

11. Licensor has possession and control of all the land constituting the Site and has the requisite right and authority to License the same to Licensee for the Term for the purposes of the Project on the terms and conditions of this Agreement and further that Licensee shall have full, free and uninterrupted peaceful vacant possession, enjoyment/ occupation and use of the Demised Premises throughout the Term, without any obstruction, interference or disturbance or claim whatsoever from the Licensor or from any person claiming through under or in trust for Licensor or from any third person whosoever. Licensor shall keep the Licensee fully indemnified and harmless against any claims or demands from any person claiming right, title or interest to or in the Demised Premises or any part thereof or challenging the validity of the usage of the Demised Premises for the Project or challenging the validity of this Agreement, as also against any actions, proceedings, damages, losses and expenses caused to Licensee as a result or in consequence of such claims or demands as aforesaid.

12 (a) Subject to Sub-Article (b) below, no assignment of this Agreement or any rights or duties hereunder shall be made in whole or in part by any party without the written consent of the other party and in the event of any assignment the assignee shall assume the duties and liabilities of the assignor.

(b) it is hereby specifically agreed that the Licensee shall, in the event of forming a limited company either as subsidiary company or jointly along with any other company or otherwise, be at liberty to assign and transfer the Plant, the Demised Premises and this Agreement or the rights and benefits hereof or duties hereunder to such newly formed limited company or in favour of such subsidiary company of the Licensee subject however to obtaining formal consent from the Licensor in writing, which consent shall not be withheld by Licensor. Any assignment by the Licensee shall be subject to the

condition that the assignee shall assume the duties and liabilities of the Licensee.

13. The Licensor hereby assures and represents to the Licensee that the vesting of the Demised Premises under this Agreement shall be irrevocable for as long as the Concession Agreement remains in force or till such time as the all the contractual obligations are met with and the Licensor shall not terminate this Agreement except upon the expiry or early termination of the Concession Agreement or all the contractual obligations are met with. The Parties hereby agree that on the expiry or termination of the Concession Agreement, the Demised Premises shall be handed back to the Licensor in accordance with the provisions of the Concession Agreement and that this Agreement shall terminate only on the handing over the Site to the Licensor in accordance with the terms of the Concession Agreement.

14. Any disputes and/or differences arising between the Parties, in relation to or under this Agreement will be resolved through Arbitration in accordance with Article 15 of the Concession Agreement. The governing law of the Arbitration shall be Indian law.

IN WITNESS WHEREOF THE PARTIES HAVE AFFIXED THEREIN AND SEALED TO THIS LICENCE AGREEMENT THE DAY AND YEAR FIRST HEREINABOVE WRITTEN:

SIGNED, SEALED AND DELIVERED IN THE NAME AND ON BEHALF OF THE LICENSOR THROUGH:

SIGNED, SEALED AND DELIVERED BY LICENSEE THROUGH ITS AUTHORISED SIGNATORY

IN PRESENCE OF:

SCHEDULE 9: ENVIRONMENTAL CLEARANCES OF THE PROJECT SITE

The Concessionaire has to obtain all required permissions/NOCs from various concerned authorities like State Level Environment Impact Assessment Authority (SEIAA), Pollution

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Control Board/ Committee, Ministry of Environment & Forest and Climate Change (MoEF & CC), and any such requisite regulatory/ statutory permissions etc. MCC may assist the Concessionaire in obtaining these permissions. The Concessionaire shall comply/ adhere to the following Environmental Standards and has to obtain clearances that may be required for setting up the operations are, but not limited to as listed below in the Table.

INDICATIVE LIST OF CLEARANCES REQUIRED FOR THE PLANT

Sl. Nr.	Clearance	Authority
1	Environmental Clearance/ EIA for the project	Chandigarh Pollution Control Committee (CPCC)
2	Authorization under SWM Rules	CPCC
3	Consent to establish/ Consent to operate	CPCC
4	Any other clearances under applicable laws and rules	Competent Authority

Environmental Standards:

- a) Air Quality Monitoring: As per Solid Waste Management Rules 2016 (SWM Rules 2016) or amendments thereafter with respect to baseline site parameters.
 - b) Noise Monitoring – As per Noise Pollution Rules 2000 or amendments thereafter with respect to baseline site parameters.
 - c) Odour Monitoring – As per CPCB guidelines ‘Odour Pollution & Its Control May 2008’ or amendments thereafter with respect to baseline site parameters.
 - d) Water Quality Monitoring - As per Solid Waste Management Rules 2016 (SWM Rules 2016) or amendments thereafter with respect to baseline site parameters.
 - e) Emission standards for Incinerators as per applicable rules.
- i Concessionaire shall make all the necessary arrangements for monitoring of various parameters and achievement of the standards.
 - ii Concessionaire may appoint a professional agency approved by CPCC/MoEF to Monitor and achieve these standards.

Responsibility to abate odour and fires: It is the sole responsibility of the Concessionaire to abate the odour nuisance and fire hazards on the site. The Concessionaire shall use all

Setting Up of Animal Carcass Incineration Plant in Chandigarh on Design, Build, Finance, Operate and Transfer Basis- Request for Proposal

proven relevant measures. The Concessionaire may use diffusers of scented water or aerobic deodorants etc. which will help to abate odour and flies nuisance. Necessary fire extinguishers or fire fighting vehicles shall be arranged to abate fire hazards. However, in case of major fire incidence, MCC may assist by providing fire fighting vehicles according to availability at that point of time. In any case necessary safety gears shall be provided to all staff working as per the good industry practice.

SCHEDULE 10: VESTING CERTIFICATE

1 The, Municipal Corporation Chandigarh (the “**Concessioneing Authority**”) refers to the Concession Agreement dated *** (the “**Agreement**”) entered into between the Concessioneing Authority and **** (the “**Concessioneaire**”) for Development, Design, Finance, Installation, Operation and Maintenance of Animal Carcass Incineration Plant on DBFOT Mode (the “**Project**”).

1 The Concessioneing Authority hereby acknowledges compliance and fulfillment by the Concessioneaire of the Divestment Requirements set forth in the Concession Agreement on the basis that upon issue of this Divestment or Vesting Certificate, the Concessioneing Authority shall be deemed to have acquired, and all title and interest of the Concessioneaire in or about the Project shall be deemed to have vested unto the Concessioneing Authority, free from any encumbrances, charges and liens whatsoever.

3 Notwithstanding anything to the contrary contained hereinabove, it shall be a condition of this Divestment or Vesting Certificate that nothing contained herein shall be construed **or** interpreted as waiving the obligation of the Concessioneaire to rectify and remedy any defect or deficiency in any of the Divestment Requirements and/or relieving the Concessioneaire in any manner of the same.

Signed this *** day of ***, 20** at Chandigarh.

AGREED, ACCEPTED AND SIGNED SIGNED, SEALED AND DELIVERED

For and on behalf of For and on behalf of Concessioneing Authority by:

- (Signature)
- (Name)
- (Designation)
- (Address)

In the presence of: