

Request for proposal For Setting up of Water ATM for Safe Drinking Water including Designing, financing, constructing / installing, operating and maintaining of Water ATMs and vending of water from Water ATMs at Public Places through Public Private Partnership (PPP) at designated locations under “Smart City Mission” at Dehradun City



Purchaser-Dehradun Smart City Limited,

**777, Saatvik Tower, Opp Hotel L P Residency, Rajendra Nager,
Kaulagarh Road, Dehradun, 248001, Uttarakhand, India**

Ph: 0135-2750894, Fax: 0135-2750817

Email-smartcityddn@gmail.com

Bid/Proposal Ref. No. 01(R)/DSCL/18-19/PPP/SWA

Issued On: 29/11/2018

DISCLAIMER

The information contained in this Request for Proposal (RFP) document or subsequently provided to Bidders, whether verbally or in documentary form by or on behalf of Dehradun Smart City Limited or any of its employees or Transaction advisors, is provided to Bidders on the terms and conditions set out in this RFP document and any other terms and conditions subject to which such information is provided.

This RFP document is not an Agreement and is not an offer or invitation to any other party. The purpose of this RFP document is to provide the Bidders with information to assist the formulation of their Bid/Proposal submission. 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 DSCL and their employees or Transaction advisors to consider the investment objectives, financial situation and particular needs of each Bidder. Certain Bidders may have a better knowledge of the proposed Project than others. Each recipient 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 investigation 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.

DSCL and their employees and Transaction advisors make no representation or warranty and shall incur no liability under the Law of Contract, Tort, the Principles of Restitution or unjust enrichment or otherwise for any loss, expense or damage, accuracy, reliability or completeness of the RFP document, which may arise from or be incurred or suffered in connection with anything contained in this RFP, any matter deemed to form part of this RFP document, the award of the Project, the information and any other information supplied by or on behalf DSCL or their employees, any consultants or otherwise arising in any way from the selection process for the Project.

DSCL may in its absolute discretion, but without being under any obligation to do so, can amend or supplement the information/clauses/articles in this RFP document. The information that DSCL is in a position to furnish is limited to this RFP only. The information contained in the RFP must be kept confidential. Mere submission of a responsive Bid/Proposal does not ensure selection of the Bidder as Concessionaire.

BID/ REQUEST FOR PROPOSAL-IMPORTANT DATES

Sl. No.	Activity	Duration
1.	Bid/Proposal Reference	01(R) /DSCL/18-19/PPP/SWA
2.	Availability of Bid/ RFP Documents	The RFP document for this work shall be available from website http://uktenders.gov.in from 29/11/2018 to 13/12/2018 up to 11.00 Hrs.
3.	Pre-Bid Meeting	03/12/2018 at 11.00 Hrs onwards. Bidder shall have to email their queries to smartcityddn@gmail.com on or before the pre-Bid meeting. Venue of Pre Bid Conference – Office of the Chief Executive Officer, Dehradun Smart City Limited, 777, Saatvik Tower, Opp Hotel LP Residency, Rajendra Nager, Kaulagarh Road, Dehradun, 248001, Uttarakhand, India Ph: 0135-2750894, Fax: 0135-2750817
4.	Last date for down loading of Bid document from the E-procurement platform: http://uktenders.gov.in	13/12/2018 up to 11.00 Hrs. The scan copy of the RFP document fees, affidavit and Bid/Proposal Security shall be uploaded on the e-procurement website.
5.	Last date and time for Bid/Proposal submission/uploading of Bid/Proposal in E-procurement platform	13/12/2018 up to 17:00 Hrs
6.	Submission of original documents i.e. RFP document Fees (Non-refundable), Bid/Proposal Security and Affidavit as per Section IV	14/12/2018 up to 11.00 Hrs Address for submission of original documents: Office of the Chief Executive Officer, Dehradun Smart City Limited, 777, Saatvik Tower, Opp Hotel L P Residency, Rajendra Nager, Kaulagarh Road, Dehradun, 248001, Uttarakhand, India Ph: 0135-2750894, Fax: 0135-2750817
7.	Time and date of opening of Technical Bid/Proposal	The Bid/Proposal will be opened on line by the Authorized Officers on 14/12/2018 at 11.30 Hrs
8.	Date and time of opening of Financial Bid/Proposal	Shall be informed later to technically qualified Bidders
9.	Place of opening of Bid/Proposal and address for communication	Office of the Chief Executive Officer, Dehradun Smart City Limited, 777, Saatvik Tower, Opp Hotel L P Residency, RajendraNager, Kaulagarh Road, Dehradun, 248001, Uttarakhand, India Ph: 0135-2750894, Fax: 0135-2750817 Email- smartcityddn@gmail.com

REQUEST FOR BID-IMPORTANT DATA

Bid/Proposal Ref. No.	01(R)/DSCL/18-19/PPP/SWA	
Organization Name	Dehradun Smart City Limited (DSCL)	
Name of Work	Designing, financing, constructing / installing, operating and maintaining of Water ATMs and vending of water from Water ATMs at Public Places through Public Private Partnership (PPP) at designated locations under “Smart City Mission” at Dehradun City	
Bid/Proposal Type	<u>Public Private Partnership (PPP) Basis</u>	
Bid/Proposal Currency	Single- Indian National Rupees (INR) Only	
Payment Details	Bid/Proposal validity period	120 days from the last date of Bid/Proposal submission
	Project Duration	Installation period – 6 Months Concession Period – 05 Years (including installation period)
	RFP Document Fee (Non-refundable)	INR 1180.00 (One thousand one hundred eighty only, including GST). A crossed demand draft drawn in favour of “ Chief Executive Officer , Dehradun Smart City Limited , payable at Dehradun”
	Proposal/ Security	INR 4, 00, 000 /- (Indian Rupees Four Lakhs Only) in the form of Demand Draft payable at DEHRADUN or Bank Guarantee issued in favour of “Chief Executive Officer, Dehradun Smart City Limited’.).
Addendum/Corrigendum	Any Addendum/Corrigendum will be published on website http://uktenders.gov.in only.	

SECTION - I

INSTRUCTIONS TO BIDDERS

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1. INVITATION FOR BIDS

1.1 Introduction

- 1.1.1 The Government of India has recently announced creation of 100 Smart Cities to drive economic growth and improve the quality of life of people by enabling local development and harnessing technology as a means to create smart outcomes for citizen. Dehradun is one of the shortlisted cities for the Smart City initiative under Ministry of Urban Development, Government of India. Dehradun Smart City Limited (DSCL) is a Govt. Company for implementing the Smart City Mission at the city level. DSCL will plan, appraise, approve, release funds, implement, manage, operate, monitor and evaluate the Smart City development projects.

As a part of the Smart City Plan DSCL will like to make drinking water widely available at public places in City of Dehradun. This project will allow potable water to be supplied to the consumer in his / her container as in eco-friendly biodegradable paper glass of 300 ml capacity . This Bid will be essential for betterment of environment as the use of consumer's container would avoid the waste due to plastic / bottles.

Dehradun Smart City Limited (DSCL) intends to develop Pay & Use Water ATM under Public Private Partnership (PPP) mode in Dehradun, Uttarakhand, India.

This Request For Bid for setting up of Water ATM for Safe Drinking Water including Designing, financing, constructing / installing, operating and maintaining of Water ATMs and vending of water from Water ATMs at Public Places through Public Private Partnership (PPP) at designated locations under "Smart City Mission" at Dehradun City for an authorization lease period (the "Project") of five years.

- 1.1.2 An Agreement will be drawn up between the Dehradun Smart City Limited (DSCL) (the "Concessions Authority"), and the Successful Bidder/ Concessionaire on basis ("the Concession Agreement").
- 1.1.3 A "Single Stage, Two Envelope" 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 Bids of only those Bidders that possess the minimum Technical Qualification Conditions and other relevant documents (as per the formats provided in section-IV) would be opened and evaluated.
- 1.1.4 The RFP document contains information about the Project, Bidding process, Bid submission, qualification and Financial Bid requirements.

2. PROJECT BACKGROUND

2.1 Introduction

- 2.1.1. To meet the safe drinking water requirements at public places in ABD (Area Based Development) area, safe drinking water is to be supplied to the consumer in his/ her

container and or in eco-friendly biodegradable paper glass of 300ml capacity. This Bid is essentially for betterment of environment as the use of consumer's container would avoid the waste due to plastic/bottles. DSCL hereby invites reputed firms/companies (Applicants) for selection as Concessionaire for Setting up of Water ATMs for Safe Drinking Water including Designing, financing, constructing / installing, operating and maintaining of Water ATMs & appurtenant works and vending of water from Water ATMs at Public Places through Public Private Partnership (PPP) at designated locations under "Smart City Mission" at Dehradun City for Five year Concession Period as described herein this document. Concessionaire will have to do the installation of Water ATM's, operated through coin/card vending machines and appurtenant works at 24 locations as indicate herein this document and provide Operation and Maintenance Services for five years. Safe drinking water with required parameters shall be provided at the tariff decided by DSCL as per clause 10 of section II. The facility of providing and dispensing 300ml eco-friendly biodegradable paper glass (Min. 170 GSM) shall also be made available in Water ATM's as per tariff.

- 2.1.2. Concessionaire shall have advertisement rights to display their advertisements or lease out the same to others to realize its investment as briefly described in nutshell in the RFP. Subsequently, the payment received from users may be utilized towards the Water ATM's Operation and Maintenance cost. After the completion of Concession Period the utility will be handed over by the Concessionaire to DSCL in optimum running condition.

3. LOCATIONS FOR WATER ATMs:

The locations of the Water ATMs shall be as described in the clause 8.2 of the section – II (Concessioning Authority Requirement) of this Bid document.

3.1 Project Structure

- 3.1.1. The Concessionaire shall have the exclusive right, license to Develop/Install Water ATMs and Operation management and maintenance for the Concession Period. The Source of revenue to recoup its investments shall be the determined tariff as per DSCL guidelines and displaying advertisements at the proposed units.
- 3.1.2. The Concessionaire shall prepare a Project Report with design & specifications and pursuant to its approval, complete the project development of Water ATMs, within the stipulated Implementation Period of 6 (six) months.

3.2 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 water ATMs & the entire Project facilities including the assets (i.e. both movable and immovable assets, whether provided by the Concessioning Authority or brought in by the Concessionaire during the subsistence of the Concession Agreement), thereof shall be transferred back to DSCL as per the provisions of the Section III of the RFP document. All the movable and immovable assets attached shall revert to DSCL without any obligation on DSCL to pay or adjust any consideration or other payment to the Concessionaire.

3.3 Scope of Work

3.3.1 The Successful Bidder/ Concessionaire shall be required to Setting up of the “Water ATMs for Safe Drinking Water including designing, financing, constructing/installing, operating and maintaining of water ATMs and vending of water from Water ATMs at public places through Public Private Partnership (PPP) at designated locations under “Smart City Mission” at Dehradun City as per the details laid down in Section-II of this Bid document.

Pursuant to the above stated, the Concessionaire shall quote the maximum revenue share for DSCL in lump-sum per month.

3.3.2 Revenue Streams from the operations of Water ATM units (WAUs)

The revenue streams from the operations of the WAUs are as follows:

- a) **Income from Tariff:** The Concessionaire shall have to charge from the Water ATM Users as per the tariff and guidelines. The rate charged for different purposes shall be displayed on the ATM.
- b) **Income from advertisement display:** The Concessionaire may display commercial advertisement as specified in RFP documents on the WAUs. The advertisements to be displayed shall also require the prior approval from the Concessioneing Authority.

4. GENERAL TERMS AND CONDITIONS FOR BID SUBMISSION AND BID EVALUATION

4.1 Instructions for Online Bid Submission

1. Instructions to the Bidders to submit the Bids online through the procurement portal <http://uktenders.gov.in>.
2. Possession of valid Digital Signature Certificate (DSC) and enrolment/registration of the contractors/Bidders on the e-Procurement/e-tender portal are prerequisite for e- tendering.
3. Bidder should register for the enrolment in the e-Procurement site using the “Online Bidder Enrolment” option available on the home page. Portal enrolment is generally free of charge. During enrolment/registration, the Bidders should provide only valid and true information including valid email id. All the correspondence shall be made directly with the contractors/Bidders through email id as registered.
4. Bidder need to login to the site through their user ID/ password chosen during enrolment/registration.
5. Then the Digital Signature Certificate (Class II or Class III Certificates with signing key usage) issued by SIFY/TCS/ nCode/ eMudra or any other Certifying Authority recognized by Controller of Certifying Authorities (CCA) India on eToken /Smart Card, should be registered.
6. The registered DSC only should be used by the Bidder in the transactions and should ensure safety of the same.
7. Contractor/Bidder may go through the tenders published on the site and download the tender documents/schedules for the tenders.
8. After downloading/getting the tender document/schedules, the Bidder should go through them carefully and then submit the documents as required, otherwise Bid will be rejected.
9. Any clarifications may be sought online through the tender site, through the contact

- details or during pre-Bid meeting, if any. Bidder should take into account the corrigendum, if any published before submitting the Bids online.
10. Bidder may log in to the site through the secured login by the user id/password chosen during enrolment/registration and then by submitting the password of the e-Token/Smartcard to access DSC.
 11. Bidder may select the tender in which he/she is interested in by using the search option and then move it to the 'my tenders' folder.
 12. From my tender folder, he may select the tender to view all the details uploaded there.
 13. It shall be deemed that the Bidder has read and understood all the terms and conditions before submitting the offer. Bidder should go through the tender schedules carefully and upload the documents as asked; otherwise, the incomplete Bid shall stand rejected.
 14. Bidder should get ready the Bid documents to be submitted as indicated in the tender documents/schedules in advance and ordinarily it shall be in PDF/xls/rar/jpg/dwf formats. If there is more than one document, all may be clubbed together and provided in the requested format. Bid documents may be scanned with 100 dpi with black and white option. It is advisable that each document to be uploaded through online for the tenders should be less than 2 MB. If any document is more than 2MB, it can be reduced through zip/ rar and the same, if permitted, may be uploaded. The file size being less than 1 MB the transaction uploading time will be very fast.
 15. The Bidders can update well in advance, the documents such as certificates, annual report details etc., under "My Space option" and these can be selected as per tender requirements and then send along with Bid documents during Bid submission. This will facilitate the Bid submission process faster by reducing upload time of Bids.
 16. Bidder should submit the Bid/Proposal Security as specified in the tender. The hard copy should be posted/couriered/given in person to the Tender Inviting Authority, within Bid submission due date and time as indicated in the tender. Scanned copy of the instrument should be uploaded as part of the offer & affidavit as stated in section 4. For any delay for submission of these documents Bidder will be responsible
 17. While submitting the Bids online, the Bidder should read the terms and conditions and shall accept the same to proceed further to submit the Bid packets.
 18. The Bidder has to select the payment option as offline to pay the Bid/Proposal Security as applicable and enter details of the instruments.
 19. The details of the DD/any other accepted instrument, physically delivered, should tally with the details available in the scanned copy and the data entered during Bid submission time, otherwise submitted Bid shall not be acceptable or liable for rejection.
 20. The Bidder has to digitally sign and upload the required Bid documents one by one as indicated. The very act of using DSC for downloading the Bids and uploading their offers shall be deemed to be a confirmation that they have duly read, understood and agreed with all clauses of the Bid document including General Conditions of Contract (GCC) without any exception.
 21. The Bidder has to upload the relevant files required as indicated in the cover content.
- In case of any irrelevant files, the Bid may be rejected.

22. If the Price Bid format is provided in a spread sheet file like BoQ_XXXX.xls, the rates offered should be entered in the allotted space only and uploaded after filling the relevant columns. The Priced-Bid/BOQ template shall not be modified /replaced by the Bidder; else the Bid submitted is liable to be rejected for the tender.
23. The Bidders are advised to submit the Bids through online e-tendering system to the Tender Inviting Authority well before the Bid submission due date and time (as per Server System Clock). The Authority shall not be held responsible for any delay or the difficulties faced during the submission of Bids online by the Bidders.
24. After the Bid submission (i.e. after Clicking “Freeze Bid Submission” in the portal), the acknowledgement number indicated by the system should be printed by the Bidder and kept as a record of evidence for online submission of Bid for the particular tender and also be used as entry pass to participate in the Bid opening.
25. The time settings fixed in the server side and displayed at the top of the tender site, shall remain valid for all actions of requesting, Bid submission, Bid opening etc., in the e-tender system. The Bidders must follow such time during Bid submission.
26. All the data being entered by the Bidders would be encrypted using Public Key Infrastructure (PKI) encryption techniques to ensure the secrecy of the data. The data entered is not retrievable by unauthorized persons during the Bid submission and until the time of Bid opening by any person.
27. Any Bid document that is uploaded to the server is subjected to symmetric encryption using a system generated symmetric key. Further this key is subjected to asymmetric encryption using buyers/Bid openers’ public keys. Overall, the uploaded tender documents become readable only after the tender opening by the authorized Bid openers.
28. The confidentiality of the Bids is maintained with the use of Secured Socket Layer (SSL) 128 bit encryption technology. Data storage encryption of sensitive fields is done.
29. The Bidder should logout of the tendering system using the normal logout option available at the top right hand corner and not by selecting the (X) exit option in the browser.

4.2 The evaluation of the Bids will be completed in 2 Steps

A. Step 1 – Opening of Technical Bids and Technical Evaluation.

B. Step 2 – Opening of Financial Bids of technically qualified Bidders

4.2.1 The entire Bidding process has been explained elaborately in clause 4.1 of Section-I of this RFP document.

4.2.1 The Successful Bidder shall be issued Letter of Award (LoA). After issuance of the LoA in writing and acceptance of the same by the Successful Bidder within 7 (seven) days from the date of receipt of Letter of Award (LOA), the Successful Bidder shall submit the required Performance Security and enter into a Concession Agreement with DSCL within 30 (thirty) days from the date of issuance of the LoA.

4.3 Technical Qualification Conditions

4.3.1 The Bidder can only be either a registered Partnership Firm or a registered Company (as per the provisions of Indian Companies Act, 1956). **JOINT VENTURE IS NOT ALLOWED.**

4.3.2 The Bidder should be legally competent to enter into a contract as per prevailing laws.

4.3.3 Only those Bidders meeting both the following “Minimum Eligibility Criteria” and other relevant documents as per Clause 4 and other provisions of Section-I of the RFP Document shall be “Technically Qualified” for the Project.

4.3.4 The Technical Bids of the Bidder would be evaluated as per eligible criteria set out in the RFP document. Bids will be evaluated based on the information submitted by the Bidder. However DSCL reserves the right to seek clarification / documents from the Bidders, if the DSCL considers it necessary for proper assessment of the Bid.

4.4.5 Technical & Financial Capabilities Evaluation – The Technical Bids will be evaluated based on the following criteria. The marks allocation for the technical evaluation shall be assigned as under:

S.No.	Criteria	Maximum Mark
A	<p>Financial Capability – 3 Years (Minimum Average annual turnover & Net worth of last financial year)</p> <p>i. Minimum Net worth for the last financial year (2017-18) should be 50.00 lakh and Minimum average annual turnover of INR 2 Cr for the last three financial years (2015-16, 2016-17, 2017-18) and will be equivalent to 15 marks</p> <p>ii. Beyond this, each 0.50 Cr additional average turnover will add 2 additional marks, up to maximum 10 additional marks.</p> <p>Audited balance sheets to be provided</p>	25
B	<p>Technical Capability – Experience in owning/installing/operation of project mentioned below during the last 5 years prior to last date of Bid Submission</p> <p>a. (i) Development and installation of Minimum 18 number of Water ATMs, will be equivalent to 15 marks</p> <p>(ii) Beyond this for each additional 1 WAU, 1 additional mark will be given up to maximum 10 marks</p> <p>b. (i) Operation and maintenance of 18 Water ATMs in public/private sector for at least one year, will be equivalent to 15 marks</p> <p>(ii) Beyond this for each additional 1 WAU for one year, 1 additional mark will be given up to maximum 10 marks</p> <p>Satisfactory work order, Work completion certificate(s) and Satisfactory O & M certificate(s) to be provided</p>	50
C	<p>Understanding of Concept, Scope of Work and Project requirements, work Plan for execution of the projects</p> <p>Samples of the item may be requested</p> <p>i. Submission of Presentation on Technology Methodology, Work Plan and Infrastructure development, Operation and Maintenance etc. will be equivalent to 05 Marks.</p> <p>ii. Power Point presentations of the above before the DSCL Authorities will be equivalent to 20 Marks. Assessment of DSCL on award of these</p>	25

	marks will be on merits of the presentations and their assessment of marks thereon shall be final and unquestionable. The Bidders may be called for making presentation on the above at a date which will be informed later.	
	Total Marks for Technical evaluation	100
The minimum qualifying marks secured in the Technical evaluation on the basis of above criteria is 60% or 60 marks out of 100 .The Bidder who will be qualified in the technical evaluation will be qualified for the financial Bid opening.		

4.4.6 The Bid must designate one or more person(s) to represent the Bidder in its dealings with DSCL. Unless specifically advised to the contrary, DSCL shall assume that the person(s) designated is authorized to perform all tasks, including, but not limited to, providing information, responding to inquiries and entering into contractual commitments on behalf of the Successful Single/ Individual Bidder as the case maybe. Any and all limitations on the authority of the designated person (s) should be detailed in the Bid.

4.5 Fee and Deposits to be paid by the Bidder

4.5.1 Bid/Proposal Security

- (i) The Bid shall be accompanied by an initial Bid/Proposal Security for a value of INR4.00Lakhs(Indian Rupees Four Lakhs only) in any one of the following manners:
 - a) A Bank Guarantee issued by a Scheduled Bank in favor of “Chief Executive officer (CEO), Dehradun Smart City Limited” and in the format given in Section-III; or
 - b) Demand Draft/ Bankers Cheque in favour of “The chief Executive officer (CEO), Dehadun Smart City Limited”, Dehradun payable at Dehradun
- (ii) The Bid/Proposal Security shall be valid up to 45 days after the completion of the Bid validity period of 120 days.
- (iii) The Bid/Proposal Security of the Successful Bidder shall be returned after the signing of the Concession Agreement.
- (iv) Any Bid/ Bid submitted without the Bid/Proposal Security in the form as specified in the RFP document shall be summarily rejected.
- (v) The Bid/Proposal Security of Bidders whose Bid is rejected on account of being Non-Responsive or Non-Reasonable in accordance with the RFP document, shall be returned/refunded within a period of sixty (60) days from the date of intimating the rejection of the Bid by DSCL to the Bidder. The Bid/Proposal Security shall be forfeited by DSCL, in the following cases:
 - a) If the Bidder withdraws his Bid/ Bid after Technical Bid opening and during the Bid Validity Period.

- b) If the Successful Bidder fails within the specified time limit to sign the Concession Agreement.
- c) If the Successful Bidder fails within the specified time limit to furnish the required Performance Security.

Note: The financial Bid of the technically qualified Bidder will be opened in the presence of Bidders who chose to attend. As per this RFP, the financial Bid of all the technical qualified Bidders will be compared and the Bidder who has quoted the maximum revenue that they can share with DSCL per month will be marked H1 and subsequently H2, H3 etc. If two or more Bidder quoted same value of revenue sharing in financial Bid then the Bidder has maximum marks in technical evaluation will be declared H1. Bid/Proposal Security of only H1, H2 & H3 Bidders would be retained till the Concession Agreement is signed with the Successful Bidder, and DSCL. The "Bid/Proposal Security" of the other Bidders would be returned within 60 (Sixty) day of opening of Financial Bids. The Bid/Proposal Security of the Successful Bidder shall be retained till the Concession Agreement is signed and shall be forfeited if he fails to deposit the requisite Performance Security within the stipulated time.

4.5.2 Performance Security

The Successful Bidder/ Concessionaire, for due and faithful performance of its obligations under the Concession Agreement, shall be required to provide a Performance Security of INR 20 Lakhs (Indian Rupees Twenty Lakhs Only) to DSCL within 30 (thirty) days of issuing of the Letter of Award from the DSCL in the format provided in section IV

4.5.3 Bids for Bidders

Bidder shall quote his Bid for all the 24 locations of the Water ATMs mentioned in this RFP document. Quoting for optional location may lead to disqualification for the Bidder.

4.5.4 Bid Preparation and Cost

All Bidders are required to submit a detailed Bid (herein-after referred to as the Bid or Bid) in accordance with the guidelines set forth in this RFP document. Bidders should provide information sought herein in the prescribed formats in order to accurately establish and interpret the information provided. The cost of preparation of Bid and related expenses shall be borne by the Bidders themselves.

4.5.5 Due Diligence, Inspection and Investigation

The Bidders shall be deemed to have conducted a due diligence exercise with respect to all aspects of the Project, including a detailed survey of the Project and Project sites and information/ data provided by DSCL in this RFP Document, when they submit the Bid. Interested Bidders are advised to visit and inspect the proposed sites at their own expense. Failure to investigate all the sites, where-upon the Water ATM Units

shall be constructed or their subsurface conditions shall not be a valid ground to relieve the Bidder subsequently after submission of his Bids/Proposal nor shall it relieve the Bidder from any responsibility for estimating the difficulty or costs of successfully completing the Project and its operation & maintenance for the entire concession period.

4.6 Validity of Bid

- 4.6.1 The Bid shall remain valid for a period not less than one hundred twenty (120) days from the due date of submission (Bid Validity Period). DSCL reserve the right to reject any Bid that does not meet this requirement. Validity of Bid shall be extended for a specified additional period at the request of DSCL.
- 4.6.2 A Bidder agreeing to the request will not be allowed to modify his Bid, but would be required to extend the validity of his Bid/Proposal Security for the period of extension.
- 4.6.3 The Bid Validity Period of the Successful Bidder shall be extended till the date of execution of the Concession Agreement.

4.7 Right to Reject Bids

DSCL reserve the right to reject any / all Bids including the highest Revenue Sharing Bid or withdraw the invitation of the Bid at any stage without citing any reason. Nothing contained herein shall confer any right upon a Bidder or create any obligation/ liability upon DSCL of any type whatsoever.

4.8 Misrepresentation / Fraud / Breach of Terms and Conditions

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/ Bid, the Bid/ Bid will be cancelled by DSCL. In such an event, the Bidder will not be entitled to any compensation whatsoever, or refund of any other amount paid by him.

4.9 Disputes

Any issue, difference of opinion, or dispute between any Successful Bidder and the Concessioning Authority (DSCL) pertaining to any aspect of the present Bidding process, shall be settled within jurisdiction at Dehradun.

5. BIDDING PROCEDURE AND SCHEDULE

5.1 General

The Bidders shall be required to send their queries on the RFP document to DSCL in writing.

5.2 Pre-Bid Meeting

- 5.2.1 The Bidder or his authorized representative is invited to attend a Pre-Bid Meeting, which shall take place at the office of DSCL.
- 5.2.2 The purpose of the Pre-Bid Meeting will be to clarify and discuss issues with respect to the Project, the RFP document or any other related issues.
- 5.2.3 It is advisable to attend the Pre-Bid Meeting. Subsequent to the date of the Pre-Bid Meeting, DSCL may not respond to questions or inquiries from any Bidder who did not attend the Pre-Bid Meeting on any pretext whatsoever.

5.3 Amendment of RFP

- 5.3.1 At any time prior to the Bid Due Date, DSCL may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP document through the issuance of Addenda.
- 5.3.2 In order to give the Bidders reasonable time to take an Addendum into account, or for any other reason, DSCL may, at its discretion, extend the Bid Due Date
- 5.3.3 DSCL, at its sole discretion, retains the right, but is not obliged, to extend the Bid Due Date by issuing an Addendum.

5.4 Preparation and submission of Bid

- 5.4.1 Bidders shall furnish the information strictly as per the formats given in section –IV of this document without any ambiguity. DSCL shall not be held responsible if the failure of any Bidder to provide the information in the prescribed formats results in lack of clarity in interpretation and consequent disqualification.
- 5.4.2 All Bids shall be signed by the duly “Authorized Signatory” of the Bidder.
- 5.4.3 The Authorized Signatory shall initial the Bid on each page. He shall also initial all the alterations, omissions, additions, or any other amendments made to the Bid.
- 5.4.4 All witnesses and sureties shall be the persons of status and probity and their full names and addresses shall be stated below their signature. All signatures in the Bid documents shall be dated.
- 5.4.5 Any firm which submits or participates in more than one Bid for the said Project shall be disqualified.
- 5.4.5 Only original Bid/Proposal Security and Affidavit for Correctness of Bid has to be submitted within the stipulated timeline.

5.5 Language and Currency

- 5.5.1 The Bid and all related correspondence and documents shall be written in English language. If any supporting document attached to the Bid/ Bid is in any other language, the same will be supported by an English translation (duly authenticated/ attested from Indian Embassy in respective countries).
- 5.5.2 The currency for the purpose of the Bid/ Bid shall be Indian National Rupee (INR).

5.6 Bidder's Responsibility

5.6.1 It would be deemed that prior to the submission of Bid, the Bidder has made a complete and careful examination of:

- a) The requirements and other information set forth in this RFP document.
- b) The various aspects of the Project including, but not limited to the following:
 - I. The existing facilities and structures (if any), access roads and public utilities in the vicinity of the Project;
 - II. All other matters that might affect the Bidders performance under the terms of this RFP document, including all risks, costs, liabilities and contingencies associated with the Project.

5.6.2 DSCL shall not be liable for any mistake or error or neglect by the Bidder in respect of the above. Bids that are not substantively responsive to the requirements of this RFP document shall be rejected.

5.7 Facility Visit

5.7.1 The Bidders prior to submitting their Bid/ Bid for the Project, are expected to visit and examine the Project sites and surroundings at his/her own expenses, the land to be offered by DSCL "as is where is" basis and ascertain on their own responsibility, information, technical data, traffic data, etc. including actual condition of existing services which may or may not have to be shifted/removed/replaced etc.

5.7.2 It shall be assumed that all these factors were accounted for by the Bidder while quoting his Bid. The Bidder shall be deemed to have full knowledge of the proposed sites whether he inspects it or not.

5.8 Document attached with Technical Bid

5.8.1 The Technical Bid uploaded shall contain the following documents:

- I. Relevant documents (like Certificate of Incorporation, audited financial statements and evidence of experience like client certificate(s), satisfactory work order, satisfactory O&M certificate(s), details of financing arrangements etc.), confirming the "Technical Qualification Conditions" laid down in Clause 4.2;
- II. Letter of Application and Interest (As per Section-IV);
- III. G.S.T. Registration.
- IV. General Information on the Bidder (As per Section-IV);
- V. Power of Attorney for Signing of Application (as per Section-IV);
- VI. Affidavit (As per Section-IV);
- VII. Copy of Bid/Proposal Security

5.9 Modification and Withdrawal of Bids

5.9.1 No Bid shall be modified or withdrawn by the Bidder after the Bid Due Date.

5.9.2 Withdrawal of a Bid during the interval between Bid Due Date and expiration of the Bid Validity Period would result in forfeiture of the Bid/Proposal Security.

5.10 Opening of Bids

5.10.1 The Bids will be opened on line by the Authorized Officers of DSCL. The date for opening of Financial Bids shall be intimated in advance to the technically qualified Bidders.

5.10.1 DSCL reserves the right to reject any Bid, if

- i) It is not signed.
- ii) The information and documents have not been uploaded as requested and in the formats specified in the RFP.
- iii) There are inconsistencies between the uploaded Bid and the supporting documents.
- iv) It does not mention the Validity Period as set out in Clause 4.5.1(ii)
- v) There are conditions proposed with the Technical and/or Financial Bids.
- vi) It provides the information with material deviations.

Note: A material deviation or reservation is one:

- o which affects in any substantial way, the scope, quality, or performance of the Project, or
- o which limits in any substantial way, inconsistent with the RFP document, DSCL's rights or the Bidder's obligations, or
- o Which would affect unfairly the competitive position of other Bidders" presenting substantially responsive Bids.
- vii) No request for modification or withdrawal shall be entertained by DSCL in respect of such Bids.

5.11 Evaluation of Bids

The evaluation will be done in 2 Steps as explained below:

5.11.1 I Step-I, Original hard copy of RFP document fee, Bid/Proposal Security and Affidavit of Correctness of Bid shall be checked. Bids without the appropriate Bid/Proposal Security and Affidavit shall be rejected. The Technical Bids of only those Bidders whose Bid/Proposal Security and Affidavit are found correct shall be then downloaded and evaluated and there after technically qualified Bidders shall be qualified for the financial opening.

5.11.2 In Step-II of evaluation, the Financial Bids shall be downloaded and evaluated. The financial Bid of the technically qualified Bidders who will quote equivalent or more than minimum base value of INR 25,000 (Twenty five thousand) per month will be opened in the presence of Bidders who chose to attend. As per this RFP, the Financial Bid of all the technical qualified Bidders will be compared and the Bidder who has quoted the maximum revenue that they can share with DSCL per

month will be will be marked H1 and subsequent Bidders as H2, H3 etc. Bid/Proposal Security of only H1, H2 & H3 Bidders would be retained till the Concession Agreement is signed between the Successful Bidder, and DSCL. The “Bid/Proposal Security” of the other Bidders would be returned within 60 (Sixty) day of opening of Financial Bids.

5.11.2 DSCL would have the right to review the Bids and seek clarifications where necessary. The response from the Bidder(s) shall only be in writing but no change in the substance of the Bid would be permitted. It is clarified that Bidders are free to make suggestions but are not allowed to submit any conditional Bid as specified earlier.

5.11.3 The Bid (Financial and Technical) should be unconditional and any conditionality attached with the Bid/ Bid may result in the rejection of the Bid.

5.11.4 Financial Bids of Bidders who do not qualify the Step-I of evaluation shall not be opened.

5.12 Confidentiality

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

5.13 Code of Integrity

Any person participating in the procurement process shall, -

- 5.13.1 Not offer any bribe, reward or gift or any material benefit either directly or indirectly in exchange for an unfair advantage in procurement process or to otherwise influence the procurement process;
- 5.13.2 Not misrepresent or omit that misleads or attempts to mislead so as to obtain a financial or other benefit or avoid an obligation;
- 5.13.3 Not indulge in any collusion, Bid rigging or anti-competitive behaviour to impair the transparency, fairness and progress of the procurement process;
- 5.13.4 Not misuse any information shared between the Procuring Entity and the Bidders with an intent to gain unfair advantage in the procurement process;
- 5.13.5 Impairing or harming or threatening to indulge in any coercion including to do the same, directly or indirectly, to any party or to its property to influence the procurement process;
- 5.13.6 Not obstruct any investigation or audit of a procurement process;
- 5.13.7 Disclose conflict of interest, if any; and

5.13.8 Disclose any previous transgressions with any Entity in India or any other country during the last three years or any debarment by any other Procuring Entity.

5.14 Conflict of Interest:

A conflict of interest is considered to be a situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations.

A Bidder may be considered to be in conflict of interest with one or more parties in this Bidding process if, including but not limited to:

- 5.14.1 Have controlling partner's/ shareholders in common; or
- 5.14.2 Receive or have received any direct or in direct subsidy from any of them; or
- 5.14.3 Have the same legal representative for purposes of this Bid; or
- 5.14.4 have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the Bid of another Bidder, or influence the decisions of the Procuring Entity regarding this Bidding process; or
- 5.14.5 The Bidder participates in more than one Bid in this Bidding process. Participation by a Bidder in more than one Bid will result in the disqualification of all Bids in which the Bidder is involved. However, this does not limit the inclusion of the same subcontractor, not otherwise participating as a Bidder, in more than one Bid; or
- 5.14.6 The Bidder or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the Works that are the subject of the Bid; or
- 5.14.7 The Bidder or any of its affiliates has been hired (or is proposed to be hired) by the Procuring Entity as Engineer-in-charge/ consultant for the Contract.

5.15 Acceptance of the Bid

- 5.15.1 DSCL shall issue Letter of Award (LoA) to the Successful Bidder for the Project.
- 5.15.2 The Successful Bidder is required to send his acceptance on the LoA issued within seven (7) days from the date of its receipt.
- 5.15.3 DSCL shall retain the right to withdraw the LoA in the event of the Successful Bidders failure to accept the LoA within the time limit specified in the above clause.
- 5.15.4 In this event, DSCL shall forfeit the Bid/Proposal Security of the Successful Bidder.

5.16 Execution of Concession Agreement

- 5.16.1 The Successful Bidder is required to sign the Concession Agreement within 30 (thirty) days from the issuance of the LoA but prior to signing of the Concession Agreement, the Successful Bidder/ Concessionaire must submit the required Performance Security within the specified time.
- 5.16.2 The cost of stamp duty for execution of Concession Agreement, registration charges and any other related Legal Documentation charges and other incidental charges shall be borne by the Successful Bidder.

6.16.3 In case of failure to sign the Concession Agreement within the stipulated time, DSCL shall retain the right to cancel the LoA and forfeit the Successful Bidders Bid/Proposal Security and any other amount deposited till that time without being liable in any manner whatsoever to the Successful Bidder.

5.17 Bid of other Bidders

5.17.1 DSCL shall return the Bid/Proposal Security received from the Bidders who have not qualified in Step-I of the evaluation, within 60 (Sixty) days of opening of the Technical Bid/ Bid. The Bid/Proposal Security shall be returned without payment of any interest.

5.17.2 Bid/Proposal Security received from all the short listed Bidders after Step-II of evaluation (except H1, H2 and H3) shall be returned within 60 (Sixty) days from the date of opening of Financial Bid, and returned thereafter, without payment of any interest.

SECTION - II

SCOPE OF WORKS

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1. SCOPE OF WORK FOR BIDDER

The bidders will be responsible for:

The Water ATM Units will be unmanned and fully electronic and complete in all respect ready for use. The unit has a water tank kept locked above or with the machine. The tank shall connect to RO Plant, which uses pipe supply water for processing. The plant can process 250-1000Lts (Depending upon the capacity) in an hour. The WAUs is equipped with 4 buttons of 300ml with container, 300 ml without container, 1L and 5L. People can scan the card or insert the coin on the WAUs sensor and press the buttons depending on the water requirements. The water dispensing quantity will be 300ml with or without container, 1L and 5 L without container only. A 300 ml biodegradable paper container dispensing unit (automatic) shall be provided for people desirous to have 300 ml water in container .The WAU shall have a proper trash bin for disposal of such used water containers.

1.1 Designing, constructing / installing, operating and maintaining of Water ATMs and vending of water from Water ATMs at Public Places through PPP Mode along with water storage tanks of Stainless Steel (minimum Grade 304) and submitting quarterly test report of output water to the DSCL. The operation of the plant shall be with the Concessionaire for the period as mentioned herein this document.

1.2 Making Water &Power connection at Water ATMs by concessionaire and all electrical fittings and all external electrification charges & water charges will be borne by the successful bidder.

1.3 Quality control and monitoring systems to be incorporated at each ATM location as per the following:

EMBEDDED DEVICE FOR AUTOMATION FOR FOLLOWING PURPOSES

Quantitative Monitoring

- i.Number of Glasses and water dispended in denomination of 300 ml ,1 ltr,5.0 ltr (separately) in a day
- ii.Water level in the tank

Water Quality Monitoring

- i. TDS level of water
- ii. Temperature of water
- iii. pH values of water

Backend Wireless Communication

- i. GPRS Module for communication with backend web server
- ii. GPS module for Kiosk Location information

Data Logger

- i. Flash Memory bank for logging Sensor / dispensing data
- ii. Relay Logged info to Server using communication channel

Multi-Processor Integrated Control System with Interface cables/connectors for integration to provide for the following features:

- i. GPRS based TCP/IP connectivity with web based Server system
- ii. GPS location system
- iii. Flash based transaction data Logging

- iv. Relay Unit for controlling water dispensing nozzles as per the location requirements
- v. Interface for connecting coin-acceptors
- vi. Interface for Card Reader
- vii. Interface for Temperature Monitoring
- viii. Interface for TDS Monitoring
- ix. Interface for pH Monitoring
- x. Interface for Ultra-Sonic Water Level Monitoring
- xi. Controller for displaying water purity parameters on LCD/LED display monitor
- xii. Media Controller For HDMI based 32" display Monitor of 14" screen (diagonal)
- xiii. Built in power supply to connect with 48 v battery

Sensors for

- I. Temperature Monitoring
- II. TDS Monitoring
- III. Ph Monitoring
- IV. Ultra-Sonic Water Level Monitoring
- V. Paper Glass Dispensing through Coin Acceptor
- VI. Water Dispensing
- VII. To work for Rs 1,2,3,and 14
- VIII. Support for Card 'Balance' Rechargeable
- IX. Sensors support for Monitoring Water Temperature, TDS, PH and Water Level in the tank
- X. Display of Water purity parameters on LCD Display of 14" size
- XI. Ability to backup data for 48 hours in-case of server/connectivity outage
- XII. LED display on controller panel box to indicate System Status.
- XIII. Uploading of Transactions and Water parameters data to Server over TCP/IP using GPRS
- XIV. Fall back to SMS in case GPRS connectivity to server is lost temporarily
For reliability purpose, these sensors may be tested by DSCL through reputed institutions / test houses.

Other Features

- i. System operation can be enabled/disabled from server
- ii. Dispense quantities re-configurable from server
- iii. Operator Log-in, log-out feature
- iv. System to operate after successful operator login only.
- v. All card Recharge transactions to be uploaded to server
- vi. All water dispensing transactions to be uploaded to server
- vii. All Water refill transactions to be uploaded to server
- viii. Each dispensing unit shall be independently manageable from the server for coin or card operation of any value

1.4 Proper arrangement for disposal of waste water has to be made by the bidders to nearest Nalla.

1.5 Making own arrangement during non-availability of piped water. DSCL is not liable to supply water to ATMs during such period, and nothing is payable by DSCL to the Concessionaire during such

periods. However, the water before being dispensed to the public shall be treated with suitable filtration process to meet BIS 14543 standard at all times.

- 1.6 Any other related works/activities as may be necessary for its successful operation.
- 1.7 ATM will be constructed as per the layout approved by the DSCL.
- 1.8 Water ATM shall be equipped with provision for chilled water (water with temperature around 15 degrees Celsius during summers).
- 1.9 The Concessionaire will have a suitable technology which is environment-friendly to treat water. The water quality parameters of output water to be as per BIS 14543 standards at each ATM location.
- 1.10 The successful bidder shall provide in-built litter spaces in each water ATM.
- 1.11 Commercial advertisements will be allowed at Water ATM unit according to DSCL. Rules.
- 1.12 LED signage showing DSCL's name and logo in minimum size 45cm x 45cm shall be displayed at every Water ATM unit

Specifications:

- i. Each ATM should be equipped to dispense glass of water of 300 ml capacity (eco-friendly biodegradable cups/glass of minimum 170 GSM paper)
- ii. Filling Speed: about 4-5 litre/minute
- iii. Operational Time – 6 AM to 10 PM every day which may be amended in consultation with DSCL.
- iv. ATM Unit Dimension: Cubical/cylindrical in shape with base area up to 20 sq. feet, which may be increased upto 30 Sq. feet with the prior approval of DSCL.
- v. The ATM shall have the provisions for Float valve for overflow control

2. GENERAL REQUIREMENTS

- 2.1 The output water quality characteristics will be as per BIS 14543.
- 2.2 The Concessionaire has to design supply, install, commission, and maintain the Water ATMs for the time period as mentioned in this document. The Concessionaire will maintain **a safe, clean and hygienic environment in and around the Water ATM.**
- 2.3 The Concessionaire should have their own testing facilities for water. The Concessionaire should analyse the water sample for all parameters as per BIS 14543 norms in a quarterly manner or as and when required/directed by DSCL from a NABL accredited Lab. Concessionaire shall maintain proper record in this regard. The Attendant of Concessionaire shall be available at the Water ATM during the operation time. A LED/LCD digital screen of at least 14 inch diagonal showing 3 key parameters of BIS 14543 standards namely pH, hardness, TDS & temperature on a real time basis in an interval of 2-5 minutes.
- 2.4 The maintenance of pipelines etc. from point of connection onwards to the Water ATMs shall be responsibility of Concessionaire during the concession period
- 2.5 Making connection for raw water:-
The Concessionaire shall be responsible for executing works for making connection for Water ATMs from the source of water supply including cost of all material and labour etc. The cost will be borne by the Concessionaire. The cost of filtration process at each ATM, to ensure quality of water as per BIS 14543 standard shall be the responsibility of the Concessionaire.
- 2.6 Disposal of used paper glass waste would be placed in bin placed at Water ATM. generated at each Water ATM. In case of Non-performance severe penalties would be levied on the Concessionaire by DSCL as applicable under existing laws related to littering in public areas.
- 2.7 The Concessionaire shall install the required equipment and maintain the same for a period of five years from the date of Concessionaire requirement of water ATMs as per the conditions prescribed in this document, and in the time frame prescribed at his own cost.

- 2.8 The Concessionaire shall perform all routine maintenance to ensure that all water ATMs shall remain in working condition.
- 2.9 The Concessionaire will depute duly trained technician along with necessary spares etc,at Dehradun at their own cost & arrangements for O&M requirements of all water ATM.
- 2.10 The output water shall be distributed daily between 6:00 am to 10:00 pm on all days from water ATMs. However, DSCL may increase or decrease the working hours, if so desired, in order to provide adequate water to the public. The Concessionaire shall have to provide all the services during the extended hours.
- 2.11 The Concessionaire will be responsible for maintaining the service level standards otherwise penalty will be levied as per penalty clause.
- 2.12 The Concessionaire shall provide trained manpower to maintain the water ATMs to ensure the provision of quality services.
- 2.13 The Concessionaire shall provide and maintain the electrical and plumbing fittings of all types at the Water ATM in good working condition.
- 2.14 The Concessionaire shall provide LED boards for display of BIS 14543 water quality parameters including:-
 1. pH
 2. Temperature
 3. Water Level
 4. TDS
- 2.15 Concessionaire should ensure that all the Water ATM (in a pocket) are working all the time and annual repair/maintenance etc. shall be carried out periodically at his own cost.
- 2.16 To maintain premises clean, safe hygienic and risk free in and around the Water ATM (approx. Two meter radii) is the responsibility of Concessionaire. The Attendant of the Concessionaire shall ensure that all the eco-friendly bio- degradable paper glass shall be disposed of by the user within litterbin kept at each ATM.
- 2.17 Online information of daily report to DSCL
- 2.18 DSCL reserves the right to inspect and take sample of any ATM at any time during the operational period.
- 2.19 During the non-availability of piped water from Uttarakhand Jal Sansthan concessionaire shall make his own arrangement of water.
- 2.20 The water storage capacity of raw water at each ATM should be minimum 1000 Litre which can be increased as per the requirement.

3. OTHER REQUIREMENTS:

- 3.1 All the successful Concessionaires will have to ensure collection of the samples from the respective sites and meeting of the design criteria.
- 3.2 Bidders would need to submit their O&M expenditure information to the Engineer-in-Charge on a quarterly basis for the records of DSCL.

4. TESTING AND INSPECTION

4.1 Third Party inspection: The charges for third party inspection, if any, would borne by the Bidder.

- 4.1.1 Site tests:** After erection at site, all components, equipment as described shall be tested to prove satisfactory performance and /or fulfilment of functional requirements without showing any sign of defect of individual equipment and as well the system as a whole.

5. DELIVERY/COMMISSIONING

The commissioning period of all the water ATMs is 6 months from the date of the signing of the Concession Agreement.

6. PENALTY IN CASE OF NON-PERFORMANCE

In case of non-performance of more than 3 hours in a particular day between the operating hours, 1 day non-operation will be considered and penalty will be levied as per the table below.

In case the quality of water is not as per BIS 14543 standard the ATM operation of dispensing water should be stopped immediately. DSCL will impose a penalty of Rs 1000 for each such event at the Water ATM concerned. If this non-performance containing for more than 1 days, Penalty in case of Non-operational beyond 3 hours in a day with respect to ATM shall be as follows:

- | | | |
|------|--------------|---------------------------|
| I. | up to 4 days | Rs.2000/- per day/per ATM |
| II. | 4-7 days | Rs.3000/- per day/per ATM |
| III. | above 7 days | Rs.5000/- per day/per ATM |

Failure to report any information pertaining to non-operational/not desired quality of the ATM would invite additional penalty of Rs. 1,000/- per such case per day of delayed information.

In case of non-compliance of water quality with BIS 14543 standard and / or non-operation for 480 ATM-days in a month (this is for 24 ATM), the contract is liable for termination.

1 ATM-day= 1 ATM operational time in a day from 6AM to 10 PM

7. SCOPE OF DSCL

DSCL shall be responsible to provide: Space for water ATMs unit.

8. CONSTRUCTION REQUIREMENTS FOR Water ATMs

8.1 GENERAL

- i. The Concessionaire shall design ATM's in such a way that material considered for design and construction should only be of Stainless Steel (minimum Grade 304) including storage.
- ii. The Concessionaire shall take water connection from Uttarakhand Jal Sansthan and power connection from Uttarakhand Power Corporation limited at their own cost. In case, piped water supply is not feasible at any particular location, as listed in RFP, then final location for installation of ATM at that location shall be decided by DSCL in the nearby vicinity where piped water supply is feasible.
- iii. The Concessionaire shall design ATM's in such a way that, in case quality of supplied through Water ATM is not as per required standards, then plant/ ATM should be automatically shut down. The Concessionaire should bring this matter to the knowledge of the Engineer-in-charge immediately and it should be sorted out within a day itself to make ATM back in operation and use.
- iv. Specifications shape and design of the ATM shall be provided by the Concessionaire for each and every location (for illustrative design) before start of work and only after obtaining clearance from DSCL, ATMs should be installed at respective locations.
- v. Concessionaire shall design ATMs in such a way that, sufficient quantity for storage of water should be made at each and every ATM but not less than the minimum quantity as specified in Financial Bid, to avoid shut down of ATMs on account of no water situation, since present water supply in DSCL area is intermittent.
Provided that the Concessionaire shall ensure that the technology chosen is

- (a) Appropriate to the site and ground situation
- (b) Has a precedent for use in a project of similar nature and size
- (c) Is supported by the technology/service provider for design, supply, implementation and ongoing maintenance
- (d) Addresses all issues of safety, including fire safety, operational safety, and environmental safety

9. LOCATIONS FOR INSTALLATION OF WATER ATMS.

S.No	Location
1	Kanwali Road outside MDDA colony
2	Kanwali Road Laxman Chowk near Police Chowki
3	Jhanda Bazar out side of Darbar Saheb
4	Railway Station (Darshani Gate)
5	Tilak Road opp.Rawat Band
6	Tilak Road Near Sahkari Bank
7	Tilak Road opp.SBI ATM
8	Machi Bazar entrance
9	Chakrata Road Near LIC Building
10	Chakrata Road opp. Prabhat Cinema
11	Clock Tower Near (Dr B.R Ambedkar) Statue
12	Kotwali Chowki Entrance
13	Dhamawala
14	Tehseel Chowk near foot bridge (right side) towards Clock Tower
15	In Collectrate near Sanik kalyan &Punarvas
16	Inside Doon hospital
17	ISBT
18	Lensdowne Chowk
19	Gandhi Park inside
20	Parade Ground
21	Survey Chowk near Bus Stand
22	Near DAV & DBS College
23	Sachivalya (outside parking)
24	MKP Chowk near Heritage School

Total Locations considered- 24 Nos

NOTE: If there is any problem with the availability/ feasibility w.r.t. location for installation of Water ATM at any particular location/ locations, equivalent location in consultation with concessionaire shall be decided.

10. Rate of Water Decided by DSCL

300 ml without biodegradable glass – Rs. 1.00
300 ml with biodegradable glass– Rs. 2.00
1 Ltr without Container – Rs. 3.00
5 Ltr without Container – Rs. 14.00

11. Output water quality should be as per BIS14543 Requirements limits.

12. Specifications for the ATM Unit and Development of Site

12.1 General requirements

- a. General requirements and specifications for ATM Unit –space requirement for accommodating system.
- b. Maximum covered area of ATM Unit shall be 30 sq. ft.
- c. Indicative design for each Water ATM is annexed at however the final drawing design submitted by Concessionaire shall be approved by DSCL.
- d. It is mandatory for every bidder to submit layout plan showing the above maximum area requirement along with their bids. Bids of the bidders not complying with this are liable to be rejected.
- e. Water Storage Tank shall be placed inside the ATM Structure.
- f. Height of ATM shall be upto 8 Ft which can be increased/adjusted suitably to accommodate raw water tank over the ATM.

12.2 Units of ATMs:

- a. ATM Housing structure shall be of Stainless Steel (minimum Grade 304) with puff in between.
- b. Thickness of Stainless Steel (Inner & Outer) should be minimum 0.5 mm duly filled with puff of 40 to 50 mm thickness. The outer design should aesthetically gel with the surroundings.
- c. Ensure the structural stability and safety of the ATMs.
- d. The structure should be appropriate to protect the whole ATM system, including its equipment and accessories in all weather conditions and it should withstand the extreme climatic variations of Uttarakhand.
- e. The roof material of canopy should be PP reinforced UV stabilized Poly Vinyl/FRP covering.
- f. The total floor area and canopy area of the ATM should be covered with Good quality vitrified/anti-skid tiles as approved by DSCL.
- g. The ATM should be provided with a LED sign board indicating the DSCL logo of 45 cm X 45 cm size and Water ATM as per the design approved by DSCL.
- h. All the material, being in direct tough of water inside the machine shall be of food grade quality.
- i. To minimize the wastage of water through System/RO, it is specified that water reused/use shall be more than 90% (wastage should not be more than 10%)

13. Indicative Design of Water ATMs



SECTION - III

General Conditions of Contract

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1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Concession Agreement, unless the context otherwise require in consonance with applicable laws, the words, phases expression shall have respective meaning as defined below: -

- a) **“Applicable Laws”** means all laws which are applicable but not limited to , statutes, customs, conventions, regulations, rules, by-laws, judgements, decrees, injunctions, writs and orders of any Court as well as administrative and judicial directives, notifications,, as for the time being in force during, before and after the subsistence of this Agreement.
- b) **“Associates”** means in relation to either Party, a person or entity who is controlled by and/or is under the common control of such Party . As used in this definition, the expression “control” shall mean in respect of a person or entity, the ownership and management as well as execution of decision of which, directly or indirectly and more than 50% of the voting shares of such person or entity.
- c) **“Book Value”** shall mean the written down value in the audited books of a specific asset or class of assets in accordance with generally accepted accounting principles and applicable accounting standards for the time being in force in India.
- d) **“DSCL” shall** mean the Chief Executive Officer of Dehradun Smart City Limited.
- e) **“Clearance” shall** mean, as on the date of execution of this Agreement, any consents, licenses, approvals, permits, exemptions, registrations, filings or other authorizations of whatever nature, which is necessary for effective implementation of the Project
- f) **“Commercial Charges”** shall mean the Tariffs as per MDDA/Municipal Corporation guidelines levied by the concessioner for Water ATM users and charges for display of advertisements on such Water ATMs.
- g) **“Concession” or “Concession Agreement”** shall mean and include this signed Concession Agreement (including the Schedules of the Concession Agreement, the “Letter of Award” issued by DSCL, the written clarification(s), addendums, amendments, all annexure, forms etc attached therewith to the RFP Document issued subsequently to the Bidders and all other documents/papers attached as annexure/ appendix therewith).
- h) **“Concessionaire” shall** mean the Successful Bidder formed under the Companies Act, 1956 or the Companies Act 2013 and shall include its Successors, assigns, directors, officials, managers, substitutes,
- i) **“Concessionaire's Representative”** means the Persons appointed by Concessionaire for the execution of this project
- j) **“Concession Period”** shall mean the period for which this Concession is granted, commencing from the Compliance Date unless the termination or transfer of the project along with all the assets and liabilities takes place.
- k) **“Conditions Precedent”** means the conditions set out in Article 4 hereof.
- l) **“Competent Authority”** shall mean DSCL as well as MDDA, any agency, authority, department, ministry, public or Statutory Creature, of the State of Uttarakhand, Government of India, or any local authority, or any other sub-division thereof having authority over the implementation of the Project having jurisdiction over all or any part of the Project and/or the performance of all and/or any of the services and/or obligations of the Concessionaire under and/or pursuant to this Concession Agreement.

- m) **“Compliance Date”** shall mean the date of issuance of any Certificate of Compliance by the Concessioneing Authority and/or Competent Authority with regard to execution of the works in furtherance to this Agreement.
- n) **“Concession Agreement Completion Certificate”** means the certificate issued under **Article 11..**
- o) **“Cost” shall** mean all expenditure properly incurred or to be incurred by the Concessionaire, on the Project, including overheads and similar charges, but does not include profit.
- p) **“Day” shall** mean a calendar day, **“Month” shall** mean 30 (thirty) days and **“Year”** means 365 days of the English Georgian Calendar.
- q) **“Project Report” shall** mean the project report including the drawings charts, diagram, and graphical representations, as submitted by the Concessionaire and on the basis of which the Concessionaire shall complete the development/Installation of the Water ATM Unit.
- r) **“Development/Installation” shall** mean the Construction and Installation of Water ATM Unit as per the Project Report approved by the Concessioneing Authority and/or Competent Authority and in accordance with all schedule provided in this document and all other provisions of the Concession Agreement including the Schedules, all annexure, appendixes, addendums, amendments to this Agreement.
- s) **“Directives” shall** mean any and/or all present or future requirement disclosed, notifications, instructions, directions, orders, rules, regulations issued by any Competent Authority or the state or by the Concessioneing Authority and/or the Competent Authority and/or the State of Uttarakhand and/or the Government of India and/or the DSCL from time to time to the Concessionaire as well as any and/or all modifications, extensions amendments, replacements thereto for the time being in force..
- t) **“Encumbrances” shall** mean any and/or all encumbrances such as mortgage, charge, pledge, lien, hypothecation, security, interest, assignment, privilege or priority of any kind having the effect of security or other such obligations and shall include without limitation any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Water ATM’s, physical encumbrances or encroachments on the Water ATM’s.
- u) **“Equity”** means the sum expressed in Indian Rupees representing the equity share capital of the Concessionaire and shall include the funds advanced by any Joint Venture (JV) Member or by any of the shareholders of the Concessionaire for meeting the equity component of the Total Project Cost.
- v) **“Financial Close”** means the date on which the Financing Documents with respect to the Financing Package for the Project have been executed and become effective and the Concessionaire has fulfilled all the conditions needed for draw down of Financing and the Concessionaire has immediate access to such Financing and which shall in any case not be later than 120 days from the date hereof in this document.
- w) **“Financial Model”** means the financial model adopted by Senior Lenders setting forth the capital and operating costs of the Project and revenues there from on the basis of which the financial viability of the Project has been determined by the Senior Lenders, and includes a description of the assumptions and parameters used for making calculations and projections therein.
- x) **“Financing Documents” shall** mean the documents executed by the Concessionaire in respect of financing of the Project to be provided by the Senior Lenders by way of loans,

guarantees, subscription to non-convertible debentures and other debt instruments including loan agreements, guarantees, notes, debentures, bonds and other debt instruments, security arrangements, and other documents.

- y) **“Financing Package”** or **“Financing”** shall mean the financing package of the Project furnished by the Concessionaire indicating the Total Project Cost and the means of financing thereof and shall be deemed to have been modified to the extent as submitted to the Senior Lenders and as approved by the Senior Lenders for the purposes of funding the Project.
- z) **“Force Majeure”** or **“Force Majeure Event”** shall mean acts, events, conditions and/or occurrences as specified in the Article 16.
- aa) **“Good Industry Practice”** shall mean those practices, methods, techniques, standards, skill, diligence and prudence which are generally and reasonably expected and accepted from a reasonably skilled, prudent and experienced operator engaged in construction and operation of projects akin to the Project. It would include good engineering practices in the design, construction, installation, and project management which would be expected to result in the performance of its obligation by the Concessionaire and in operation and maintenance of the Project in accordance with this Concession Agreement, Applicable Laws, and Clearances, reliability, safety, environment protection, economy and efficiency.
- bb) **“GOUK”** shall mean the Government of the State of Uttarakhand, its respective departments or any other authorities, agencies and instrumentalities functioning under the direction or control of the Government of Uttarakhand and its administrators, successors and assigns as well as Public Sector undertakings, statutory creatures, any juristic entities having nominated or deputed any Public Servant which financially and administratively subject to control of the state of Uttarakhand.
- cc) **“Water ATM Unit (WAU)”** shall have the meaning as described in Section -II and to be developed as per Schedule-I of Section V *as per this Concession Agreement*.
- dd) **“Independent Auditor/ Valuer”** shall have the meaning as prescribed here in this document
- ee) **“Implementation Completion Certificate”** means the certificate issued under Article 9.1.
- ff) **“Implementation Period”** or **“Time for Completion of Implementation”** shall mean the period from the Compliance Date to the date of issue of Implementation Completion Certificate, wherein the development and installation of the Water ATM Units has been completed and made operational, as per Schedule- I &IV and all other applicable provisions of this Concession Agreement.
- gg) **“Operation and Maintenance Period”** shall mean the period commencing from the Operations Date till the termination and/or extinguishment and/or transfer, whichever is later.
- hh) **“Operations Date”** or **“Date of Issuance of Implementation Completion Certificate”** shall mean the date on which the Concessions Authority and/or Competent Authority issues an Implementation Completion Certificate for the Project Units and the Concessionaire commences the commercial operation for the Water ATMs.
- ii) **“Party”** shall mean any of the parties to this Concession Agreement.
- jj) **“Performance Security”** shall mean a Bank Guarantee or any other mode for an amount as prescribed in this document and shall be in the format as set out in Section V, Schedule-II, from a scheduled bank approved by the Concessions Authority.

“Performance Standards” shall mean the standards in which the construction, installation, operation, maintenance and management of the Project and the same must adhere and which the Concessionaire undertakes to meet towards absolute irrefutable satisfaction of the Concessions Authority..

- kk) **“Person” shall** mean any natural person, firm, corporation, company, partnership, joint venture, trust or any other entity, having legal capacity to sue and be sued in its name.
- ll) **“Project” shall** mean, subject to the provisions of this Concession Agreement - (i) Prepare and submit the Project Development Report of the Construction and Installation of Water ATM Unit structures and allied supplementary works etc; (ii) Completion of the development, as per the Project Development Report and the provisions of the Concession Agreement; (iii) operation and maintenance, as per the terms and conditions of the Concession Agreement and Schedules hereof; (iv) insurance, for the purposes of providing the services on a continuous basis; and (v) transfer of the water ATM Unit’s and Assets i.e; both movable and immovable assets, whether provided by the Concessions Authority or brought in by the Concessionaire during the subsistence of this Concession Agreement; in good and operational condition, to the at the end of the Concession Period or on prior termination of the Concession Agreement or Transfer of the Project;
- mm) **“Project Agreements” shall** mean, collectively, this Concession Agreement, the Financing Documents, hire purchase agreements, Development Agreements, Implementation Agreements and Operation & Maintenance Agreements and shall include amendments, supplements, modifications, appendixes, annexure, forms related thereto;.
- nn) **“Proposal Acceptance Date” shall** mean the date of signing of this Concession Agreement.
- oo) **“Project Insurance” shall** mean the insurance, which shall be taken out by or on behalf of the Concessionaire pursuant to the provisions of this Concession Agreement.
- pp) **“Project Revenues” shall** mean all sources of revenues, as specified in Article 22 of the Concession Agreement, generating out of execution of the Project.
- qq) **“RFP” shall** mean the Request for Proposal document issued by Concessions Authority and/or the Competent Authority and shall include **“RFP Documents”, “Bidding Documents”, “Notice Inviting RFP” along with all annexure, appendixes, forms etc;**
- rr) **“Schedules” shall** mean the Schedules to this Concession Agreement and RFP.
- ss) **“Senior Lender” shall** mean the financial institutions, banks who have advanced or agreed to advance any kind of loan to the Concessionaire in reference and/or in relation to any of the Financing Documents and/or RFP and/or this Agreement for meeting all and/or any part of the Total Project Cost.
- tt) **“Statutory Auditor” shall** mean an independent, recognized and reputable firm of the Chartered Accountants and/or Individual Chartered Accountant duly licensed to practice and act as the Independent statutory auditors of the Concessionaire under the provisions of Companies Act, 1956 or Companies Act 2013 and/or Chartered Accountants Act 1949 including any statutory modification and/or re-enactment and/or replacement and/or amendments thereof, for the time being in force.
- uu) **“Substitute Entity” shall** mean the entity defined in the Substitution Agreement Section-II.
- vv) **“Substitution Agreement” shall** mean the agreement set out in Section V, Schedule-III.
- ww) **“Tax” shall** mean any tax, duty, levy, GST, TDS, charge whatsoever charged, imposed or levied under applicable Laws, for the time being in force including existing and future

- taxes/ charges/ fees/ levies but not limiting to the property tax, house tax, service tax, stamp duty, registration charges and/or any other charges payable/ liveable in respect of this Project to be borne by the Concessionaire.
- xx) **“Tender/ Bid/ Proposal” shall** mean the Concessionaire's quoted Financial Proposal and detailed Proposal for the Project, including the Concessionaire’s Proposal, submitted to the Concessioneing Authority and as accepted by the Concessioneing Authority.
- yy) **“Termination Date” shall** mean the date on which this Concession Agreement gets terminated by efflux of time and/or by issuance of a Termination Notice and/ or transfer of the project and/or stands extinguished by operation of law for the time being in force.
- zz) **“Termination Notice” shall** mean the communication served in accordance and compliance with this Concession Agreement by a Party to the other Party for terminating this Concession Agreement at the last disclosed or known address by electronic mail and/or by postal mode and/or by courier service and/or by hand service but not by way of under certificate of posting and/or in violation to the period and procedure agreed here under.
- aaa) **“Termination Payment” shall** mean the amount payable by the Concessioneing Authority to the Concessionaire upon the termination of this Concession Agreement as per specific provisions of this Agreement.
- bbb) **“Third Party” shall** mean any Person, real or judicial, or entity other than the Parties to this Concession Agreement who shall be claiming and/or litigating under respective parties.
- ccc) **“Total Project Cost” shall** mean the lowest of the following:
- i. Total Project Cost as set forth in the Financing Documents.
 - ii. Actual Capital Cost of the Project upon completion of the Project as certified by Statutory Auditors.
 - iii. The Total Cost of Project submitted by Concessionaire as part of its Conditions Precedent.
- ddd) **“Transfer Date” shall** mean the day on which the transfer of the project from the Concessionaire to another party takes place as per any and/or all written documents, in accordance with the terms of this Concession Agreement.
- eee) **“Users” shall** mean Person(s) using the Water ATM Units.
- fff) **WAUs shall mean Water ATMs unit**
- ggg) **“Variation” shall** mean modification, amendment, improvement, change in the Works, services, maintenance and facilities etc to be carried out by the Concessionaire in accordance and compliance with written documents in furtherance hereof..
- hhh) **“Works” shall** mean the construction, installation, fitting, completion, testing, commissioning, operation, management and maintenance and rectifying or/and remedying of defects of/ within the Water ATM Units as the situation may warrant and all the appurtenances thereof as well as any other permanent, temporary or urgent works which may stand required in furtherance to execution of this Concession Agreement.

1.2 Principles of Interpretation

In this Concession Agreement, unless the context otherwise requires:

- a) Any reference to a statutory provision shall include all amendments and/or re-enactments and/or replacements thereto for the time being in force;
- b) Words, phrases, expressions not defined herein but defined in the General Clauses Act 1897, Indian Contract Act 1872, Income Tax Act 1961, Companies Act 1956, Companies Act 2013, Sales and Goods Act 1930, Goods and Service Tax Act 2016, Insolvency and Bankruptcy Code 2016, Constitution of India, Arbitration and Conciliation Act 1996 and other subject, adjective, procedural laws as amended and/or re-enacted for the time being in force shall have the same meaning as have been contended therein.
- c) Reference to laws shall mean & include the laws of State of Uttarakhand, Government of India, , ordinances, rules, regulations, guidelines, bills, byelaws notification, direction, administrative instruction policies;
- d) The headings are for convenience and reference only and shall not be used to affect or contradict, the construction or interpretation of this Agreement;
- e) Words importing Person or Parties shall include firms and corporations and any organization having legal capacity to sue and be sued in its name.
- f) Words importing the singular shall include the plural and vice-versa where the Construction, so requires.
- g) The Schedules, Annexure, Appendix of this Agreement shall form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;
- h) Any reference at any time to any agreement, deed, instrument or document of any description shall be construed as reference to that agreement, deed, instrument or other document as amended, varied, supplemented, modified or suspended.
- i) References to recitals, Articles, sub-articles or Schedules in this Agreement shall, except where the context otherwise requires, be deemed to be references to recitals, Articles, sub-articles and Schedules so;
- 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 effective only if it is in writing;

1.3 Measurements and Arithmetic Conventions

All measurements and calculations shall be in metric system and calculations done in 2 decimals places, with the third digit of 5 or above rounded up and below 5 belong down except in Fee calculation which shall be rounded off to nearest Rupee Hundred (100).

1.4 Ambiguities within Agreement

In case of ambiguities or discrepancies or conflict within this Agreement if the principle of harmonious construction relating to the interpretation of statutes and construction of deeds is not possible or results in absurdity then the following principles shall apply:

- a. Between two Articles or more of this Agreement, the provisions of specific Article relevant to the issue under the consideration shall prevail over Article; and
- b. Between the Articles and the Schedules, the Articles shall prevail, save and except as expressly provided in the Articles or the Schedules; and

- c. Between the written description on the Drawings and the Specifications and Standards, the latter shall prevail; and
- d. Between the written description on the Drawing and the specific written dimension, the latter shall prevail; and
- e. Between any value written in numerals and that in words, the later shall prevail. And
- f. Between the former part and later part, the later shall prevail;
- g. Between this document & any documents, the later shall prevail;

1.5 Priority of Documents

The documents forming this Concession Agreement are to be taken as mutually explanatory to one another although the Concessions Authority shall have the liberty to issue necessary clarification or instruction to the Concessionaire, in accordance and consonance with applicable laws for the time being force:

2. SCOPE OF THE PROJECT

2.1 General

The Scope of the Project (the “**Scope of the Project**”) shall mean and include during the Concession Period:

- a. Prepare and submit the Project Report including the drawings of the Water ATM Units as per the laid down specifications and provisions of the Concession Agreement and Schedules hereof.
- b. Completion of Construction, Installation of water ATM, as per the Project report approved by the DSCL Board/Committee and also, in accordance with the provisions of this Concession Agreement as well as laws applicable and for the time being in force.
- c. Operation and Maintenance of the Water ATM Units must be in accordance with the provisions of this Concession Agreement and the Schedules hereof.
- d. Performance and fulfilment of all other obligations in accordance with the provisions of this Concession Agreement and matters incidental thereto or necessary for the performance of any or all of the obligations of the Concessionaire under this Concession Agreement and its Schedules thereof.
- e. The water & Ice cubes generated is as an additional income generation activity inbuilt in water ATM. Ice cubes shall comply with BIS 14543 water quality standard.

It is clarified herewith that in addition to the above-stated “Scope of Work”, the Concessionaire shall be required to carry out any incidental and consequential works and services as required and to comply with all the provisions of the Concession Agreement, the Schedules to the Concession Agreement and as per the requirements of applicable byelaws/norms etc, while executing the Project in furtherance hereof.

3. CONCESSION

3.1 Grant of Concession

Subject to and in accordance with the terms and conditions as agreed herein, the Concessioneing Authority hereby grants the Maximum Revenue sharing as quoted in Financial Proposal of RFP document by the concessionaire, commencing from the Compliance Date, including the exclusive right, license, authority and authorization during the subsistence of this Agreement, including extension thereof, to develop, upgrade, operate, maintain, and manage the Project and enjoy its benefits for the Concession Period.

Subject to and in accordance with the terms and conditions set forth in this Concession Agreement, the Concession hereby granted shall entitle the Concessionaire, the exclusive right and authority to undertake the following in accordance with the provisions of this Concession Agreement, the Applicable Laws and the Applicable Permits:

- a. To upgrade and implement the Project as per the Scope of Work of the Project more specifically mentioned in Article 2 and the Schedules of this Concession Agreement;
- b. To construct, install finance, operate, manage, maintain and regulate the use by Third Parties of the Project, to be precise the Water ATM Unit which more fully and specifically already agreed herein clearly and unambiguously by the Parties.
- c. To enjoy complete and uninterrupted access and license to the Project Site for a period that shall be co-terminus with the Concession Agreement.
- d. To have access and liberty to develop, upgrade, finance, operate and maintain the proposed Project Sites with the associated facilities and services at the project sites during the Concession Period in accordance with the provisions of this Concession Agreement & Schedules thereof. Any development made by the Concessionaire on the specified Project sites/proposed site in respect of the Project shall be deemed to be the property of the Concessioneing Authority and the Concessionaire clearly admits hereby specifically that it has and shall not have any right, title or interest whatsoever in nature at any point of time with regard thereto.
- e. Exclusive right and authority, during the Concession Period, to carry out the specified activities in relation to the Project;
- f. License the use of the Project to determine, demand, levy, collect, enforce, retain and appropriate Commercial Charges and to periodically revise the same in conformity with the market rates.
- g. Manage, operate and execute rights over all or any part of the Assets without any limitation or restriction other than those expressly set out in this Concession Agreement;
- h. To fulfil its obligations under this Agreement, undertake activities by itself, without appointing any contractors, sub-contractors etc;
- i. Arrange for all the clearances from the Competent Authority for the executing the Project and the Concessioneing Authority in no way shall be liable for the same. Responsibility of taking all necessary approvals for development lies with the Concessionaire. Nevertheless, Concessioneing Authority without any binding obligation may provide limited assistance upon written request from the Concessionaire.

- j. Shall arrange statutory clearance(s) from the Concessioneing Authority and concerned agencies for removal of existing trees, if any, from the Project sites, if so required in accordance with the applicable Environmental Legislation in accordance with the principles of 'Sustainable Development'.
- k. Exercise such other rights as the Concessioneing Authority may determine as being necessary or desirable for the purposes incidental and necessary for constructing, installing, financing, implementing, managing, operating, running & maintaining the Project.
- l. Bear and pay all expenses, costs and charges incurred in the fulfilment of all the Concessionaire's obligations under this Agreement; and
- m. The right to carryout advertisement and/or any other commercial activities, to be carried out by the concessionaire shall be subject to prior written approval by the Concessioneing authority as well as other Statutory Authorities and/or Competent Authority.
- n. Nothing contained herein, including the act of granting permission to upgrade the Project at the designated area shall vest or create any right, title and interest in the Project or any part thereof including any permanent construction or installation etc. as well as installed in the structure of the Project, in favor of the Concessionaire or any person claiming through or under the Concessionaire. The Concessionaire shall not in any manner sell, transfer, assign, mortgage, charge, pledge, create lien or otherwise encumber or deal with the Project in any manner whatsoever save and except permitted hereunder. The Concessionaire acknowledges, accepts and confirms that the covenant contained herein is an essence of this Agreement.

3.2 Actions in Support of the Concession

- a) The Concessioneing Authority shall recognize and undertake not to, in any manner, violate or cause breach of the terms of this Concession Agreement.
- b) For the purpose of Financing the Project, the Concessionaire shall have the right to mortgage, hypothecate, transfer, assign or otherwise encumber to Lenders its rights and interests under or pursuant to this Concession Agreement including without limitation to its rights in and to (i) the Project Agreements and (ii) the cash flows generated, by the Concessionaire, through this Project and to create a security in such rights and interests in favor of the Lenders. However, it is also clarified that the Concessionaire shall not be entitled to mortgage any right, title or interest in respect of any movable and immovable asset as well as tangible and/or intangible assets, which is a part of the Project or water ATMs or site, which has already been excluded expressly herein.
- c) The Concessioneing Authority undertake not to terminate or repudiate this Concession Agreement prior to the expiry of the Concession Period otherwise than in accordance with the provisions of this Agreement;
- d) The Concessionaire shall take all necessary approvals/ licenses from the Competent Authority.
- e) The Concessioneing Authority shall provide reasonable assistance and recommendations to the Competent Authority (ies), including Government of

India, in support of the Concessionaire's applications for clearances that may be needed from time to time for the implementation and execution of the Project; provided that the Concessionaire has made the requisite applications and acted in compliance with the necessary conditions for the grant of such Clearances.

3.3 Concession Period

3.3.1 The Concession Period for "the Project" shall be five years from such date (the "Concession Period") and during which the Concessionaire is mandated to develop the Project and to operate & maintain the Project in accordance with the provisions hereof. For the avoidance of doubt, the Concession Period shall include the Implementation and execution Period.

Provided that in the event of early Termination and/or extinguishment, the period of Agreement shall be limited to the period commencing from the Compliance Date and ending with the Termination Date, in accordance with the provisions agreed hereunder.

3.3.2 It is hereby made clear that:

- a) In the event of the Concession Period being extended by Concessioneing Authority beyond the said period in accordance with the provisions of this Concession Agreement, the Concession Period shall include the period/ aggregate period by which the Concession is so extended, and
- b) In the event of Termination, the Concession Period shall mean and be limited to the period commencing from the Compliance Date and ending with the Termination and/or extinguishment.

At the end of the Concession Period or sooner termination of this Concession Agreement for any reason whatsoever, all rights given under this Concession Agreement shall cease to have effect from such termination date and the Water ATM Units along-with all the Assets whether provided by the Concessioneing Authority to the Concessionaire or as brought in by the Concessionaire during the subsistence of this Concession Agreement, in good and operational condition, shall remain to with the Concessioneing Authority without any obligation of Concessioneing Authority to pay or adjust any consideration or other payments to the Concessionaire.

3.4 Implementation Period

3.4.1 The "**Implementation Period**" or "**Time for Completion of Implementation**" shall be a period of **6 (Six) months** (starting from the date of the concession period), wherein the Concessionaire shall be required to comply with the following obligations:

- a) Take all necessary/ mandatory clearances, permits etc which are required for commencing the construction, installation Water ATM Units, so that all such conditions have been satisfied in full, and all such Clearances, Permits, etc. are in full force and effect.

- b) Complete the development of the Water ATMs, as per the Project Report Plan approved by the DSCL Board/Committee and also, in accordance with the provisions laid down in the Schedule - I of this Concession Agreement.
- c) Procure full insurance coverage for the Water ATMs and provide the necessary information to the DSCL and/or Concessioneing Authority, as the case may be.
- d) The parties agree that any addition, alteration, modification, variation of any structure including utilities of the Water ATMs as agreed and approved by the DSCL, shall be subject to written approval by the DSCL or Concessioneing Authority, as the case may be.
- 3.4.2 The Concessionaire guarantees that the Time for Completion of Implementation for the Project shall be achieved in accordance with the provisions of this Concession Agreement and not later than the Implementation Period, as specified in Article 3.4, from the Compliance Date.

Even though the completion period is six month, the Concessionaire will have to follow following Milestones

Sl No	Completion period from the date of signing of concession agreement	Stage wise Progress of work individual ATM to be considered to assess completion/achievement of the Mile stone	Progress % age of of total works of Water ATM's
Milestone 1 25% of work completion	Within 45 days	All Civil works	25%
Milestone 2 50% of work completion	Within 90 days	Supply of water ATM's at Dehradun	15%
Milestone 3 75% of work completion	Within 135 days	Installation of water ATM at site and completion of all fitting and fixtures	30%
Milestone4 100% of work completion	Within 180 days	Completion of all works including water connection, electrical connection and commissioning of the water ATM	30%

- 3.4.3 In the event that implementation completion is not achieved for any reason other than Force Majeure or reasons attributable to the Concessioneing Authority or any Competent Authority, the Concessionaire shall pay to the Concessioneing Authority damages for delay beyond the date of mile stone as specified in 3.4.3, Rs.5000 (five thousand rupees) per day for every day of delay and up to maximum limit of performance security. The penalty shall be decided on pro rata basis.
- 3.4.4 In the event that completion does not occur within 180 (one hundred eighty) days from the date of agreement , the Concessioneing Authority shall be at absolute liberty to

encash the Performance Security and to terminate this Concession Agreement, in accordance with the provisions of this Agreement. Provided that instead of terminating this Agreement, the Concessions Authority at its sole liberty may extend the time for achieving implementation completion on such terms and conditions as it deems fit in its sole discretion.

3.5 Extension of Time

3.5.1 The Concessionaire shall apply for an extension of the time for Completion of Implementation if it is or shall be delayed either before or after the time for Completion of Implementation, by any of the following causes: -

- i) A Variation of quantity of ATMs
- ii) A Force Majeure Event;
- iii) Any delay, impediment or prevention by the Concessions Authority;
- iv) Any delay caused by Competent Authorities.

3.5.2 Provided before applying for extension on subscribed hereunder the Concessionaire shall at all times use its best endeavours to minimize any delay in the performance of its obligations under this Concession Agreement, whatever may be the cause of such delay, as a person of ordinary and reasonable prudence in expected to do so in his own cause.

3.5.3 If the Concessionaire intends to apply for an extension of the Time for Completion of Implementation, the Concessionaire shall submit request letter the Concessions Authority of such intention within a period of 24 hours from the date of cause of action and in any case within 28 (twenty-eight) days of the start of the event with an explanation of such delay giving rise to any such delay, together with any other notice required by this Concession Agreement and relevant to such cause. Any such notice shall state the extent of the actual and anticipated delay and its anticipated effect on the Time for Completion of Implementation, and shall specify the steps the Concessionaire proposes to take to minimize such delay. The Concessionaire shall keep such records as may be necessary to substantiate any application, at a location acceptable to the Concessions Authority and such other records as may reasonably be requested by Concessions Authority. The Concessionaire shall provide and permit Concessions Authority to inspect all such records.

3.5.4 Within 28 (twenty-eight) days of the first day of such delay or such other period as may be agreed by Concessions Authority, the Concessionaire shall submit full supporting details of its application. Except that, if the Concessionaire cannot submit all relevant details within such period because the cause of delay continued for a period exceeding 7 (seven) days, the Concessionaire shall submit interim details at intervals and full and final supporting details of its application within 21 (twenty-one) days of the last day of delay.

3.5.5 The parties further agree that the Concessionaire shall not be entitled to an extension of the Time for Completion of Implementation, to the extent that the delay in respect of which the extension of time is requested, is attributable to any negligence, default or breach of this Concession Agreement by the Concessionaire

or those for whom it is responsible, as determined by the Concessing Authority or any expert, as appointed by the Concessing Authority for this purpose.

4. CONDITIONS PRECEDENT

Subject to the express terms herein, limited aspects of the Implementation Period when commenced and any legitimate rights arising in law, the rights and obligations under this Concession Agreement shall take effect only upon fulfilment of all the Conditions Precedent set out in Articles 4.1 and 4.2 on or before the expiry of a period of 120 (One Hundred and Twenty) days from the Proposal Acceptance Date. However, the Concessing Authority may at any time at its sole discretion and in writing, waive fully or partially any of the Conditions Precedent of the Concessionaire.

4.1 Conditions Precedent for compliance by the Concessing Authority

The Concessing Authority shall have:

- a) Hand over to the Concessionaire the possession of the Proposed sites as per Schedule as per section III clause 19 free from Encumbrances, within a period of 30 days from the date of agreement.
- b) Constituted a DSCL Maintenance Board/committee, the constitution and function of which is specified in Article 16, within 3 weeks from the Proposal Acceptance Date, for the approval of the Project Report of the WAUs, to be furnished by the Concessionaire;
- c) Carried out inspection with the representatives of Concessing Authority, and Concessionaire of the WAUs and prepared a detailed report on land, to be used by the Concessionaire for the development, execution & implementation of the Project.
- d) Issued government orders or gazette notifications as necessary for implementing the Project.
- e) Done consequential and incidental works required for hassle free implementation & execution for the project.

4.2 Conditions Precedent for compliance by the Concessionaire

The Concessionaire shall have:

- a. Submitted the Project Report including complete drawings of the Water ATM Units to Concessing Authority, and Board/Committee, within a period of 30 (thirty) days from the Proposal Acceptance Date;
- b. The Project Report submitted so should include a comprehensive technical details of the various facilities proposed to be used in the project
- c. Incorporated the comments/ observations (if any) on the Project Report of the WAUs, as proposed by the DSCL Maintenance Board/Committee, Concessing Authority and submitted for approval, within a period of 15 (fifteen) days from the date of receipt of comments/ observations from the DSCL, Board/Committee. The parties agree that that the Concessionaire shall not start the Implementation until, unless the DSCL, Concessing Authority approves the Project Report of the

WAUs again after carrying out necessary comments/ observations (if any), in writing.

- d. Submit the Total Project Cost to the Concessions Authority for perusal;
- e. Achieved Financial Closer and delivered complete Financial Package to the Concessions Authority that Financial Closer has been accomplished.
- f. Provided an undertaking that all of the Representations and Warranties of the Concessionaire as set forth in Article 11.2 are true and correct as on date of this Agreement and as on the Compliance Date and thereafter;
- g. Provided to the Concessions Authority copies to be certified as true copies by a duly authorized officer of the Concessionaire of its constitutional documents;
- h. Provided to the Concessions Authority to be certified as true by the Director of the Concessionaire of all resolutions, explanations adopted by the Board of Directors of the Concessionaire authorizing the execution, delivery and performance of this Agreement by the Concessionaire;

4.3 Obligations to satisfy Condition Precedents

- a. Each Party hereto shall use all reasonable endeavours at its cost and responsibility to procure the satisfaction in full of its respective Conditions Precedent as set out above within 60 (sixty) days of Proposal Acceptance Date.
- b. Upon satisfaction in full of all Conditions Precedent for a Party, the other Party shall forthwith issue to such Party a Certificate of Compliance with Conditions Precedent to be marked as the "Certificate of Compliance".
- c. The date of issue of Certificate of Compliance to the Concessionaire or the Concessions Authority shall be the Compliance Date, whereupon the obligations of the Parties under this Concession Agreement shall commence and whereon the Concessions Authority shall issue the Notice to Commence work to the Concessionaire. However, it is being clarified here that any work of whatever nature, which the Concessionaire elects to carry out prior to the Proposal Acceptance Date including investigations, surveys etc shall be entirely at the risk and cost of the Concessionaire. Also, the Concessionaire shall not be permitted to commence the work at any part of proposed sites prior to the issuance of Notice to Commence.
- d. Each Party shall bear its respective costs and expenses of satisfying such Conditions Precedents unless otherwise expressly agreed in this Agreement.

4.4 Non-fulfillment of Conditions Precedent

- a. In the event that any of the Conditions Precedents relating to the Concessionaire have not been fulfilled within the time stipulated so, and the Concessions Authority, has not waived them fully or partially in writing, 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 Concessions Authority shall not be liable to any and/or claims, whatsoever in nature, any manner whatsoever to the Concessionaire or persons claiming through or thereunder.

- b. In the event the Concessioneing Authority has terminated this Agreement under Article 4.4 (a) due to non-fulfilment of Conditions Precedent by the Concessionaire, the Concessioneing Authority shall not be liable in any manner whatsoever to the Concessionaire or its contractors, agents and employees. In addition to this, the Concessioneing Authority shall forfeit the Performance Security submitted before the signing of the Concession Agreement, by the Concessionaire.
- c. Instead of terminating this Agreement as permitted herein above, the Parties may extend the time for fulfilling the Conditions Precedent by mutual agreement in writing.

5. COMMERCIAL CONSIDERATION

5.1 Revenue Sharing

- i. The Bid Variable of this RFP shall be Revenue Sharing per month, in Lump Sum for all 24 ATMs, from the Revenue collected by the Concessionaire from the user charges and advertisements.
- ii. Revenue sharing (Lump Sum basis) will commence from the month in which the Water ATMs would be commissioned even before the completion period .In such cases revenue sharing for the month will be on Pro rata basis.
- iii. Revenue sharing after the completion period shall be for all 24 Water ATMs whether or not the work is completed by the bidder subject to the force majeure clause.
- iv. The Concessionaire shall have to maintain all the record of tariff collection and Advertisement display collection of WAUs and the same will be shared with the Concessioneing Authority on every quarter of the year.
- v. After completion of concession period the Concessioneing Authority may extend this Agreement by amending and/or modifying the terms & conditions subscribed hereunder in writing as mutually agreed.

5.2 Performance Security

- a. The Concessionaire shall ensure that for the entire Concession Period, it will maintain a Performance Security of the amount prescribed herein this document and in the format as specified in Schedule- II.
- b. The Performance Security shall be from a scheduled bank approved by the Concessioneing Authority, payable at Dehradun.
- c. Upon occurrence of a Concessionaire's event of Default, the Concessioneing Authority shall, without prejudice to its other rights and remedies hereunder and/or in law, in addition thereto be entitled to encash and appropriate relevant amounts from the Performance Security as part of damages. Upon such encashment and appropriation from the Performance Security the Concessionaire shall, within 30 (thirty) days thereof, provide a fresh Performance Security, within the time so granted by the Concessioneing Authority, failing which the Concessioneing Authority shall be entitled to terminate this Agreement in addition to right to recover the amount as well as interest pendent lite at the rate of 18 % Per Annum in accordance with applicable laws for the time being in force.

- d. The validity of the performance security shall be 60 days after the completion of all the concession agreement obligation including operating/maintenance period i.e.60 days beyond the concession period of 5 years.

6. OBLIGATIONS OF THE CONCESSIONAIRE DURING IMPLEMENTATION PERIOD

6.1 General Obligations

The Concessionaire shall observe, undertake, comply with and perform, in addition to and not in derogation to its obligations elsewhere set out in this Concession Agreement, the following:

- i) Obtain any and/or all permits, necessary approvals, clearances and sanctions from the Competent Authority (ies), as and when they may be required, for the Concessionaire and its employees to perform their obligations under this Concession Agreement;
- ii) Comply and observe at all times with all Applicable Permits, approvals and applicable laws, norms/ standards in the performance of its obligations under this Agreement;
- iii) Submit, 5 (five) copies each (soft/ hard) of Project Report of the WAUs, all internal and external estate services/ facilities etc of the entire Project to the Concessions Authority;
- iv) Carry out the Works strictly in accordance with the Project Report approved by the DSCL/Maintenance Board/Committee/Concessions Authority/ Competent Authorities, provisions of this Concession Agreement and the Schedules of this Concession Agreement, and all works incidental & consequential to this Concession Agreement but which may be required to be necessary for safe, reliable and efficient implementation and operation of the Project;
- v) Be responsible from the date of issue of “Notice to Commence” for all liabilities arising out of furnishing, implementation, operation, execution and maintenance of the Project and consequences there to as well as maintenance of quality of the water. The Concessionaire shall plan, organize and execute the works so that there is least disruption to the movement on adjoining roads and minimal inconvenience to the neighbouring and/or adjacent areas.
- vi) To be responsible for safety, soundness and durability of the Project, including services forming part thereof and compliance with the local bye-laws.
- vii) To ensure that no damages are caused to the existing roads, drainages systems etc.
- viii) To install full safety measures at proposed site during development, construction and afterwards too.
- ix) The Construction shall not obstruct traffic, pedestrian movement, and should not cause bottleneck in the area.
- x) To ensure that the WAUs construction should not create unsecure public spaces in or around or causing safety concern.
- xi) To provide all assistance to the expert/ Auditor law enforcement officer and Civil Authorities as it may require for the performance of their duties and services.
- xii) To duly supervise, monitor and control the activities of its sub-contractors/labours employees and agents under their respective Project Agreements as may be necessary.

- xiii) To effect and maintain, or cause to be effected and maintained, at its own expense, insurance policies as may be required to be maintained by the Senior Lenders, under Applicable Laws and/ or such insurances that are necessary or desirable in accordance with Good Industry Practice.
- xiv) To take all responsible precautions for the prevention of accidents in selection to the WAUs and provide all reasonable assistance and emergency medical aid to accident victims.
- xv) To ensure the proof checking process whenever the Concessioner completes his schedule of events as per approved Project Report.
- xvi) The Concessionaire shall make its own arrangements for the engagement of all its staff and labour, local or otherwise. The Concessionaire shall be solely responsible for the liability, cost, and responsibility for all the laws relating to labour employed by Concessionaire and for their conditions under this Article. However, it is being clarified here that the Concessionaire shall be under no obligation to recruit any or part of the staff and labour from amongst persons in the service of the Concessioneing Authority.
- xvii) Shall be solely and absolutely responsible for observance of all the provisions of this Concession Agreement on behalf of the Concessionaire, its employees, representatives, men, agent, servants and any person acting under or for and on behalf of the Concessionaire.
- xviii) Shall be liable, to indemnify, protect, defend and hold harmless Concessioneing Authority, Concessioneing Authority's officers, employees, men, agents, servants from and against any and/or all demands, claims, suits and causes of actions and any and/or all liabilities, costs, expenses, settlements and judgements arising out of any and/or all failure of the Concessionaire to discharge any obligation and/or performance regarding compliance and execution in furtherance hereof.
- xix) The Concessionaire doth acknowledge and recognize hereby that time is of the essence of this Agreement and any violation there to on its part shall raise a valid ground for termination on the part of the Concessioneing Authority.
- xx) Shall be absolutely responsible for maintenance of hygiene and environmental law compliances as well as the usages and consequences of such usage by the third parties..

7. OBLIGATIONS OF PARTIES

Each Party shall:

- a. Comply with and perform its respective obligations under this Concession Agreement and shall work and cooperate in good faith with the other Party with respect to all the obligations and rights accrued hereunder of the other Party;
- b. Agree to modification of the Concession Agreement upon appointment of the Substitute Entity in accordance with the Substitution Agreement which will be executed in accordance herewith;
- c. Carry out their respective obligations during the Implementation Period, Execution and Operation & Maintenance Period.

8. COMPLETION OF IMPLEMENTATION

8.1 Implementation Completion Certificate

- a. The Implementation work in this Concession Agreement shall not be considered to be completed until the Implementation Completion Certificate, stating that the Concessionaire has completed its implementation obligations as laid down under this Concession Agreement, has been issued by the Concessions Authority.
- b. The Implementation Completion Certificate shall be given by the Concessions Authority within 20 (twenty) days of such implementation provided:
 - i. The Concessionaire has provided the Project Report for the works carried out;
 - ii. The Concessionaire has provided a detailed inventory w.r.t the assets brought in by him during the Implementation Period;
 - iii. The Concessionaire has completed and tested as well as certified all the works, as specified by the DSCL Board/Committee, Concessions Authority and/or by the external expert appointed by the Concessions Authority;
 - iv. The Works are in conformity with the provisions laid down in the Concession Agreement and its Schedules.
 - v. All other incidental and consequential obligations have been discharged by the concessionaire.
 - vi. A specific written request along with supportive materials have been represented and placed for consideration by the Concessionaire;
- c. The Concessions Authority would be required to issue the "Implementation Completion Certificate" after the Implementation has been completed in all respects and is ready to use.
- d. In pursuance to the issue of the Implementation Completion Certificate, the Concessionaire shall comply with all the obligations as mentioned in the Concession Agreement, required to be met before and after the issuance of the Implementation Completion Certificate.

8.2 Implementation Completion Certificate not a Cessation of Liability

The issuance of the Implementation Completion Certificate under this Article shall not in any way:

- i) Alter the liabilities of the Concessionaire;
- ii) Constitute a waiver of unfulfilled obligations;
- iii) Bar remedy and rectification of defects; and
- iv) Constitute an acceptance of the Works.
- v) Constitute or an estoppel on the Concessions Authority from exhausting and/or claiming any rights and/or remedies existed prior to issuance of such certificate.

8.3 Rectification

If the Concessionaire is obliged to carry out adjustments, repairs, replacements and/or modifications after completion of Implementation to maintain the Works, etc. the Concessions Authority shall permit the Concessionaire to carry out all such adjustments, repairs, replacements and/or modifications as may be necessary. If the

adjustment, repair, replacement and/or modification cannot be made without stopping the operations, the operation shall be stopped subject to prior written approval of the Concessioning Authority for a specific limited period.

9. OPERATIONS AND MAINTENANCE

9.1 Commencement and Duration

The Operation and Maintenance Period of the Project shall commence from the date of issuance of Implementation Completion Certificate and shall continue till the termination or transfer date, whichever comes, later.

9.2 Obligations of the Concessionaire during Operations and Maintenance Period

This includes operation of the WAUs i.e. regular cleaning of the WAUs and its surrounding area, functioning of user amenities, provisions of dedicated personnel, supervision and availability of basic infrastructure requirements such as electricity, proper drainage, maintaining hygiene etc. which would form part of operations.

- a. The Concessionaire shall be responsible, at his own cost, for all the maintenance and repairs of the WAUs, the related assets and its components. The Concessionaire shall also carry out rectification of any defects in the Implementation of any component of the WAUs or during the Operations and Maintenance Period.
- b. The Concessionaire shall ensure availability at all times of adequate water supply for the use of public visiting these ATMs. The supply shall be ensured by concessionaire. DSCL may provide all assistance in getting various clearances from govt. agencies. Laying of water line/ connection / payment of usage charges shall be the responsibility of the concessionaire.
- c. The Concessionaire shall ensure adequate electricity supply for proper lightings near the WAUs and functioning of the same. The supply shall be arranged and paid for by the concessionaire. DSCL may provide all assistance in getting various clearances from govt. agencies. Laying of electric cables / connection / payment of usage charges shall be the responsibility of the concessionaire.
- d. The Concessionaire shall arrange the Drainage connection for WAU" and laying line outlet at his own cost for such connection. DSCL may however provide all possible assistance in getting necessary permissions from the authorities.
- e. The concessionaire shall put plants in and around each WAU"s where spaces available as per the approval of the DSCL and maintain the same in good condition at all times.
- f. The Concessionaire shall ensure regular cleaning of the WAUs and the Information panels as per the cleaning schedule provided in the Schedule-A. Dedicated cleaning staff shall be provided by the Concessionaire for this project. Concessionaire shall ensure that the water of these ATMs are absolutely safe round the clock for drinking purpose and meet the relevant BIS 10500 standard.
- g. The Concessionaire shall install smart bins as specified near the WAUs and disposal of the bottles and waste cups / glasses shall be the responsibility of the Concessionaire only inside such bins and nowhere else under any condition whatsoever.

- h. The safety and security of the WAUs rests with the Concessionaire. Concessionaire shall ensure maintenance of lighting arrangements to ensure proper illumination near the areas. Concessionaire shall deploy staff so that minimum 1 personnel is available during operational hours for each water ATM who shall be responsible for user-charge collection, security & safety of water ATM, maintenance of basic drainage condition inside & around the WAUs in accordance with this Agreement, regular removal of waste, maintenance of suggestion booklet, reporting of problems, if any, clearing of choking (if any) etc. The personnel deployed shall be in proper uniform and should be trained by the Concessionaire regarding his duties as well as public dealings.
- i. **The Concessionaire shall be absolutely responsible for** routine and periodic maintenance works in the WAUs and replacement of any unserviceable fittings or fixtures shall be informed to the Concessions Authority in writing from the time of turning out of the same as unserviceable.
- j. Maintain a suggestion and complaints book in each of the facilities and the copy of the same shall be submitted to Concession Authority every month.
- k. Each WAU on the external part at a visible place shall clearly display the information as prescribed by the Concessions Authority. These signage shall be properly maintained to ensure clear visibility and proper aesthetics. In case of any damage to such information panels, the concessionaire shall immediately (within 3 days) repair/replace them.
- l. When the annual repairs and maintenance of works are carried out the splashes and droppings from white washing, colour washing, painting etc., on walls, floor, windows, etc. shall be removed and the surface cleaned simultaneously with the completion of these items of work in the individual rooms, quarters or premises etc. where the work is done without waiting for the actual completion of all the other items of work in the contract.

10. CONCESSION AGREEMENT COMPLETION CERTIFICATE

- a. Within 90 (ninety) days of the end of the Concession Period, the Concessions Authority shall issue the "Concession Agreement Completion Certificate. This certificate shall be issued after the Concessionaire submits to Concessions Authority, a request for issue of such certificate supported by sufficient evidence. The form shall be as approved by Concessions Authority, and shall include a detailed condition survey of the WAUs including the Assets.
 - b. On the expiry of the Concession Period, the Concessionaire shall prepare a detailed inventory of the Assets including all movable and immovable assets, whether provided by the Concessions Authority or brought in by the Concessionaire present within the WAUs. The detailed inventory shall be submitted to the Concessions Authority within 15 days of the expiry of the Concession Period.
- ii. The Performance Security furnished by the Concessionaire shall be released only after the issuance of the Concession Agreement Completion Certificate.

11. REPRESENTATIONS AND WARRANTIES

11.1 Representations and Warranties of the Concessing Authority

The Concessing Authority represents and warrants that:

- (i) The Concessing Authority has full power and authority to execute, deliver and perform its obligations under this Concession Agreement and to carry out the transactions contemplated herein;
- (ii) The Concessing Authority have taken all necessary action to authorize the execution, delivery and performance of this Concession Agreement;
- (iii) This Concession Agreement constitutes a legal, valid and binding obligation enforceable by and/or against the Concessing Authority in accordance with the terms hereof;
- (iv) The Concessing Authority is subject to civil and commercial laws of India in respect of this scope of work. All information provided by the Concessing Authority in the RFP document in connection with this Project is to the best of its knowledge belief and information;
- (v) The Concessing Authority has the financial standing and capacity to perform its obligations under the Concession Agreement.

11.2 Representations and Warranties of the Concessionaire

The Concessionaire represents and warrants to the Concessing Authority that:

- i) It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation;
- ii) It has full power and authority to execute, deliver and perform its obligations under this Concession Agreement and to carry out the transactions contemplated hereby;
- iii) It has taken all necessary sanctions under the applicable Laws and its constitutional documents to authorize the execution, delivery and performance of this Concession Agreement;
- iv) It has the financial standing and capacity to undertake the Project;
- v) This Concession Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- vi) It is subject to civil and commercial laws of India with respect to this Concession Agreement and it hereby expressly and irrevocably waives any immunity in any jurisdiction in respect thereof;
- vii) All the information furnished in the Concessionaire's Bid Proposal Balance Sheet, Profit and Loss Account of the Concessionaire for each of the Financial Years, furnished to the Concessing Authority are true and correct. If in case any false or misleading information, are found the concessing authority shall be at absolute liberty to terminate the concession agreement as well as encash the performance guarantee and recover the compensation and damages at absolute cost and peril of the concessionaire.
- viii) A copy of the audited accounts of the Concessionaire within 180 (one hundred and eighty) days of the close of each Financial Year after the Proposal Acceptance Date shall be responsibility of the Concessionaire and any material

change subsequent to the date of such accounts shall be notified to the Concessioneing Authority by the Concessionaire within 15 fifteen days of its occurrence and warrants that the accounts and the information furnished as aforesaid shall be true and correct;

- ix) The execution, delivery and performance of this Concession Agreement will not be in conflict with and/or result in the breach of and/or, constitute a default performance required by any of the terms of the Concessionaire's agreement and the Memorandum and Articles of Association permits the concessionaire to execute this agreement and/or not barred by any applicable Laws, any covenant, agreement, understanding, decree, order to which it is a party and/or by which any of its properties and/or assets are bound and/or affected and/or attached;
- x) The Concessionaire has no direct and indirect knowledge of any violation and/or default with respect to any order, writ, injunction, any decree of any court, any legally binding order of any Competent Authority which may result in any material adverse effect and/or impair of the Concessionaire's ability to perform its obligations and duties under this Concession Agreement;
- x) The Concessionaire has complied with all applicable Laws and has not been subject to any fines, penalties, injunctive relief and/or any other Civil and/or Criminal liabilities and/or been subject to any conviction and/or blacklisting and/or convicted in any offence of moral turpitude.
- xi) All rights and interests of the Concessionaire in the Project shall pass to and vest in the Concessioneing Authority on the Transfer Date free and clear from all liens, claims, and encumbrances without any further act or deed on the part of the Concessionaire and none of Assets including materials, supplies, equipment forming part thereof consequentially and/or incidentally acquired by the Concessionaire subject to any agreement under which a security interest or other lien or encumbrance is retained by any person save and except expressly permitted in writing earlier by the Concessioneing Authority to be so on such transfer date;
- xii) No representation or warranty by the Concessionaire contained herein or in any other document furnished by it to the Concessioneing Authority, or to any Competent Authority in relation to clearances contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading; and
- xiii) The Concessionaire warrants that no sums, in cash or kind, have been paid or will be paid by or on behalf of the Concessionaire, to any person by way of commission or otherwise for securing the Concession or entering into of this Concession Agreement or for influencing or attempting to influence any officer or employee of the Concessioneing Authority.

11.3 Obligation to Notify Change

In the event that any of the representations or warranties made/ given by the Concessionaire ceases to be true or stands changed, it shall notify Concessioneing Authority of the same, within a period of 24 hours of such occurrence in writing.

12 Termination for default

12.1 Concessionaire's Event of Default

Each of the following events or circumstances, to the extent not caused by a default of the Concessions Authority or Force Majeure, and if not cured within the "Cure Period" as subscribed by the concessionaire under other respective clauses of this agreement, the Concessions Authority, shall be at liberty to consider such failures as events of default by the Concessionaire. However the illustrative but not list of exhaustive of such events of default are as follows:-

- i) The Concessionaire is in breach of its obligations under this Concession Agreement, which has a material adverse effect upon the Concessions Authority or the Project.
- ii) The Concessionaire is in breach of any representation or warranty made under this Agreement or it repudiates this Concession Agreement.
- iii) The Concessionaire fails to meet the progressive milestones as provided for in this Concession Agreement as per Clause 3.42
- iv) The Concessionaire abandons the Project or any of its obligations as provided under this Agreement.
- v) The Concessionaire fails to maintain Performance Security or comply with any of the provision of Article 5.
- vi) The Concessionaire fails and/or violates to Clause 7.
- vii) The Concessionaire fails to provide Performance Security within the stipulated time period of 30 days from the date of issuing of LOA without having prior written extension by the Concessions Authority.
- viii) A Senior Lender recalls its loan under the Financing Documents on the ground that the Concessionaire has defaulted on its obligations to the Senior Lender under the Financing Documents.
- ix) Any transfer pursuant to law of either (a) the rights and/or obligations of the Concessionaire under this Concession Agreements and/ or (b) all or material part of the assets or undertaking of the Concessionaire; except (i) to the extent permitted by this Concession Agreement or (ii) where any such transfer, in the reasonable opinion of the Concessions Authority, does not affect the ability of the Concessionaire to perform its obligations under this Concession Agreement.
- x) In the event a resolution is passed by the shareholders of the Concessionaire for the voluntary winding up of the Concessionaire;
- xi) The Concessionaire is adjudged bankrupt or insolvent or any proceeding is pending against the Concessionaire under the Insolvency and Bankruptcy Code or if a trustee or receiver or Insolvency Resolution Professional is appointed on the Concessionaire or for any of its property that has a material bearing on the Project is under attachment process;
- xii) Any petition for winding up against the Concessionaire is admitted by a court of competent jurisdiction or the Concessionaire is ordered to be wound up by any Court, except if such petition is for the purpose of amalgamation or reconstruction, provided that as part of such amalgamation and reconstruction, the property, assets

and undertaking of the Concessionaire are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally and absolutely assumed the obligations of the Concessionaire under this Agreement and Project Agreements, and provided that:

- a. The amalgamated entity or reconstructed entity has the technical capability and the operating experience necessary for the performance of its obligations under the this Agreement and Project Agreements;
 - b. The amalgamated entity or restructured entity has the financial standing to perform its obligations under this Agreement and Project Agreements and has a credit worthiness at least which is as good as that of the Concessionaire as on the Compliance Date;
 - c. And all the Project Agreements remain in full force and effect;
- xiii)The Concessionaire assigns this Concession Agreement or any of its rights or obligations under the Concession Agreement, where such assignment is not in accordance with the terms and conditions of the Concession Agreement.
- xiv)Any Violation or failure to this Agreement
- xv) Is in breach of any of its obligation subscribed under Article 11.2 herein;

12.2 Termination by Concessioneing Authority.

Without prejudice to any other right or remedies which the Concessioneing Authority may have under this Agreement, notwithstanding anything contained under Article 12.1 herein, upon occurrence of Concessionaire's event of default, or violation to the terms of the Agreement, the Concessioneing Authority at an absolutely liberty and discretion shall have the right to terminate Concessioneing Agreement by giving 30 (thirty) days' notice to terminate this present in accordance and compliance with the provisions of this Agreement.

13 Termination Payment

13.1 Termination Payment for Termination by Concessioneing Authority

Upon Termination by the Concessioneing Authority on account of the Concessionaire' event of default & violation to the agreement, during the execution, implementation, Operations & Maintenance Period, the Concessionaire shall peacefully hand over the possession of the site with the facility & Water ATMs including all its assets and appurtenance in working condition and the Performance Security shall be forfeited by the Concessioneing Authority.

13.2 Other rights and obligations upon Termination

- a. Upon Termination of this Agreement, the Concessioneing Authority shall:-
 - (i) Take possession and control of the Project forthwith;
 - (ii) Take possession and control of the Assets
 - (iii) Require the Concessionaire to comply with the provisions relating to the Transfer of Project under Article 19; and

- b. Upon Termination of this Agreement it shall be the responsibility of the Concessionaire to do the following:-
- (i) Hand over the works to the Concessioneing Authority in accordance with the provisions laid down under Article 19.
 - (ii) Provide all relevant data, Project Reports and drawings, records and information, received from the Concessioneing Authority in connection with the Project.
 - (iii) Cease all further Works, except for such essential Works as may be necessary and as instructed by Concessioneing Authority, for the purpose of making safe, protecting or continuing operations on the Project.
 - (iv) Repatriate all its staff and labour from the WAUs save except required for protection of such essential equipment;
 - (v) Co-operate with the Concessioneing Authority and the Substituted Entity and comply with all reasonable requests thereof, including the execution of any documents and other actions, provided the Concessioneing Authority bears any reasonable Costs incurred by the Concessionaire relating thereto for such substitution;
 - (vi) The Concessioneing Authority, at its sole liberty and desertion, thereafter may handover the Assets & appurtenance to any third party or another Concessionaire for the Projects proper operation & maintenance in public interest.

14 FORCE MAJEURE

14.1 Force Majeure Event

The parties agree hereby that for occurrences of any kind due to Force Majeure, they shall not be responsible to the extent as follows:

- A) The parties agree that where an event of Force Majeure occurs in relation to either party which affects or may affect the performance of any of its obligations under this agreement, it shall forthwith notify the other party as to the nature and extent of the circumstances in question.
- B) The parties also confirm that neither party shall be deemed to be in breach of this agreement, or shall otherwise be liable to the other, by reason of any delay in performance, or the non-performance, of any of its obligations under this agreement, to the extent that the delay or non-performance is due to any Force Majeure of which it has notified the other party, and the time for performance of that obligation shall be extended accordingly.
- C) It is agreed by the Parties that for the purpose of this clause, Force Majeure shall mean and include -

Acts of God or events beyond the reasonable control of the affected party which could not reasonably have been expected to occur, extreme adverse weather or environmental conditions, lightning, earthquakes, heavy rains, cyclones, tempest, thunder, war, embargo, whirlwind, landslides, storms, floods, volcanic eruptions, fire, **enforcement and/or amendments of governmental laws, rules or policies or any other cause beyond the control of the parties;**

- 5. Radioactive contamination or ionizing radiation;

6. Strikes, riots, or boycotts (other than those involving the Concessionaire, Contractors, or their respective employees/ representatives or attributable to any act or omission of any of them) interrupting supplies and services to the Project for a continuous period exceeding 7 (seven) days in an Accounting Year.;
7. Any judgement or order of any court of competent jurisdiction or statutory authority in India made against the Concessionaire in any proceedings for the reason other than failure of the Concessionaire to comply with any Applicable Law or Clearances or on account of breach thereof, or of any contract, or enforcement of this Concession Agreement or exercise of any of its rights under this Concession Agreement by the Concessioneing Authority; or
 - (i) Accounting Year.

15. DISPUTE RESOLUTION

15.1 Dispute Resolution

Save where expressly stated to the contrary in this Agreement, any dispute, difference or controversy or conflict of whatsoever nature regarding the validity, interpretation, implementation or the rights, claims and obligations arising out of or touching the subject matter hereto or in relation to or arising under or in relation to this Concession Agreement between the Parties and so notified by either Party to the other Party (the “**Dispute**”) during, before and/or after the currency of this Agreement shall be attempted to be resolved through conciliation at first under the supervision of the CEO, DSCL within a period of 30 days from the date of the reference by the affected party, failing which the same shall be resolved in accordance with the procedure of the Arbitration. The place of Arbitration shall be at Dehradun. The Language of the proceeding agreed hereunder shall be English. It is further agreed hereby that the Adjudicator shall be appointed by the DSCL with consent of Concessionaire .Fees of Adjudicator will be shared by Concessioneing Authority and Concessioner on 50:50 basis. Again failing which i.e. in the case of any disagreement by either of parties over the award of the Adjudicator the same shall be resolved by the Secretary of urban development department of Uttarakhand Government as the Final Authority, whose decision shall be binding on the parties.

15.2 Performance during Dispute

Unless the agreement is terminated and/or extinguished and/or transferred, the performance of this Concession Agreement shall continue during the settlement and/or resolution of any dispute under this Clause.

16. DSCL MAINTENANCE BOARD/COMMITTEE

16.1 Appointment

Within 10 (ten) days from the Proposal Acceptance Date, the Concessioneing Authority shall constitute a Maintenance Board/committee. The Maintenance Board shall consist of representatives of the following and any other member duly nominated by the Concessioneing Authority:

- (i) One Representative of the Municipal corporation Dehradun
- (ii) One Representative of the Concessions Authority
- (iii) Executive Engineer of the Jal Sansthan ,Dehradun;
- (iv) Public Health Officer of concern zone;
- (v) 1 member of the Concessionaire.

Additional Chief Executive Officer (ACEO) DSCL shall act as ex-officio Chairman of the Maintenance Board/Committee and Public Health Officer shall act of as the convener, the Maintenance Board/Committee shall act in consensus. If consensus is not reached, it shall take vote, and if there is a tie in such vote, the Chairman shall have the casting vote.

16.2 Powers and Duties

- a. The DSCL Maintenance Board/Committee shall have the powers and duties as set out in this Concession Agreement or other powers incidental as well as consequential there to and as may be required for the proper construction, installation, execution, implementation of the Project. An illustrative but not exhaustive list of such power & duties are as follows:
 - i. During the Implementation Period, the Maintenance Board/Committee shall, at all reasonable times and upon reasonable notice, shall have access to the WAUs for the purpose of discharging its duties under this Concession Agreement.
 - ii. The DSCL Maintenance Board/Committee shall undertake inspections, at such times as it deems appropriate, to determine the progress during the Implementation Period and the extent of compliance with provisions stipulated in this Concession Agreement and notify the Concessions Authority, and the Concessionaire of any deviations there from immediately;
 - iii. Compliance to the Operation and Maintenance Manual;
 - iv. Review the Concessionaire's periodic reports;
 - v. Approve the materials to be used to be made part of WAUs;
 - vi. Review and verify the implementation of Variations;
 - vii. Approve any improvements or modifications proposed by any of the members of the DSCL Maintenance Board/Committee;
 - viii. Review Performance Security requirements;
 - ix. Any other matter which it deems necessary for the implementation, operation or maintenance of the Project;
 - x. Review and take actions on matters arising out of the Complaints Register.
 - xi. Impose penalties on the Concessionaire as stipulated in clause 6, section- V
 - xii. To undertake and execute work incidental and/or consequential for proper execution of the project;
 - xiii. The Maintenance Board/committee shall have the power to appoint Expert or Specialist Person in any area required, for a review of the constructions, operation, and maintenance and planning of the Project. Such persons shall act as an "Expert", whose expert professional opinion, once confirmed by the Maintenance Board/Committee shall be binding on the all Parties and the Maintenance Board.
 - xiv. Without limitation to the generality of the foregoing Articles, the Maintenance Board/Committee shall have the power to appoint a Valuer as an Expert to undertake and determine the adjustment of Concession Period.

- xv. The Concessionaire and the Concessioneing Authority shall extend full co-operation to the Maintenance Board/committee and to any Expert appointed by the Maintenance Board/committee. All the expenses of the Maintenance Board/Committee and the expert appointed shall be borne by the Concessioneing Authority.
- xvi. The Maintenance Board/committee shall meet at least once every quarter of the calendar year at such time & venue as may be indicated by the Convener and notified to all the members of the Maintenance Board well before the date of the meeting.
- xvii. Environmental compliance, health standard, safety, security smooth functioning steps are to be supervised by the Maintenance Board/Committee;
- xviii. Penalty in case of non-performance and poor quality will be as per Section II Clause 6.

17. TAXATION AND CONFIDENTIALITY

17.1 Local Taxation

- a. The Concession Agreement shall include all charges towards import license, toll, customs duties, import duties, business taxes, etc., that may be levied in accordance with the applicable Laws for the time being in force on the Concessionaire's Equipment, Machinery and Materials (whether permanent, temporary or consumable) acquired for the execution of this Concession Agreement and on the services to be performed under this Concession Agreement. Nothing in this Concession Agreement shall relieve the Concessionaire from its responsibility to pay any tax that may be levied because of this Concession Agreement.
- b. Under the provisions of the Indian Income Tax Act, the Concessioneing Authority is required to deduct tax at source at the rates prevailing in case any payments are envisaged under this Concession Agreement.

17.2 Income Taxes on Staff

The Concessionaire's staff, Person and labour will be liable to pay personal income taxes in India in respect of their salaries and wages as chargeable under the laws and regulations for the time being in force, and the Concessionaire shall make such deductions in respect of such taxes as required by law.

17.3 Confidentiality

Neither of the Parties shall, at any time during before the expiry or post termination of this Concession Agreement, without the consent of the other Party, divulge or suffer or permit its officers, employees, or agents to divulge to any person (other than to any of its or their respective officers or employees who require the same to enable them to properly to carry out their duties), any information relating to the negotiations concerning the operations, contracts, commercial or financial arrangements or affairs of the other Party or any proprietary information of the other Party.

17.4 Exceptions to Confidentiality

The restrictions imposed by Article 19.2 shall not apply to the disclosure of any information:

- i) Which now or hereafter comes into the public domain otherwise than as a result of a breach of an undertaking of confidentiality or which is obtained with no more than reasonable diligence from sources other than the Parties.
- ii) Which is required by law to be disclosed to any Person who is authorized by law to receive the same.
- iii) Which is required to be disclosed by the regulations of any recognized exchange upon which the share capital of the Party making the disclosure is or is proposed to be from time to time listed or dealt in,
- iv) To a court, arbitrator or administrative tribunal in the course of proceedings before it to which the disclosing Party is a Party.
- v) To any consultants, banks, financiers or advisers to the disclosing Party, or
- vi) In accordance with this Concession Agreement.

18. PROJECT REVENUES AND CONSIDERATIONS

18.1 Levy and Appropriation of Commercial Charges

- (a) The Concessionaire shall levy, collect, appropriate Commercial Charges from the Users for the period in accordance with the provisions of this Agreement subject to 18.1(a)
- (b) Article On and from the Operations Date and until the last date of the Concession Period, the Concessionaire shall levy, collect, and appropriate Project Revenues/ Commercial Charges, as set out in Article 18.2,
- (c) **Negotiation on Bid Variable:**
No negotiation on Bid Variable shall be done or can be demanded by the Concessionaire in any condition whatsoever.
However if there is a variation in number of water ATMs mentioned in these Bid Documents, for whatsoever reason, the quoted Revenue Sharing (Bid Variable) of the Concessionaire shall be modified (increased or decreased) on pro rata basis subject to the conditions that the modified value of Bid Variable of the Concessionaire shall not be less than the rate quoted by H2 Bidder or 80% of the rate quoted by HI Bidder whichever is higher.
- (d) Revenue sharing to be proposed by the Bidder should not be less than INR 25000 per Months

Note: If any location of a water ATM is changed, then the DSCL shall provide an equivalent alternative location for that water ATM in consultation with the Concessionaire No modification on this account shall be permitted/allowed in the Bid Variable.

18.2 Types of Project Revenue

a. Income from Users charge

The Concessionaire shall be allowed to charge for the users of WAUs as per Clause 8.3 of Section-II.

b. Income from Display of Advertisements

The Advertisement revenue shall be the source of revenue mechanism for the Concessionaire. The Concessionaire shall be entitled to lease out space on the Water ATM Units for displaying the Advertisements by third parties as specified in the specifications in the agreement. The advertisement to be displayed shall be subject to prior written approval by the Concessions Authority. The Concessionaire shall display the name & logo of DSCL at a prominent place on the Water ATM in a minimum space of 45 cm X 45 cm without any charge.

19. TRANSFER OF PROJECT

- (a) Effective from the Transfer Date or the termination date, whichever is later, the Concessionaire shall transfer and assign all the assets and appurtenance of the project in optimum working and operating condition to the Concessions Authority or its nominated agency, as the case may be, free and clear from any charges, liens and encumbrances created by the Concessionaire of all the Concessionaires right, title and interest in and to the Works/ movable and immovable assets. The Concessionaire shall also deliver to the Concessions Authority or its nominated agency on transfer date or the termination date, whichever is later such project reports, manuals, plans, design drawings, reports, accounts and other information as may reasonably be required by the Concessions Authority or its nominated agency to continue the operation of the Project either directly or by its nominated agency. The personnel of the Concessionaire may continue to be the employees of the Concessionaire subject to their written consent and the transfer of all the movable & immovable assets shall not in any manner affect their status as employees of the Concessionaire and they shall have no claim to any type of employment or compensation from the Concessions Authority or its nominated agency, which arises prior to such transfer.
- (b) The Concessionaire shall to the extent possible assign to the Concessions Authority or its nominated agency at the time of transfer all unexpired guarantees and warranties by Subcontractors and suppliers and all insurance policies. The Concessionaire shall ensure that any rights, which are to be so assigned, are capable of assignment and the counterpart to the Concessionaire has approved such assignment under the terms and conditions of the relevant contract.
- (c) The Concessionaire shall, to the extent possible at the time of transfer, assign to the Concessions Authority or its nominated agency all contracts, equipment contracts, supply contracts and all other contracts relating to the Project entered into by the Concessionaire and subsisting at the time of transfer excluding any contracts with employees.
- (d) Six months prior to the Transfer Date, the Concessions Authority shall be entitled to appoint any Consulting Engineer to assess the condition of the Project. Such Consulting Engineer shall be entitled to have free access to inspect the Project. .
- (e) Till the Transfer Date, all risks Cost, consequences, claims shall lie with the Concessionaire for loss of or damage to the whole or any part of the Project, unless

such loss or damage is due to an act or omission of the Concessing Authority in contravention of its obligations under this Concession Agreement.

- (f) The Concessionaire shall provide fair and justified compensation to its employees as required under the Laws or under this Concession Agreement, and shall indemnify the Concessing Authority against any such claims from any employees for their loss of office, redundancy, loss of employment or otherwise. The Concessing Authority shall have no liability on account of any matter pertaining to the Concessionaire's employees, staff, labour etc. prior to the transfer date or termination date, whichever is later.
- (g) The Concessing Authority shall be responsible for the costs and expenses, including stamp duties, taxes, legal expenses attorney fees and expenses, incurred in connection with the Transfer of the Project to it by the Concessionaire.
- (h) On the Transfer Date, the Concessionaire shall hand over the WAUs and other movable & immovable assets to the Concessing Authority or its nominated agency at zero cost.
- (i) From the Transfer Date, the obligations and the rights of the Concessionaire under this Concession Agreement shall cease extinguish and the Concessing Authority or its nominated agency shall take over the Project and the operation and maintenance and any other rights or obligations arising out of this Concession Agreement which either expressly or implicitly survive extinguishment of this Concession Agreement.
- (j) On completion of the transfer by the Concessionaire to the Concessing Authority, the Concessing Authority shall issue a „Concession Agreement Completion Certificate“ to the Concessionaire. The Concession Agreement Completion Certificate will have the effect of constituting evidence of transfer of all rights, titles and interests in the Project by the Concessionaire, and their vesting in the Concessing Authority

20. MISCELLANEOUS PROVISIONS

20.1 Governing Law and Jurisdiction

This Concession agreement and any transaction in furtherance thereto shall be governed by the laws of India, and the Courts of Dehradun shall have absolute jurisdiction over all matters directly and indirectly arising out of or relating to this Concession Agreement, before during or after extinguishment, termination and/or transfer of the project.

20.2 Waiver

Waiver acquiesces, non-enforcement, relinquishment by either Party of any default by the other Party in the observance and performance of any provisions of or obligations under this Concession Agreement:

- a) shall not operate or be construed as a waiver for enforcement of such right, nor the same shall operate as estoppel for enforcement of any of such rights;

And

- b) shall not affect the validity or enforceability of this Concession Agreement in any manner whatsoever;

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

20.3 Severability

If for any reason whatever any provision of this Concession Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other legal and valid 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 upon one or more provisions, which may be substituted for such invalid, unenforceable or illegal provisions, as far as is possible.

20.4 Entire Agreement

This Concession Agreement and the Schedules together there with all annexure, appendix, amendments, forms, instructions, RFP shall constitute a complete and Comprehensive statement of the terms and conditions of the agreement between the Parties on the subject hereof and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties, to do so

20.5 Custody of Documents

The Design Documents shall be in the custody and care of the Concessions Authority. The original executed agreement shall also be with the Concessions Authority and the concessionaire shall be entitled to have the photo stated copy of the agreement.

20.6 Copyright

The Concessionaire, as beneficial owner, hereby transfers to the Concessions Authority copyright and registered design and all other intellectual property rights subsisting in or accruing to the Concessionaire, in relation to the Design Documents made or to be made by or on behalf of the Concessionaire, during the Concession Period for which such copyright subsists in such works. The Concessions Authority hereby grants to the Concessionaire non-exclusive royalty-free license to use such documents and drawings solely for the purpose of complying with its obligations under this Concession Agreement.

Copyright in the Technical Requirements and other documents issued by the Concessions Authority to the Concessionaire shall (as between the Parties) remain the property of the Concessions Authority. The Concessionaire may, at its cost, copy, use and communicate any such documents for the purposes of this Concession Agreement.

They shall not, without the Concessing Authority's consent, be used, copied or communicated to a Third Party by the Concessionaire, except as necessary for the purposes of this Concession Agreement.

20.7 Liability

The Concessionaire severally liable to the Concessing Authority for the fulfilment of the terms of this Concession Agreement.

IN WITNESS WHEREOF the parties hereto have hereunto set and subscribed their respective hands and seals the day, month and year first herein above written.

Date: DD/MM/YYYY.

Place: Dehradun

Signed for and on the behalf of the Concessing Authority (Signature) _____ Mr.(Printed Name) (Title)	Signed for and on the behalf of the Concessionaire (Signature) _____ Mr.(Printed Name) (Title)
Email: _____ Phone: _____	Email: _____ Phone: _____
Registered office address:	Registered office address: XXXXXXXXXX
Witness No.1 Witness No.2	Witness no.1 Witness No.2

SECTION - IV

BIDDING FORMS

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A. Letter of Technical Proposal

(To be submitted and signed by the Bidder's authorized signatory)

To
The Chief Executive Officer (CEO),
Dehradun Smart City Limited (DSCL)
777, Saatvik Tower, Opposite Hotel L P
Residency, Rajendra Nagar, Kaulagarh
Road,
Dehradun – 248001, Uttarakhand

Date:

Sub:Setting up of Water ATM for Safe Drinking Water including Designing, financing, constructing / installing, operating and maintaining of Water ATMs and vending of water from Water ATMs at Public Places through Public Private Partnership (PPP) at designated locations under “Smart City Mission” at Dehradun City.

Sir,

1. Being duly authorized to represent and act for and on behalf of.....
..... (Hereinafter referred to as “the applicant”), and having studied and fully understood all the information provided in the RFP document, the undersigned hereby apply as a Bidder for “***Setting up of Water ATM for Safe Drinking Water including Designing, financing, constructing / installing, operating and maintaining of Water ATMs and vending of water from Water ATMs at Public Places through Public Private Partnership (PPP) at designated locations under “Smart City Mission” at Dehradun City.***” according to the terms & conditions of the RFP Document issued by DSCL.
2. Our Technical & Financial Proposals are as per the requisite formats along with the supporting documents, duly filled and signed on each page are enclosed in separate sealed envelopes as specified.
3. The Bid/Proposal Security is enclosed in the Envelope 1 marked “Bid/Proposal Security deposit”.
4. DSCL and its authorized representatives are hereby authorized to conduct any inquiries / investigation to verify the statements, documents and information submitted in connection with the application and to seek clarification from our banker regarding any financial and technical aspects. This letter of application will also serve as authorization to any individual or authorized representative of any institution referred to the supporting information, to provide such information deemed necessary and requested by you to verify statements and information provided in the application or with regard to the resources, experience and competence of the applicant.
5. DSCL and its authorized representatives may contact the following persons for any further information:
Name of the person (s):

Address:.....

Phone:

Fax:

- 6. This application is made with full understanding that:
 - (a) DSCL reserve the right to reject or accept any Bid/ Proposal, cancel the bidding process, and / or reject all Bids.
 - (b) DSCL shall not be liable for any of the above actions and shall be under no obligation to inform the applicant of the same.
- 7. We, the undersigned declare the statements made and the information provided in the duly completed application forms enclosed, as complete, true and correct in every detail.
- 8. We hereby confirm that we have read, understood and accepted all the detailed terms and conditions of this RFP document and Project related Information as required for the Proposal. We have also visited the proposed project sites and surroundings, for the assessment and have made our own due diligence and assessment regarding the project.
- 9. We agree to keep our Proposal valid for one hundred eighty (120) days from the date of submission of Proposal thereof and not to make any modifications in its terms and conditions not acceptable to the DSCL. Should this Proposal be accepted, we hereby agree to abide by and fulfil all the terms, conditions and provisions of the aforesaid documents.
- 10. This application is made with the full understanding that the validity of proposal submitted by us will be subject to verification of all information, terms and conditions submitted at the time of bidding and its final acceptance by DSCL. We agree that, without prejudice to any other right or remedy, DSCL shall be at liberty to forfeit the said Bid/Proposal Security absolutely.

Authorized signatory

Date:

Name and seal of Bidder:

Place:

B. General Information on Bidder's Organization

1. (a) Name:
- (b) Address :
- (c) Address of the corporate headquarters and its branch office(s), if any, in India :

S. No.	Particulars	Details
1.	Name of the Bidder	
2.	Address of the Bidder	
3.	Incorporation status of the Bidder (Company Firm)(Relevant Certificate to be submitted in Technical Bid)	
4.	Year of Establishment	
5.	Valid GST registration No. (Copy of certificate to attached)	
6.	Permanent Account No. (PAN) (Copy of PAN card to be attached)	
7.	Name and Designation of Contact Person to whom all references to be made regarding this Bid	
8.	Telephone No. (With STD Code)	
9.	E-mail ID of Contact Person	
10.	Website if any	

Signed

(Name of the Authorized Signatory)

For and on behalf of

(Name of the bidder)

Designation:

Place:

Date:

To be enclosed:

1. Documents certifying Bidder's legal status i.e. Certificate of incorporation /registration.
2. Latest brochures/ organization profiles, etc

C. Format for Financial Information of Bidder's Organization

(To be submitted and signed by the Bidder's authorized signatory)

To
The Chief Executive Officer (CEO),
Dehradun Smart City Limited (DSCL)
777, Saatvik Tower, Opposite Hotel L P
Residency, Rajendra Nagar, Kaulagarh
Road, Dehradun – 248001, Uttarakhand

Date:

Sub: “Setting up of Water ATM for Safe Drinking Water including Designing, financing, constructing / installing, operating and maintaining of Water ATMs and vending of water from Water ATMs at Public Places through Public Private Partnership (PPP) at designated locations under “Smart City Mission” at Dehradun City”

Sir,

We hereby submit our Financial Information for the captioned project.

S.No.	Parameters	FY 2015-16	FY 2016-17	FY 2017-18
1	Annual turnover In INR.			
Average annual turnover for the last three financial year				

Note: To be certified by Statutory Auditor/ Chartered Accountant.

Authorized signatory:
Name of Authorized signatory
Name and seal of Bidder:

Date:

Place:

D. Format for Completed Project and Operation & Maintenance Experience in similar nature during last Five Year

(To be submitted and signed by the Bidder's authorized signatory)

To
The Chief Executive Officer (CEO),
Dehradun Smart City Limited (DSCL)
777, Saatvik Tower, Opposite Hotel L P
Residency, Rajendra Nagar, Kaulagarh
Road, Dehradun – 248001, Uttarakhand

Date:

Sub: “Setting up of Water ATM for Safe Drinking Water including Designing, financing, constructing / installing, operating and maintaining of Water ATMs and vending of water from Water ATMs at Public Places through Public Private Partnership (PPP) at designated locations under “Smart City Mission” at Dehradun City”

Sir,

We hereby submit our project experience for the captioned project.

Table-1

S.No .	Description of Project/ Scope of Work	Details and number of WAUs installed ,developed &commission ed	Name of the Client	Contract Period	Project Value (Rs in Lakh)
1					
2					
3					
4					
5					

Table-2

S.No .	Description of Project/ Scope of Work	Number of WAUs Operated and Maintained sucessfully	Name of the Client	O&M Period (from ---to	Project Value (Rs in Lakh)
1					
2					
3					
4					
5					

Supporting documents such as copies of Work Order/Contracts/LoAs/Completion Certificate/end user certificate to attached. Assignments which are not supported by documentary evidence shall not be considered for evaluation.

Authorized signatory:
Name of Authorized signatory
Name and seal of Bidder:

Date:

Place:

E. Bidder's Understanding of Concept, Scope of Work and Project Requirement, Work Plan, Technology, Methodology and Manpower Deployment for performing the assignment

Bidders Understanding of the TOR, Concept Plan and work programme for this assignment are to be elaborated in these sections, broadly under following sections:

- (a). Understanding the concept
- (b). Scope of Work and
- (c).Project Requirement
- (d).Work Plan & Methodology

The write up should explain Bidder's insight with respect to the objectives of the assignment, approach to the items, and methodology for carrying out the activities and obtaining the expected output, and the degree of detail of such output. The Bidder should also explain the technology adopted and methodologies propose to adopt and highlight the compatibility of those methodologies for the supply of desired items.

Bidder should propose the main activities of the assignment, their content and duration, phasing and interrelations, milestones (including interim approval by DSCL), and deliverables. The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the TOR and ability to translate them into feasible working plan. The work plan should be consistent with the suggested work Program of the Bidder.

Authorized signatory:
Name of Authorized signatory
Name and seal of Bidder:

Date:

Place:

F. Affidavit

(To be given by the Bidder on non-judicial Stamp Paper of Rs. 100/-)

I..... S/o, Resident of the,

..... (Insert designation) of the (Insert name of the Bidder), do solemnly affirm and state as under:

1. **That** I am the authorized signatory of.....(insert name of company)(hereinafter referred to as “Bidder”) and I am duly authorized by the Board of Directors of the Bidder to swear and depose this Affidavit on behalf of the bidder.
2. That I have submitted information with respect to our eligibility for the “Setting up of Water ATM for Safe Drinking Water including Designing, financing, constructing / installing, operating and maintaining of Water ATMs and vending of water from Water ATMs at Public Places through Public Private Partnership (PPP) at designated locations under “Smart City Mission” at Dehradun City” (hereinafter referred to as “Project”) and I further state that all the said information submitted by us is accurate, true and correct and is based on our records available with us.
3. **That** I hereby affirm to furnish any information, which may be requested by DSCL to verify our credentials/information provided by us under this Proposal and as may be deemed necessary by DSCL.
4. **That** if any point of time including the Concession Period, in case DSCL requests any further/additional information regarding our financial and/or technical capabilities, or any other relevant information, I shall promptly and immediately make available such information accurately and correctly to the satisfaction of DSCL.
5. **That** I fully acknowledge and understand that furnishing of any false or misleading information by us in our RFP/ Proposal shall entitle us to be disqualified from the tendering process for the said Project. The costs and risks for such disqualification shall be entirely borne by us.
6. That, we fully acknowledge and understand that in case any false or misleading information, as furnished by us in our RFP, is found at a later stage after the signing of the Concession Agreement amongst DSCL and (Insert name of organization), it shall entitle DSCL to terminate the said signed Concession Agreement between the Parties. The costs and risks for such termination shall be entirely borne by us.
7. That all the terms and conditions of the Request for Proposal (RFP) Document has been duly complied with.

VERIFICATION:

I, the above named deponent, do verify that the contents of par Dehradun points 1 to 7 of this affidavit are true and correct to my knowledge. No part of it is false and nothing material has been concealed.

Verified at, on this day of....., 2018.

T

Format for Power of Attorney for Signing of Proposal

(To be given by the Bidder on non judicial Stamp Paper of Rs. 100/-)

Know all men by these presents, we/ I (Name and address of the registered office) do hereby constitute, appoint and authorize Mr./Ms.....(name and residential address) as our attorney, to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to our Bid/ Proposal for the Project envisaging ***“Setting up of Water ATM for Safe Drinking Water including Designing, financing, constructing / installing, operating and maintaining of Water ATMs and vending of water from Water ATMs at Public Places through Public Private Partnership (PPP) at designated locations under “Smart City Mission” at Dehradun City.”***, Uttarakhand in the country of India, including signing and submission of all documents and providing information/responses to DSCL, representing us in all matters before DSCL, and generally dealing with DSCL in all matters in connection with our Bid/ Proposal for the said Project.

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

For.....

Accepted.....

(Signature)

(Name, Title and address) of the Attorney

Note:

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

G. Format for Bid/Proposal Security (Bank Guarantee)*(To be valid for 165 days from the Proposal Due Date)***UNCONDITIONAL AND IRREVOCABLE BANK GUARANTEE****Bank Guarantee No.:**..... **Dated:****Issuer of Bank Guarantee:**

_____ (Name of the Bank)

(Hereinafter referred to as the "Bank")

Beneficiary of Bank Guarantee:

Dehradun Smart City Limited (DSCL)

Nature of Bank Guarantee:

Unconditional and irrevocable Bank Guarantee.

Context of Bank Guarantee:

In pursuance of Clause 3.4.1 of Section 1 of the Request for Proposal Document dated (hereinafter referred to as the "RFP" inclusive of Concession Agreement) for the ***"Setting up of Water ATM for Safe Drinking Water including Designing, financing, constructing / installing, operating and maintaining of Water ATMs and vending of water from Water ATMs at Public Places through Public Private Partnership (PPP) at designated locations under "Smart City Mission" at Dehradun City."*** (hereinafter referred to as the "Project"), provided however, such context of the Bank Guarantee or reference to the Agreement in this Bank Guarantee shall in no manner to be relied upon at any stage to adversely affect or dilute the unconditional and irrevocable nature of this Bank Guarantee. The Contract of Bank Guarantee is an independent Contract between the Bank and DSCL and is not dependent upon execution or performance of any Agreement between DSCL and (name of the Bidder).

Operative part of the Bank Guarantee:

1. At the request of the _____ (name & address of the Bidder), we (name and address of the bank), hereinafter referred to as the "Bank", do hereby unconditionally and irrevocably affirm and undertake that we are the Guarantor and are responsible to the DSCL i.e. the beneficiary on behalf of the Bidder, up to a total sum of Rs. _____ (in words), such sum being payable by us to the DSCL immediately upon receipt of first written demand from DSCL.
2. We unconditionally and irrevocably undertake to pay to the DSCL on an immediate basis, upon receipt of first written demand from the DSCL and without any cavil or argument or delaying tactics or reference by us to Bidder and without any need for the DSCL to convey to us any reasons for invocation of the Guarantee or to prove the failure on the part of the Bidder to repay the amount of _____ or to show grounds or reasons for the demand or the sum specified therein, the entire sum or sums within the limits of Rs. _____ (Rupees _____ Only).
3. We hereby waive the necessity of the DSCL demanding the said amount from Bidder prior to serving the Demand Notice upon us.

4. We further agree and affirm that no change or addition to or other modification to the terms of the Agreement, shall in any way release us from any liability under this unconditional and irrevocable Guarantee and we hereby waive notice of any such change, addition or modification. We further agree with the DSCL that the DSCL shall be the sole and the exclusive judge to determine that whether or not any sum or sums are due and payable to him by Concessionaire, which are recoverable by the DSCL by invocation of this Guarantee.
5. This Guarantee will not be discharged due to the change in constitution of the Bank or the Bidder. We undertake not to withdraw or revoke this Guarantee during its currency/ validity period, except with the previous written consent of the DSCL.
6. We unconditionally and irrevocably undertake to pay to the DSCL, any amount so demanded not exceeding Rs..... (Rupees Only), notwithstanding any dispute or disputes raised by Bidder or anyone else in any suit or proceedings before any dispute review expert, arbitrator, court, tribunal or other authority, our liability under this Guarantee being absolute, unconditional and unequivocal. The payment so made by us under this Guarantee to the DSCL, shall be a valid discharge of our liability for payment under this Guarantee and the Bidder shall have no claim against us for making such payment.
7. This unconditional and irrevocable Guarantee shall remain in full force and effect and shall remain valid until----- (165 days from the Proposal Due Date).

Notwithstanding any contained herein:

1. Our liability under this Bank Guarantee shall not exceed Indian Rs. Lakhs (Rupees in words).
2. This unconditional and irrevocable Bank Guarantee shall be valid w.e.f. (Date of Submission of Bid) to (-----)

We are liable to pay the guaranteed amount or any part thereof under this unconditional and irrevocable Bank Guarantee only and only if Dehradun Smart City Limited (DSCL), serves upon us a written claim or demand on or before_____

Authorized Signatory
(For Bank)

H. Format for Financial Proposals

"The Price Bid BOQ is documented separately and can be downloaded from e-procurement portal <http://uktenders.gov.in> along with the RFP document. The price bid BOQ in EXCEL FORMAT which is available on <http://uktenders.gov.in> website should be completely filled and should be uploaded as a part of the bid without which the bid shall be treated as NON-RESPONSIVE."

SECTION - V

SCHEDULE

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SCHEDULE- I

THIS CONCESSION AGREEMENT is entered into on this the----- day of 2018 **Between** Dehradun Smart City Limited, **Under** _____ **Act represented by the** _____ and having its office at _____ (hereinafter referred to as the “**Concessioneing Authority**” or “**DSCL**” which expression shall, unless the context otherwise requires, include its administrators, successors and assigns) of **ONE PART**;

AND

M/s _____, a Company incorporated under the Companies Act, 1956 (No. 1 of 1956) represented by the _____ and having its registered office at _____ (hereinafter referred to as the “**Concessionaire**” which expression shall, unless the context otherwise requires, include its successors/ successors in business and permitted assigns and substitutes) of the **SECOND PART**.

WHEREAS the Concessioneing Authority has decided to Setting up of Water ATM for Safe Drinking Water including Designing, financing, constructing / installing, operating and maintaining of Water ATMs and vending of water from Water ATMs at Public Places through Public Private Partnership (PPP) at designated locations under “Smart City Mission” at Dehradun City (*„the Project”*). The development of WAUs shall be 24 is in the ownership of the Concessioneing Authority.

AND WHEREAS with an objective to seek private sector participation in the afore said Project, the Concessioneing Authority, undertook the process of selection of a 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 Maximum Revenue sharing amount for the concession Period of 05 year (including implementation period of six month) for the right to successfully complete development/installation of Water ATM Units then operating, maintaining the project. After evaluation of the Proposals so received, on behalf of the Concessioneing Authority, accepted the Proposal of the Concessionaire and issued Letter of Award 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 units 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 Award and (i) submission by the Successful Bidder, Deed of Guarantee/s towards the Concessionaire; (ii) provision of the Performance Security of **Rs. -----(Rs-----)** to the Concessioneing Authority and within 30 (thirty) days from the date of receipt of the Letter of Award to the Concessionaire, the Concessioneing Authority hereby agrees and grants to the Concessionaire this Concession on the mutually agreed terms and conditions for the Concession Period to (a) Develop & Install the Permanent Water ATM Units and; (b) operate & maintain the Permanent Water ATM Units and (c) at the end of the Concession Period hand back the Water Unit and all the Assets (which includes the

assets as provided by the Concessions Authority and the assets as brought in by the Concessionaire, during the subsistence of this Concession Agreement) 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, and the Concessionaire (each individually a **“Party”** hereto, and collectively the **“Parties”**) hereby agree to be bound by the provisions of this Concession Agreement.

SCHEDULE- II

FORMAT OF PERFORMANCE SECURITY

(Bank Guarantee)

PERFORMANCE BANK GUARANTEE OF CONCESSIONAIRE

Bank Guarantee No.: _____

Dated: _____

Issuer of Bank Guarantee:

(Name of the Bank) _____

(hereinafter referred to as the “Bank”)

Beneficiary of Bank Guarantee:

Dehradun Smart City Limited (DSCL)

Nature of Bank Guarantee:

Unconditional and irrevocable Bank Guarantee.

Context of Bank Guarantee

Performance during Concession Period in respect of draft Concession Agreement (hereinafter referred to as the “Agreement”) to be executed amongst the _____ (“hereinafter referred to as the “DSCL” _____ or “Concessions Authority), and _____ (hereinafter referred to as the “Concessionaire”) for the Project

Development of Water ATM under PPP (hereinafter referred to as the “Project”), provided however, such context of the Bank Guarantee or reference to the Agreement in this Bank Guarantee shall in no manner be relied upon at any stage to adversely affect or dilute the unconditional and irrevocable nature of this Bank Guarantee. The title of this Guarantee i.e. “Performance Security” shall in no manner and at no stage be relied upon to adversely affect or dilute the unconditional and irrevocable nature of this Bank Guarantee. The Contract of Bank Guarantee is an independent Contract between the Bank and DSCL and is not dependent upon execution or performance of any Agreement amongst DSCL and _____ (name of the Concessionaire).

Operative part of the Bank Guarantee:

1. At the request of the Concessionaire, we _____ (name and address of the bank), hereinafter referred to as the “Bank”), do hereby unconditionally and irrevocably affirm and undertake that we are the Guarantor and are responsible to the DSCL, _____ i.e. the beneficiary on behalf of the Concessionaire, up to a total sum of Rs, _____ (Rupees _____ Only), such sum being payable by us such sum being payable by us _____ immediately upon receipt of first written demand from the DSCL,
2. We unconditionally and irrevocably undertake to pay to the DSCL, _____ on an immediate basis, upon receipt of first written demand from the DSCL, _____ and without any cavil or argument or delaying tactics or reference by us to Concessionaire and without any need for the

DSCL, _____ to convey to us any reasons for invocation of the Guarantee or to prove the failure to perform on the part of the Concessionaire or to show grounds or reasons for the demand or the sum specified therein, the entire sum or sums within the limits of Rs. _____ (Rupees----- Only).

3. We hereby waive the necessity of the DSCL, _____ demanding the said amount from Concessionaire prior to serving the Demand Notice upon us.
4. We further agree and affirm that no change or addition to or other modification to the terms of the Agreement, shall in any way release us from any liability under this unconditional and irrevocable Guarantee and we hereby waive notice of any such change, addition or modification. We further agree with the DSCL, _____ that the DSCL, _____ shall be the sole and the exclusive judge to determine that whether or not any sum or sums are due and payable to him by Concessionaire, which are recoverable by the DSCL, _____ by invocation of this Guarantee.
5. We further agree and affirm that no change or addition to or other modification to the terms of the Agreement, shall in any way release us from any liability under this unconditional and irrevocable Guarantee and we hereby waive notice of any such change, addition or modification. We further agree with the DSCL, _____ that the DSCL, _____ shall be the sole and the exclusive judge to determine that whether or not any sum or sums are due and payable to him by Concessionaire, which are recoverable by the DSCL, _____ by invocation of this Guarantee.
6. This Guarantee will not be discharged due to the change in constitution of the Bank or the Concessionaire. We undertake not to withdraw or revoke this Guarantee during its currency/ validity period, except with the previous written consent of the DSCL,
7. We unconditionally and irrevocably undertake to pay to the DSCL, _____ any amount so demanded not exceeding Rs. -----Lakhs (Rupees ----- Only) notwithstanding any dispute or disputes raised by Concessionaire or anyone else in any suit or proceedings before any dispute review expert, arbitrator, court, tribunal or other authority, our liability under this Guarantee being absolute, unconditional and unequivocal. The payment so made by us under this Guarantee to the DSCL, _____ shall be a valid discharge of our liability for payment under this Guarantee and the Concessionaire shall be a valid discharge of our liability for payment under this Guarantee and the Concessionaire shall have no claim against us for making such payment.

This unconditional and irrevocable Guarantee shall remain in full force and effect and shall remain valid until _____

Notwithstanding anything contained herein:

1. Our liability under this Bank Guarantee shall not exceed Indian Rs. _____ (Rupees _____ Only).
2. This unconditional and irrevocable Bank Guarantee shall be valid w.e.f. _____ to _____
3. We are liable to pay the guaranteed amount or any part thereof under this unconditional and irrevocable Bank Guarantee only and only if the DSCL, _____ serves upon us a written claim or demand on or before _____.

Authorized Signatory for Bank