Draft Concession Agreement

Selection of a Concessionaire for Establishment of Municipal Waste-to-Energy Project for Madurai Cluster based on Municipal Dry Waste at Madurai City Municipal Corporation under PPP Mode on Design, Build, Finance, Operate and Transfer (DBFOT) Basis

TABLE OF CONTENTS

CONCESSION AGREEMENT 7

ARTICLE 1. DEFINITIONS & INTERPRETATIONS 9

1.1 Definitions 9
1.2 Rules of Interpretation 25
1.3 Units of Measurement 26
1.4 Priority of Agreements, Clauses and Schedules 26

ARTICLE 2. SCOPE OF THE PROJECT 28

2.1 Scope of the Project 28

ARTICLE 3. GRANT OF THE CONCESSION 29

3.1 Concession 29
3.2 Rights Associated with the Grant of Concession 29
3.3 Concession Period 30
3.4 Deleted 30
3.5 Deleted 30

ARTICLE 4. CONDITIONS PRECEDENTS 31

4.1 Effectiveness 31
4.2 Concessionaire Conditions Precedent 31
4.3 Authority Conditions Precedent 33
4.4 Other Conditions Precedent 34
4.5 Satisfaction of Conditions Precedent 34
4.6 Consequences of failure to satisfy Conditions Precedent 35

ARTICLE 5. OBLIGATIONS OF THE CONCESSIONAIRE 38

5.1 General Obligations of the Concessionaire 38
5.2 Obligations relating to Project Agreements 39
5.3 Land Use 40
5.4 Processing of Acceptable Waste 40
5.5 Employment of Trained Personnel 40
5.6 Branding of the Project 40
5.7 Obligations relating to Information 41
5.8 Obligations in relation to Other Charges 41
5.9 Sole purpose of the Concessionaire 41
5.10 Obligations relating to Change in Ownership 41

ARTICLE 6. OBLIGATIONS OF THE AUTHORITY 44

6.1 General Obligations of the Authority 44
6.2 Obligations relating to Refinancing 45

ARTICLE 7. REPRESENTATIONS AND WARRANTIES 47

7.1 Mutual Representations and Warranties 47
7.2 Concessionaire's Representations and Warranties 47
7.3 Authority's Representations and Warranties 48
7.4 Acknowledgement 49

ARTICLE 8. DISCLAIMER 50

ARTICLE 9. PERFORMANCE SECURITY AND O&M SECURITY 51

9.1 Performance Security 51
9.2 Validity of Performance Security 51
9.3 O&M Security 51
9.4 Purpose of Performance and O&M Securities 51
9.5 Extension of Performance Security 51
9.6 Renewal or Replacement of O&M Security 52
9.7 Utilisation of Retained Amounts 52
9.8 Return of Retained Cash Security 52
9.9 Interest on Retained Amounts 52
9.10 Invocation of Performance Security 52
9.11 Invocation of O&M Security 52
9.12 No Prior Notice for Invocation 52
9.13 Restoration of Security 53
9.14 Release of Performance Security 53
9.15 Release of O&M Security 53
9.16 Treatment of Securities during First Year after COD 53

ARTICLE 10. PROJECT SITE 54

10.1 The Site 54
10.2 Grant of License over the Site 54
10.3 Right, Title and Interest in the Project Facilities 55
10.4 Site Data and Verification 56
10.5 Deleted 57
10.6 Site Related Covenants 57
10.7 Access to the Authority Related Parties and Government Authorities 58

ARTICLE 11. UTILITIES, ASSOCIATED ROADS AND TREES 59

11.1 Existing Utilities and Roads 59
11.2 Shifting of Obstructing Utilities 59
11.3 New Utilities and Roads 59
11.4 Felling of Trees 59

ARTICLE 12. FINANCING SUPPORT, SUBSTITUTION AGREEMENT AND SECURITY 60

12.1 Financing and Bankability Support 60
12.2 Substitution Agreement 60
12.3 Security Creation 60

ARTICLE 13. INDEPENDENT ENGINEER 61

13.1 Procedure for appointment and duties and functions of the Independent Engineer 61
13.2 Payments to the Independent Engineer 62
13.3 Termination of Appointment 62
13.4 Authorised Signatories 62
13.5 Dispute resolution 62
13.6 Interim arrangement 63

ARTICLE 14. CONSTRUCTION PERIOD 64

14.1 Commencement and Duration 64
14.2 Project Execution Plan, DPR, Designs and Drawings 64
14.3 Construction Plan 68
14.4 Environment and Occupational Health and Safety Related Obligations 69
14.5 Subcontracting 71
14.6 Concessionaire's Pre-Construction and Construction Obligations 73
14.7 Construction Timelines 74
14.8 Delay Liquidated Damages 77

ARTICLE 15. MONITORING OF CONSTRUCTION 78

15.1 Monthly Progress Reports 78
15.2 Inspection 78
15.3 Construction Tests 78
15.4 Suspension of Unsafe Construction Works 79
15.5 Video Recording 79
15.6 Delays during construction 79

ARTICLE 16. COMPLETION CERTIFICATE 80

16.1 Completion of Works 80
16.2 Completion Certificate 81
16.3 Provisional Certificate 81
16.4 Completion of Punch List Items 82
16.5 Withholding of Provisional or Completion Certificate 82
16.6 Rescheduling of Tests 83
16.7 Additional Conditions for Issue of Completion or Provisional Certificate 83

ARTICLE 17. ENTRY INTO COMMERCIAL SERVICE 84

17.1 Commercial Operations Date 84

ARTICLE 18. OPERATIONS AND MAINTENANCE PERIOD 85

18.1 Commencement and Duration 85
18.2 O&M Plan 85
18.3 Waste Acceptance and Rejection Plan 86
18.4 Concessionaire's rights and obligations during the O&M Period 87
18.5 Delivery of Acceptable Waste 88
18.6 Weighment, Inspection, Acceptance, and Rejection of Waste 89
18.7 Guaranteed Waste Liquidated Damages 90
18.8 Sampling Plan and Testing of Residual Inert Matter 91
18.9 Delivery of Residual Inert Matter 92
18.10 Sale of Electricity and Recyclable Materials 93
18.11 Utilities 94
18.12 Design Capacity Utilization 94
18.13 Maintenance and Repair of the Project Facility 94
18.14 O&M Personnel 96
18.15 Subcontracting 97

ARTICLE 19. SAFETY REQUIREMENTS 98

19.1 Safety Requirements 98
19.2 Guiding Principles 98

19.3 Obligations of the Concessionaire 98
19.4 Expenditure on Safety Requirements 98

ARTICLE 20. MONITORING OF OPERATION AND MAINTENANCE 99

20.1 Monitoring and Reporting 99
20.2 Inspection 100
20.3 O&M Tests 101
20.4 Remedial Measures 101

ARTICLE 21. KEY PERFORMANCE INDICATORS 102

21.1 Key Performance Indicators 102
21.2 Liquidated Damages, Limits, and KPI-Based Event of Default 106

ARTICLE 22. CONCESSIONAIRE PAYMENTS 108

22.1 Payments to the Concessionaire 108
22.2 Grant Payments 108
22.3 Deleted 111
22.4 Deleted 111
22.5 Deleted 111
22.6 Deleted 111
22.7 Taxes and Royalties 111
22.8 Applicable Tariff 111
22.9 Sale of Electricity and Payment of Tariff 114

ARTICLE 23. ACCOUNTS AND AUDIT 116

23.1 Audited Accounts 116
23.2 Appointment of Auditors 116
23.3 Certification of claims by Statutory Auditors 116

ARTICLE 24. ESCROW ACCOUNT 117

24.1 Opening of Escrow Account 117
24.2 Deleted 117
24.3 Deposits into the Escrow Account 117
24.4 Withdrawals during the Concession Period 117
24.5 Withdrawals upon expiry of the Concession Period or Termination 118

ARTICLE 25. INSURANCE 120

ARTICLE 26. FORCE MAJEURE 122

26.1 Force Majeure Events 122
26.2 Notice of Force Majeure Events 125
26.3 Excuse of Performance 126
26.4 No Liability for Other Losses 126
26.5 Resumption of Performance 126
26.6 Allocation of costs during a Force Majeure Event 126
26.7 Termination due to Force Majeure Event 127
26.8 Effect of Force Majeure Event on the Concession Period 128

ARTICLE 27. SUSPENSION OF THE CONCESSIONAIRE'S RIGHTS 129

27.1 Suspension by the Concessionaire 129

27.2 Suspension by Authority 130

ARTICLE 28. EVENTS OF DEFAULT 132

28.1 Concessionaire Events of Default 132
28.2 Termination Notice upon occurrence of a Concessionaire Event of Default 133
28.3 Authority Events of Default 134
28.4 Termination Notice upon occurrence of an Authority Event of Default 134
28.5 Consequences of termination after the Appointed Date 134
28.6 Accrued Rights and Liabilities 135

ARTICLE 29. TERMINATION COMPENSATION 136

29.1 General 136
29.2 Termination Compensation 136
29.3 Termination Compensation for Termination due to a Force Majeure Event 136
29.4 Timelines for Payment 137
29.5 Full and Final Settlement 137
29.6 Survival 138

ARTICLE 30. DIVESTMENT OF RIGHTS AND INTEREST 139

30.1 Transfer of the Site and the Project Facilities 139
30.2 Inspection of the Site and the Project Facilities 139
30.3 Hand-back Requirements 139
30.4 Survival 140
30.5 Vesting Certificate 140

ARTICLE 31. CHANGE OF SCOPE 141

31.1 Change of Scope 141
31.2 Procedure for Change of Scope 141
31.3 Payment for Change of Scope 142
31.4 Restrictions on certain works 142
31.5 Power of the Authority to undertake works 142
31.6 Reduction in Scope of the Project 143

ARTICLE 32. CHANGE IN LAW 144

32.1 Change in Law 144

ARTICLE 33. INDEMNITY 145

33.1 Indemnity 145

ARTICLE 34. DISPUTE RESOLUTION 147

34.1 Dispute Resolution 147
34.2 Resolution by Conciliation 147
34.3 Adjudication by TNERC 147
34.4 Arbitration (By Mutual Consent) 147
34.5 Judicial Proceedings 148
34.6 Survival 148

ARTICLE 35. MISCELLANEOUS 149

35.1 Survival 149
35.2 Entire Agreement 149

35.3 NON-EXHAUSTIVE REMEDIES 149
35.4 NOTICES 149
35.5 GOVERNING LAW AND JURISDICTION 150
35.6 COUNTERPARTS 150
35.7 LANGUAGE 150
35.8 CONFIDENTIALITY 150
35.9 AMENDMENTS 152
35.10 WAIVERS AND CONSENTS 152
35.11 SEVERABILITY 153
35.12 ASSIGNMENT 153
35.13 NO AGENCY OR PARTNERSHIP 153
35.14 COSTS AND EXPENSES 153
35.15 RESERVATION OF RIGHTS 154
35.16 THIRD PARTIES 154
35.17 WAIVER OF SOVEREIGN IMMUNITY 154

SCHEDULES ..... ERROR! BOOKMARK NOT DEFINED.

SCHEDULE A – THE SITE ..... ERROR! BOOKMARK NOT DEFINED.

SCHEDULE B – DEVELOPMENT REQUIREMENTS ..... ERROR! BOOKMARK NOT DEFINED.

SCHEDULE C – O&M REQUIREMENTS ..... ERROR! BOOKMARK NOT DEFINED.

SCHEDULE D – APPLICABLE PERMITS ..... ERROR! BOOKMARK NOT DEFINED.

SCHEDULE E – PERFORMANCE SECURITY ..... ERROR! BOOKMARK NOT DEFINED.

SCHEDULE F – O&M SECURITY ..... ERROR! BOOKMARK NOT DEFINED.

SCHEDULE G – TECHNICAL SPECIFICATIONS ..... ERROR! BOOKMARK NOT DEFINED.

SCHEDULE H – SAFETY REQUIREMENTS ..... ERROR! BOOKMARK NOT DEFINED.

SCHEDULE I – SCOPE OF WORK OF THE INDEPENDENT ENGINEER ..... ERROR! BOOKMARK NOT DEFINED.

SCHEDULE J – VESTING CERTIFICATE ..... ERROR! BOOKMARK NOT DEFINED.

SCHEDULE K – ESCROW AGREEMENT ..... ERROR! BOOKMARK NOT DEFINED.

SCHEDULE L – SUBSTITUTION AGREEMENT ..... ERROR! BOOKMARK NOT DEFINED.

SCHEDULE M – POWER PURCHASE AGREEMENT (PPA) ..... ERROR! BOOKMARK NOT DEFINED.

SCHEDULE N – COMPLETION CERTIFICATE ..... ERROR! BOOKMARK NOT DEFINED.

CONCESSION AGREEMENT

This Concession Agreement ("**Agreement**") is executed on this [●] day of [●] at [●]:

AMONGST

Madurai Corporation, an Urban Local Body, with its office at [insert address], acting through [insert name of the authorised signatory and his/her designation] (hereinafter referred to as the **"Authority" or "Lead ULB"**, which expression shall, unless it be repugnant to the context or meaning thereof, include its successors and permitted assigns);

AND

[insert name of the Concessionaire], a company organized, incorporated, registered and existing under the Companies Act, with its registered office at [insert address], acting through [insert name of the authorised signatory and his/her designation], duly authorized by resolution dated [insert date of the Board Resolution] (hereinafter referred to as the **"Concessionaire"**, which expression shall, unless it be repugnant to the context or meaning thereof, include its successors and permitted assigns).

The **Authority** and the **Concessionaire** shall hereinafter collectively be referred to as the **"Parties"** and individually as a **"Party."**

WHEREAS:

A. The Authority is responsible for planning, implementing and overseeing municipal solid waste management systems, including the development of infrastructure for the scientific processing and disposal of solid waste.

B. The Authority acknowledges the challenges of solid waste management and has accordingly prioritised the development of waste-handling and processing facilities. For this purpose, the Authority is keen to undertake the development of a waste-to-energy (WtE) facility at Vellakkal, Madurai, on a Public-Private Partnership basis through a Design, Build, Finance, Operate and Transfer (DBFOT) model (the "**Project**"). The facility shall be developed on a cluster basis within the administrative limits of the Madurai Corporation ("**MC**"), and MC has agreed to act as the Concessioning Authority for the Project and to enter into this Agreement in that capacity.

C. In order to implement the Project, the Authority and the Participating ULBs intend to engage a Concessionaire who shall design, develop, finance, construct, operate and maintain the Project Facilities on the Site under and in accordance with the requirements of this Agreement, and upon expiry of the Concession Period, transfer the Project Facilities to the Authority in accordance with this Agreement.

D. The Project includes the processing and conversion of Acceptable Waste into electricity, and the scientific disposal of all Residual Inert Matter in compliance with Applicable Laws. The electricity

generated from the Project shall be supplied to TNPDCL in accordance with, and subject to, the provisions of the Power Purchase Agreement.

E. On [●], the Authority commenced a competitive Bid Process for the Project by issuing a Request for Proposal ("RFP"), inviting interested parties to submit their qualification proposals and Financial Proposals to the Authority for undertaking the Project.

F. Pursuant to the terms of the RFP, the Authority received proposals from various bidders, including the Bid submitted by the Selected Bidder on [insert date].

G. Following a process of evaluation of qualification proposals and Financial Proposals submitted by the bidders (including the Selected Bidder [which shall include a consortium of bidders]), the Authority has accepted the proposal submitted by the Selected Bidder for the development of the Project and issued the Letter of Award vide _____ dated [●] to the Selected Bidder ("LOA").

H. The Selected Bidder has accepted the LOA and has agreed to undertake the Project in accordance with the terms of this Agreement.

I. The Selected Bidder has incorporated the Concessionaire as a limited liability company under the Companies Act 2013, to implement the Project and perform the obligations and exercise the rights of the Concessionaire, including the obligation to enter into this Agreement and has requested the Authority vide letter dated [●] to accept the Concessionaire.

J. By its letter dated [●], the Concessionaire also joined the said request of the Selected Bidder to the Authority to accept it as the entity which shall undertake and perform the obligations and exercise of the rights of the Selected Bidder under the LOA, including the obligations to enter into this Agreement, pursuant to the LOA.

K. The Authority have agreed to the request of the Selected Bidder and the Concessionaire and have agreed to enter into this Agreement with the Concessionaire, along with the Participating ULB, for execution of the Project on a DBFOT basis, subject to and on the terms, conditions and covenants set out in this Agreement.

IT IS AGREED as follows:

ARTICLE 1. DEFINITIONS & INTERPRETATIONS

1.1 Definitions

Acceptable Waste means Wet Waste, Dry Waste, Biodegradable Waste, Non-biodegradable Waste, Horticultural Waste, and Sanitary Waste, as defined in the SWM Rules, provided that the quantity of Prohibited Waste, if any, contained therein does not exceed two percent (2%) of the total waste by weight.

Acceptable Waste Delivery Schedule means the schedule according to which the Authority shall undertake the delivery of Acceptable Waste to the Concessionaire for handling and processing at the Project Facility, and which shall be notified to the Concessionaire at least 3 (three) months prior to the Scheduled COD.

Accounting Year means the accounting year commencing from the first day of April of any calendar year and ending on the thirty-first day of March of the next calendar year.

Acres means a unit of land area equal to 0.4 hectares.

Adjoining Property means any land and/or property adjoining or adjacent to the Site, including all conduits, roads, footpaths, walls, fences, buildings and other structures and other apparatus on, under or within such land and/or property.

Adjusted Equity or Adjusted Net Equity means the Equity funded in Indian Rupees and adjusted on the first day of the current month (the "**Reference Date**"), in the manner set forth below, to reflect the change in its value on account of depreciation and variations in WPI, and for any Reference Date occurring:

a) on or before COD, the Adjusted Equity shall be a sum equal to the Equity funded in Indian Rupees and expended on the Project, revised to the extent of one half of the variation in WPI occurring between the first day of the month of Appointed Date and the Reference Date;
b) from COD and until the 5th (fifth) anniversary thereof, an amount equal to the Adjusted Equity as on the COD shall be deemed to be the base (the "**Base Adjusted Equity**") and the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, revised at the commencement of each month following COD to the extent of variation in WPI occurring between COD and the Reference Date;
c) after the 5th (fifth) anniversary of COD, the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, reduced by 0.22% (zero point two-two per cent) thereof at the commencement of each month following the 5th (fifth) anniversary of COD and the amount so arrived at shall be revised to the extent of variation in WPI occurring between COD and the Reference Date. For the avoidance of doubt, the Adjusted Equity shall, in the event of Termination, be computed as on the Reference Date immediately preceding the Transfer Date; provided that no reduction in the Adjusted Equity shall be made for a period equal to the duration, if any, for which the Concession Period is extended, but the revision on account of WPI shall continue to be made;

For the avoidance of doubt, the Adjusted Equity shall, in the event of Termination, be computed as on the Reference Date immediately preceding the Transfer Date; provided that no reduction in the Adjusted

Equity shall be made for a period equal to the duration, if any, for which the Concession Period is extended, but the revision on account of WPI shall continue to be made;

Affected Party means the Party affected by a Force Majeure Event.

Agreement means this concession agreement entered into between the Parties, along with all schedules and annexures to this agreement and includes any Change of Scope Orders and other amendments made in accordance with this Agreement.

Annual Guaranteed Acceptable Waste Quantity has the meaning ascribed to it in Clause 18.5(c).

Appendix has the meaning ascribed to it in Clause 10.2 (b).

Applicable Laws means the Constitution of India and all and any laws, enacted or brought into force and effect by the GoI, any State Government, any Government Authority or any local government having jurisdiction over the Parties, the Site or the Project Facilities, including rules, regulations and notifications made thereunder, and judgments, decrees, injunctions, writs and orders of any court of record, as may be applicable to the execution of this Agreement and the performance of the respective rights and obligations of the Parties, as may be in force and effect during the subsistence of this Agreement. For the avoidance of doubt, and without in any way limiting the generality of the foregoing, Applicable Laws shall include the EPA, the EPA Rules, the SWM Rules and laws concerning any environmental, social, labour, health and safety or security risks.

Applicable Permits means any permissions, clearances, concessions, authorizations, consents, licenses, permits, rulings, exemptions, no objections, resolutions, filings, orders, notarizations, registrations or approvals of whatsoever nature that are required to be obtained from time to time in connection with the Project, and for generally performing the obligations contemplated by this Agreement in accordance with the Applicable Laws, as set out in Schedule D.

Applicable Tariff means the tariff quoted by the Selected Bidder in its Bid and accepted by the Authority as part of the Bid Process, as approved by the Tamil Nadu Electricity Regulatory Commission (TNERC), and as applicable to the sale of electricity from the Project under this Agreement and the Power Purchase Agreement.

Appointed Date means the date on which Financial Close is achieved and every Condition Precedent is either satisfied or waived, as the case may be, in accordance with the provisions of this Agreement, and such date shall be the date of commencement of the Concession Period.

Arbitration Act means the Indian Arbitration and Conciliation Act, 1996, as amended from time to time.

Article means an article of this Agreement.

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

Authority has the meaning ascribed to it in the array of Parties.

Authority Event of Default has the meaning ascribed to it in Clause 28.3.

Authority Related Parties means any of the following:

a) an officer, servant, employee or agent of the Authority, acting in that capacity;
b) any contractor or subcontractor of the Authority and their directors, officers, servants, employees, or agents, acting in that capacity; or
c) any Person acting on behalf of the Authority.

For the avoidance of doubt, 'Authority Related Parties' does not include the Concessionaire.

Authority's Representative means any officer nominated by the Authority, from time to time, to act on its behalf and liaise with the Concessionaire for the purposes of this Agreement and notified as such in writing to the Concessionaire.

Availability Guarantee has the meaning ascribed to it in Clause 21.1(a).

Availability Liquidated Damages means the liquidated damages payable by the Concessionaire to the Authority for a failure of the Project Facility to achieve the Availability Guarantee, which are to be calculated in accordance with Schedule B (Annexure F).

Average Per Ton Gross Revenue has the meaning ascribed to it in Clause 18.7.

Battery Limit means the demarcated physical boundary of the Site as identified in Schedule A

Bid Due Date means the last date of submission of the Bids as set out in the RFP.

Bid Process means the single-stage bidding process, with two sub-stages, undertaken by the Authority to award the Project to the Selected Bidder on the terms and conditions set out in the RFP. The Bid Process commenced with the issuance of the RFP and ends on the Execution Date.

Bid Security means the unconditional, irrevocable bank guarantee submitted by the Concessionaire to the Authority during the Bid Process.

Bid means the bids submitted in response to the RFP for qualification and award of the Project.

Biodegradable Waste means any organic material that can be degraded by micro-organisms into simpler stable compounds as defined in SWM Rules.

Bio-medical Waste shall have the meaning as defined under the Biomedical Wastes (Management and Handling) Rules, 1998 and as amended thereto.

C&T Contractors means the contractors appointed by the Authority and the Participating ULBs for the collection and transportation of waste within their respective administrative limits.

Change in Law means the occurrence of any of the following events after the Bid Due Date:

a) the modification, amendment, variation, alteration or repeal of any existing Applicable Law;
b) the enactment of any new Applicable Law or the imposition, adoption or issuance of any new Applicable Law by any Government Authority;
c) changes in the interpretation, application or enforcement of any Applicable Law or judgment by any court or Government Authority.

d) the introduction of a requirement for the Concessionaire to obtain any new Applicable Permit or the unlawful revocation of an Applicable Permit; or
e) the introduction of any new Tax or a change in the rate of an existing Tax.

It is clarified that Change in Law shall not include any change in the (Indian) Income Tax Act, 1961 with regard to the taxes on the income of the Concessionaire.

Change of Scope has the meaning ascribed to it in Clause 31.1 (a)

Change of Scope Notice has the meaning ascribed to it in Clause 31.2 (a)

Change of Scope Order has the meaning ascribed to it in Clause 31.2 (c)

Clause means a clause of this Agreement.

Commercial Operations Date or COD has the meaning ascribed to it in Clause 17.1

Companies Act means the (Indian) Companies Act, 1956 or the (Indian) Companies Act, 2013, as amended from time to time, as the context may require.

Concession has the meaning ascribed to it in Clause 3.1.

Completion Certificate has the meaning ascribed to it in Clause 16.2.

Concession Period has the meaning ascribed to it in Clause 3.3.

Concessionaire has the meaning ascribed to it in the array of Parties.

Concessionaire Event of Default has the meaning ascribed to it in Clause 28.1.

Concessionaire Payments means the payments to be made by the Authority to the Concessionaire in the form of the Grant in accordance with this Agreement.

Concessionaire Related Parties means any of the following:

a) the Selected Bidder or Associates of the Selected Bidder;
b) an officer, servant, employee or agent of the Concessionaire acting in that capacity;
c) any Subcontractor engaged by the Concessionaire and their directors, officers, servants, employees or agents acting in that capacity; or
d) any Person acting on behalf of the Concessionaire.

Concessionaire's Representative means the Person nominated by the Concessionaire, from time to time, to act on its behalf and liaise with the Authority for the purposes of this Agreement and notified as such in writing to the Authority.

Conditions Precedent means collectively, the obligations of the Concessionaire that are set out at Clause 4.2, the obligations of the Authority that are set out at Clause 4.3 and the obligations of Parties that are set out at Clause 4.4, and "Condition Precedent" means any one of these.

Confidential Information means any part of this Agreement, or any material provided to any Party pursuant to this Agreement, all of which information shall be deemed to be confidential, except to the extent that this Agreement otherwise requires.

Construction Period has the meaning ascribed to it in Clause 14.1.

Construction Plan means the detailed construction plan for the Project Facilities to be prepared by the Concessionaire, which will set out the work to be performed by the Concessionaire to achieve completion of the works in relation to the construction of the Project Facilities, in order to achieve the COD by the Scheduled COD. The Construction Plan shall be approved by the Authority in accordance with Clause 14.3.

Control means, with respect to a Person:

a) the ownership, directly or indirectly, of more than 50% (fifty percent) of the voting shares of such Person; or
b) the power, directly or indirectly, to direct or influence the management and policies of such Person by operation of law, contract or otherwise, and the term "Controlled" shall be construed accordingly.

Cost means all documented expenditure reasonably incurred by the Concessionaire, whether on or off the Site, including overhead and similar charges, but does not include profit.

Covenant has the meaning ascribed to it in Clause 5.2(d).

Daily Acceptable Waste Quantity has the meaning ascribed to it in Clause 18.6 (e).

Debt Due means the aggregate of the following sums expressed in Rupees outstanding on the date of issuance of Termination Notice:

a) the principal amount of the debt provided by the Senior Lenders under the Financing Documents for financing the Project but excluding any part of the principal that had fallen due for repayment 1 (one) year prior to the date of the Termination Notice, as set out in the Financial Package; and
b) all accrued interest, financing fees and charges payable under the Financing Documents on, or in respect of, the debt referred to in (a) above until the date of the Termination Notice, but excluding:
    (i) any interest, fees or charges that had fallen due 1 (one) year prior to the date of the Termination Notice,
    (ii) any penal interest or charges payable under the Financing Documents to any Senior Lender, and
    (iii) any pre-payment charges in relation to accelerated repayment of debt except where such charges have arisen due to an Authority Event of Default.

For the purpose of calculating Debt Due:

a) the Debt Due shall, in no event, exceed 75% of the Total Project Cost less the Grant payable to the Concessionaire; and
b) any amount of Debt Due in foreign currency as on the date of the Termination Notice shall be converted to Rupees at the exchange rate published on the official website of the Reserve Bank of India as at 12 (twelve) noon on the relevant date.

Illustration:

If the aggregate of the principal amounts of the debt provided by the Senior Lenders under the Financing Documents for the Project is INR 400 crore and the Total Project Cost is INR 600 crore and the Grant is INR 150 crore, the Debt Due will be capped at INR 337.50 crore.

Debt Service means the sum of all payments on account of principal, interest, financing fees and charges due and payable in an Accounting Year to the Senior Lenders under the Financing Documents.

Delay Event has the meaning ascribed to it in Clause 14.7(b).

Delay Liquidated Damages has the meaning ascribed to it in Clause 14.8(a).

Design Capacity means the daily throughput capacity of the Project Facilities, expressed in tons per day (TPD) comprising:

a) Pre-Processing Facilities Capacity, being 1,100 TPD of Acceptable Waste;

b) Energy Generation and Evacuation Facilities Capacity, being 900 TPD;

Designs and Drawings means the detailed designs and drawings, technical information, plans, specifications, calculations, and models prepared by the Concessionaire for the Project Facilities, based on the Technical Specifications, as approved by the Authority in accordance with Clause 14.2(c).

Development Requirements means the Development Requirements for construction and O&M of the Project Facilities as set out in Schedule B.

Direct Political Force Majeure Events has the meaning ascribed to it in Clause 26.1(b)(iii).

Discharge Liquidated Damages means the liquidated damages payable by the Concessionaire to the Authority for a failure of the Project Facility to achieve the Liquid Discharge Guarantee, which are to be calculated in accordance with Schedule B (Annexure F).

Dispute has the meaning ascribed to it in Clause 34.1.

Dispute Meeting has the meaning ascribed to it in Clause 34.1.

Dispute Notice has the meaning ascribed to it in Clause 34.1.

DPR means a detailed project report prepared in accordance with Clause 14.2(b).

Dry Waste means waste other than wet waste sanitary waste, special care waste and includes recyclable waste and non-recyclable waste, as defined SWM Rules.

Emergency means a condition or situation that endangers, or which in the reasonable opinion of the Authority or the Concessionaire, may endanger the environment or lives or security of people at or around the Site (including any ragpickers) or that poses an imminent threat of material damage to any property (including the Project Facilities) at or around the Site.

Emission Guarantee has the meaning ascribed to it in Clause 21.1(d).

Emission Liquidated Damages means the liquidated damages payable by the Concessionaire to the Authority for a failure of the Project Facility to achieve the Emission Guarantee, which are to be calculated in accordance with Schedule B (Annexure F).

EMP means an environmental management plan to be prepared by the Concessionaire in accordance with Applicable Laws and approved by the Authority and the Independent Engineer in accordance with Clause 14.4.

Encumbrance(s) means mortgage, charge, pledge, lien (statutory or otherwise), assignment by way of security, hypothecation, right of set-off, trust, priority, retention of title or ownership or other security interest and any other agreement or arrangement having substantially the same effect.

EPA means the Environment (Protection) Act, 1986, as amended from time to time.

EPA Rules means the Environment (Protection) Rules, 1986, as amended from time to time.

EPC Contract means the engineering, procurement and construction contract between the Concessionaire and the EPC contractor named therein for the design and construction of the Project Facilities.

Equity means the sum expressed in INR representing the paid up share capital of the Concessionaire for meeting the equity component of its financial obligations under this Agreement and the Financing Documents, which, for the purpose of this Agreement, shall include instruments that shall compulsorily convert into equity share capital and any interest free loans provided by any shareholder of the Concessionaire and which shall be capped at the amount specified as the equity contribution in the Financial Package submitted to the Authority by Concessionaire in accordance with Clause 4.2(i).

Escrow Account means the interest-bearing account opened by the Concessionaire with the Escrow Bank in accordance with the Escrow Agreement, which shall be operational until the expiry, or early termination of the Agreement.

Escrow Agreement means the agreement to be executed among the Authority, the Concessionaire, and the Escrow Bank in relation to the opening and operations of the Escrow Account, substantially in the form set out at Schedule K.

Escrow Bank means the Scheduled Bank with which the Concessionaire opens the Escrow Account, pursuant to the Escrow Agreement.

Event of Default means an Authority Event of Default or a Concessionaire Event of Default, as the context may require.

Execution Date or Effective Date means the date of signing of this Agreement.

Financial Assistance means all funded and non-funded financial assistance, including loans, advances and guarantees or any re-financing that the Concessionaire may avail of for the Project from the Senior Lenders.

Financial Capacity means the financial capacity and strength of the [Selected Bidder/Consortium Member(s)] determined in accordance with the RFP.

Financial Close means the date on which the Financing Documents become effective, the conditions precedent under the Financing Documents for disbursements are fulfilled and the Concessionaire has access to the Financial Assistance.

Financial Model means the financial model adopted by Senior Lenders, setting forth the capital and operating costs of the Project and expected revenues from the Project, on the basis of which financial viability of the Project has been determined by the Senior Lenders, and includes a description of the assumptions and parameters used for making the calculations and projections therein.

Financial Package means the financing package indicating the means of financing the Project Facilities, and includes all Financial Assistance specified in the Financing Documents and the Equity as approved by the Senior Lenders.

Financial Proposal means the financial proposal submitted by a bidder in accordance with the RFP for undertaking the Project.

Financing Documents or Financing Agreement means, collectively, the documents entered into or to be entered into by the Concessionaire with the Senior Lenders, in respect of all funded and non-funded financial assistance, including loans, advances and or any re-financing that the Concessionaire may avail of for the Project from the Senior Lenders and includes any document providing Security to the Senior Lenders.

FM Notice has the meaning ascribed to it in Clause 26.2(a).

Force Majeure Cost has the meaning ascribed to it in Clause 26.6(b).

Force Majeure Event means a Non-Political Force Majeure Event, an Indirect Political Force Majeure Event or a Direct Political Force Majeure Event, as the case may be.

Forced Unavailability means an interruption of or a reduction in the availability of the Project Facility that is the result of:

a) the Authority's failure to deliver sufficient quantities of Acceptable Waste;
b) the Design Capacity being reached as notified by the Concessionaire to the Authority in accordance with Clause 18.12(b); or
c) a suspension of the performance of the O&M obligations pursuant to Article 27, to the extent any such event is not attributable to the Concessionaire; or
d) a Force Majeure Event;
e) instructions issued by TNPDCL or SLDC to the Concessionaire to curtail the production of electricity from the Project Facility, provided that such instructions are not attributable to the Concessionaire's failure to operate the Project Facility in accordance with the Agreement, the PPA, and/or Applicable Laws; or
f) suspension of supply of water or power by the municipal authority or relevant entity responsible for water supply beyond 48 (forty-eight) hours.

GoI means the Government of India.

Good Industry Practices means the exercise of such degree of skill, diligence and prudence, and those practices, methods, specifications and standards of equipment, safety and performance, as may change from time to time and which would reasonably and ordinarily be expected to be used by a skilled and experienced developer engaged in the construction, operation, and maintenance of waste to energy facilities in India of the type and size similar to the Project Facilities.

Government Authority or Government Instrumentality means any department, division or sub-division of GOI or the State Government and includes any commission, board, authority, agency or municipal and other local authority or statutory body including Panchayat, under the control of GOI or the State Government, as the case may be, and having jurisdiction over all or any part of the Project or the performance of all or any of the services or obligations of the Concessionaire under or pursuant to this Agreement.

Gross Revenue means all pre-tax revenues from the sale of the electricity by the Concessionaire.

Guaranteed Waste Liquidated Damages has the meaning ascribed to it in Clause 18.7.

Hand-back Conditions mean the condition in which the Site and the Project Facilities shall be handed back to the Authority or any entity nominated by the Authority on expiry or early termination of this Agreement, which is consistent with the due performance of the Concessionaire's obligations under this Agreement and are described in greater detail in the Development Requirements and Technical Specifications.

Hand-back Date or Transfer Date means the date on which this Agreement and the Concession hereunder expires or terminates pursuant to the terms of the Agreement.

Hand-back Requirements means the obligations of the Concessionaire in relation to transfer of the Site and Project Facilities upon termination of the Project, as set out in Clause 30.3.

Hazardous Waste shall have the meaning as defined under the Hazardous Wastes (Management and Handling) Rules,1989 as revised from time to time.

Horticultural Waste means plants-based waste from parks, gardens, traffic islands, road medians etc., including grass and wood clippings, weeds, pruning, branches, twigs, wood chipping, straw or dead leaves and tree trimmings, which cannot be accommodated in the daily collection system for wet waste, as defined in SWM Rules.

Independent Engineer means the Person to be jointly appointed by the Authority and the Concessionaire to act as the independent engineer for the Project in accordance with the provisions of the Agreement.

Indirect Political Force Majeure Events has the meaning ascribed to it in Clause 26.1(b)(ii).

Inspection Report has the meaning ascribed to it in Clause 15.2.

Insurance Cover means the aggregate of the maximum sums insured under the insurances taken out by the Concessionaire pursuant to Article 25, and includes all insurances required to be taken out by the Concessionaire under Article 25 but not actually taken, and when used in the context of any act or event, it shall mean the aggregate of the maximum sums insured and payable or deemed to be insured and payable in relation to such act or event.

Intellectual Property Rights means patents, copyrights, database rights, design rights, trademarks, service marks, trade names, domain names, rights in reputation, rights in undisclosed or confidential information (such as know-how, trade secrets and inventions, whether patentable or not), and other rights of a like nature (whether registered or unregistered) and all applications for such rights as may exist anywhere in the world.

Interconnection Point means the point at the Battery Limit of the Site, to be established and made available by the Authority, at which the Project Facility connects to the transmission grid of TNPDCL.

Invoice means an invoice for payment of the Concessionaire Payments, submitted by the Concessionaire to the Authority in accordance with Article 22.

KPI Adherence Report has the meaning ascribed to it in Clause 21.1(i).

KPIs means the key performance indicators set out in Clause 21.1 and Schedule B (Annexure F), which the Project Facilities must achieve during the O&M Period.

Lead Member means the Member nominated by the Consortium Members of the Selected Bidder to act as the lead member in accordance with the RFP.

Liquid Discharge Guarantee has the meaning ascribed to it in Clause 21.1(c).

Liquidated Damages or LD means the Delay Liquidated Damages, the Availability Liquidated Damages, the Residual Inert Matter Liquidated Damages, the Throughput Liquidated Damages, the Discharge Liquidated Damages, and the Emission Liquidated Damages.

LOA has the meaning ascribed to it in Recital H.

Material Adverse Effect means the effect of any act or event, which materially and adversely affects the ability of any Party to exercise its rights or perform any of its obligations under and in accordance with this Agreement and which act or event causes a material financial burden or loss to any Party.

Milestone Completion Certificate means, in respect of any Project Milestone, a certificate issued by the Authority in accordance with Clause 16.1(b), to certify that such Project Milestone has been achieved in accordance with the requirements of this Agreement.

Minor Casualty means any fire or other casualty that results in physical damage to the Project Facilities to the extent that the total cost (as estimated by the Independent Engineer) of repairing and/or replacing the damaged portion of the Project Facilities to the same condition as previously existed would not exceed 5% of the Total Project Cost.

MLD means million litres per day.

Non-biodegradable Waste means any waste that cannot be degraded by micro-organisms into simpler stable compounds;

MoEFCC means the Ministry of Environment, Forest and Climate Change, GoI.

Non-Political Force Majeure Event has the meaning ascribed to it in Clause 26.1(b)(i).

O&M means operation and maintenance.

O&M Agreement means the agreement for the operation and maintenance of the Project Facilities executed between the Concessionaire and the O&M contractor named therein.

O&M Expenses means expenses incurred by the Concessionaire or by the Authority, as the case may be, for all O&M works in relation to the Project, including:

a) cost of salaries and other compensation to employees;

b) cost of materials, supplies, utilities (including water) and other services;
c) premium for insurance;
d) all taxes, duties, cess and fees due and payable for O&M; and
e) all repair, replacement, reconstruction, reinstatement, improvement and maintenance costs.

O&M Inspection Report has the meaning ascribed to it in Clause 20.2.

O&M Period means the period commencing on the COD and ending on the Hand-back Date during which the Concessionaire is required to operate and maintain the Project Facilities.

O&M Plan means the plan required to be prepared by the Concessionaire and approved by the Authority in accordance with Clause 18.2, for the operation and maintenance of the Project Facilities.

O&M Security has the meaning ascribed to it in Clause 9.3.

O&M Standards means the requirements and performance standards for the operation and maintenance of the Project Facilities set out in Clause 18.13.

Offtaker means Tamil Nadu Power Distribution Corporation Limited (TNPDCL).

OHS Plan means an occupational health and safety management plan to be prepared by the Concessionaire and approved by the Authority in accordance with Clause 14.4(e), which shall include a Site safety plan.

Panel of Chartered Accountants has the meaning ascribed to it in Clause 23.2.

Participating ULB shall have meaning set forth in the array of parties.

Party has the meaning ascribed to it in the array of Parties.

Payment Certificate has the meaning ascribed to it in Clause 22.3(c)(vi), Clause 22.4(d)(i), and Clause 22.5(f).

Performance Security has the meaning ascribed to it in Clause 9.1.

Person means any individual, company, corporation, partnership, joint venture, trust, society, sole proprietor, limited liability partnership, co-operative society, government company, unincorporated organization or any other legal entity.

PPA means the power purchase agreement to be entered into between TNPDCL and the Concessionaire, or any other power purchase agreement subsequently executed by the Concessionaire for sale of power generated from the Project Facility in accordance with Clause 28.2(g).

PPP means public private partnership.

Pre-Construction Works means the works required to be undertaken by the Concessionaire in order to ensure that the Site is suitable and stable for construction of the Project Facility and shall include conducting geophysical and geotechnical studies and investigations, assessing the soil bearing capacity, conducting tests to determine the design and construction requirements and carrying out piling, soil filling, concrete filling etc. The detailed description of the Pre-Construction Works required to be performed by the Concessionaire is set out in Schedule B (Development Requirements).

Prohibited Waste means hazardous industrial waste, liquid non-hazardous waste, bio-medical waste (as defined under the Bio-Medical Waste Management Rules, 2016), construction and demolition waste (as defined under the Construction and Demolition Waste Management Rules, 2016), industrial waste, e-waste (as defined under the E-Waste (Management) Rules, 2016), waste from batteries (as defined under the Batteries (Management and Handling) Rules, 2001), radioactive waste (as defined under the Atomic Energy (Safe Disposal of Radioactive Wastes) Rules, 1987), and Special Care Waste.

Project has the meaning ascribed to it in Recitals.

Project Agreements means this Agreement, the Financing Documents, the EPC Contract, the O&M Agreement, the PPA, the connection agreement for evacuation of power at the Interconnection Point, and any other agreements or material contracts that may be entered into by the Concessionaire with any person in connection with matters relating to the Project, but does not include the Substitution Agreement and Escrow Agreement.

Project Execution Plan means a project execution plan prepared in accordance with Clause 14.2(a).

Project Facilities as described in greater detail in the Development Requirements and the Technical Specifications, means, collectively, the following:

a) Pre-Processing Facilities Capacity, being 1,100 TPD, which includes facilities for receipt, weighing, unloading, storage, segregation, sorting, screening, shredding, size reduction, removal of recyclables and inerts, homogenization, drying, and preparation of waste-derived fuel, together with all associated material handling, conveyors, and ancillary systems; and
b) Energy Generation and Evacuation Facilities Capacity, being 900 TPD, representing the capacity of the facilities designed to convert pre-processed waste or waste-derived fuel into electricity, including boilers, furnaces, incinerators or other thermal treatment units, steam turbines, generators, transformers, switchgear, evacuation systems, and all associated electrical and balance-of-plant systems, designed in accordance with Good Industry Practice and Applicable Law.
c) Ancillary and Environmental Protection Facilities, including emission control and air pollution control systems, effluent and wastewater treatment systems, ash handling and disposal systems, Scientific Landfill, leachate management systems, odour control systems, stormwater drainage, fire protection systems, laboratories, utilities, internal roads, administrative buildings, security room, boundary wall/security fence, ambient air quality monitoring stations, waste storage facility, and other infrastructure required for compliance with Applicable Law and Good Industry Practice.

Proposed Technology means the waste-to-energy technology, including combustion or any other proven technology compliant with the Solid Waste Management Rules, proposed by the Concessionaire in its Designs and Drawings and accepted by the Authority in accordance with Clause 14.2, which shall constitute the approved basis for the design, engineering, construction, commissioning, operation and maintenance of the Project Facility.

Provisional Certificate has the meaning ascribed to it in Clause 16.3.

Punch List has the meaning ascribed to it in Clause 16.3.

Quoted Tariff means the tariff quoted by the Selected Bidder in its Bid for the sale of electricity to be generated from the Project Facility, as accepted by the Authority as part of the Bid Process, but prior to approval by the Tamil Nadu Electricity Regulatory Commission (TNERC).

Receipt Point means the location at the Site, to be mutually agreed between the Parties as part of the Construction Plan, at which the Authority (or any C&T Contractors on behalf of the Authority) will be required to deliver the Acceptable Waste to the Concessionaire in accordance with this Agreement.

Reference Period has the meaning ascribed to it in Clause 18.7.

Residual Inert Matter means the waste matter produced after processing of the Acceptable Waste at the Project Facility.

Residual Inert Matter Guarantees has the meaning ascribed to it in Clause 21.1(e).

Residual Inert Matter Liquidated Damages means the liquidated damages payable by the Concessionaire to the Authority for a failure of the Project Facility to achieve the Residual Inert Matter Guarantees, which are to be calculated in accordance with Schedule B (Annexure F).

RFP has the meaning ascribed to it in Recital F.

Right of Way means all privileges, easements and other rights of way for enabling unfettered and unrestricted access and/or right of use of the Site.

Rupee or Rs. or INR means Indian Rupees, the lawful currency of India.

Safety Requirements has the meaning ascribed to it in Clause 19.1.

Sampling Plan means the plan required to be prepared by the Concessionaire and approved by the Authority and the Independent Engineer in accordance with Clause 18.8, for the sampling and testing of waste delivered to the Concessionaire.

Sanitary Waste means waste comprising of used diapers, sanitary towels or napkins, tampons, condoms, incontinence sheets and any other similar waste as defined in SWM Rules.

Schedule means a schedule of this Agreement.

Scheduled Bank means a bank as defined under section 2(e) of the Reserve Bank of India Act, 1934, as amended from time to time.

Scheduled COD means the day falling on the 730th (seven hundred and thirtieth) Day from the Appointed Date, by which the Concessionaire shall achieve COD.

Scheduled CP Completion Date has the meaning ascribed to it in Clause 4.5(a).

Scheduled Maintenance means a planned maintenance of the Project Facilities that:

a) has been scheduled and allowed by the Authority in accordance with the Scheduled Maintenance Programme; and
b) is for inspection, testing, preventive and corrective maintenance, repairs, replacement or improvement of the Project Facilities, as the case may be.

Scheduled Maintenance Programme has the meaning ascribed to it in Clause 18.13(b).

Scheduled Project Milestone Completion Date means the scheduled date of completion of the work corresponding to the relevant Project Milestone.

Security means and includes any Encumbrance, or any other agreement or arrangement having substantially the same economic effect.

Selected Bidder means the bidder selected by the Authority for award of the Project pursuant to the Bid Process.

Senior Lenders means the financial institutions, banks, multilateral lending agencies, trusts, funds and agents or trustees of debenture holders, including their successors and assignees, who have agreed to guarantee or provide finance to the Concessionaire under any of the Financing Agreements for meeting all or any part of the Total Project Cost and who hold pari passu charge on the assets, rights, title and interests of the Concessionaire

Shortfall Quantity has the meaning ascribed to it in Clause 18.7.

Site means the area equivalent to approximately 50 Acres on which the Concessionaire shall develop the Project Facilities.

SLDC means the State Load Despatch Centre established under Section 31 of the Electricity Act, 2003, responsible for scheduling, dispatch, and integrated operation of the power system within the State.

SLF or Scientific Landfill means the scientific landfill forming part of the Ancillary and Environmental Protection Facilities of the Project, as approved by the Authority as part of the Designs and Drawings, for the safe, compliant and environmentally sound disposal of Residual Inert Matter, and comprising the engineered landfill cells, liners, leachate collection, treatment and monitoring systems, gas management systems, drainage, access and internal roads, utilities, and all associated infrastructure required under Applicable Law and Good Industry Practice.

SLF Capping Guarantee has the meaning ascribed to it in Clause 21.1(g).

SLF Capping Liquidated Damages has the meaning ascribed to it in Clause 21.1(g).

SLF Compaction Guarantee has the meaning ascribed to it in Clause 21.1(f).

SLF Compaction Liquidated Damages has the meaning ascribed to it in Clause 21.1(f).

Special Care Waste means and includes discarded paint drums, pesticide cans or containers or bottles, compact fluorescent lamp or bulbs, tube lights, expired medicines, broken mercury thermometers, waste batteries, used or waste needles and syringes and contaminated gauge, or any other waste notified by Central Pollution Control Board from time to time, generated at the household level as defined in SWM Rules.

State means the State of Tamil Nadu

State Government means the Government of Tamil Nadu;

Statutory Auditors means a reputable firm of chartered accountants acting as the statutory auditors of the Concessionaire under the provisions of the Companies Act 2013 including any statutory modification or re-enactment thereof, for the time being in force, and appointed in accordance with Clause 23.2.

Subcontract means a contract entered into by the Concessionaire to subcontract any part of its Development Requirements in relation to the Project under this Agreement.

Subcontractor means the Concessionaire's counterparty under any Subcontract.

Subordinated Debt means the aggregate of the following sums expressed in Indian Rupees or in the currency of debt, as the case may be, outstanding as on the Hand-back Date:

a) the principal amount of debt provided by lenders for meeting the Total Project Cost and subordinated to the financial assistance provided by the Senior Lenders; and
b) all accrued interest on the debt referred to in sub-clause (a) above but restricted to the lesser of actual interest rate and a rate equal to 5% (five per cent) above the bank rate in case of loans denominated in Indian Rupees and the lesser of the actual interest rate and six-month SOFR (Secured Overnight Financing Rate) plus 2% (two per cent) in case of loans expressed in foreign currency, but does not include any interest that had fallen due 1 (one) year prior to the Hand-back Date,

provided that if all or any part of the Subordinated Debt is convertible into Equity at the option of the lenders , it shall for the purposes of this Agreement be deemed to be Subordinated Debt even after such conversion and the principal thereof shall be dealt with as if such conversion had not been undertaken.

Substitution Agreement means the substitution agreement to be executed by the Authority, the Concessionaire, and the Senior Lenders, in the format set out in Schedule L.

SWM Rules means:

(i) the Solid Waste Management Rules, 2016, issued by the Ministry of Environment, Forest and Climate Change on 8 April 2016, as amended from time to time, and applicable up to and including 31 March 2026; and

(ii) the Solid Waste Management Rules, 2026, as notified by the Ministry of Environment, Forest and Climate Change, as amended from time to time, and applicable from 1 April 2026 onwards.

SWM Services has the meaning ascribed to it in Recital B.

Taxes means any Indian taxes including levies, imposts, cesses, duties and other forms of taxation, including income tax, goods and services tax, corporation profits tax, advance corporation tax, capital gains tax, residential and property tax, customs and other import and export duties, stamp duty or capital duty (whether central, state or local) on the goods, materials, equipment and services incorporated in and forming part of the Project charged, levied or imposed by any Government Authority, but excludes any interest, penalties and other sums in relation thereto imposed on any account whatsoever.

Technical Capacity means the technical capacity and experience of the Selected Bidder or its Consortium Members determined in accordance with the RFP.

Technical Specifications means the technical specifications for design, development, construction, commissioning, operation and maintenance of the Project Facilities, as set out in Schedule G.

Termination Compensation means the compensation payable by the Authority upon termination of this Agreement, in accordance with Clause 29.

Termination Notice means a termination notice issued by the Authority in case of a Concessionaire Event of Default (in accordance with Clause 28.2) or a termination notice issued by the Concessionaire in case of an Authority Event of Default (in accordance with Clause 28.4), stating its intention to terminate this Agreement.

Throughput Guarantee has the meaning ascribed to it in Clause 21.1(b).

Throughput Liquidated Damages means the liquidated damages payable by the Concessionaire to the Authority for a failure of the Project Facility to achieve the Throughput Guarantee, which are to be calculated in accordance with Schedule B (Annexure F).

TNERC means the Tamil Nadu Electricity Regulatory Commission established under Section 82 of the Electricity Act, 2003, being the State Electricity Commission responsible for regulating the power sector in Tamil Nadu, including the determination and approval of tariffs for the sale of electricity generated from the Project, and includes any successor entity.

Total Casualty means any fire or other casualty that results in physical damage to the Project Facility (or any part thereof), to the extent that the total cost of repairing, replacing or restoring the damaged portion of the Project Facility (as determined by the Independent Engineer) to the same condition as existed previously would be more than 25% (twenty-five per cent) or more of the then total replacement cost of the Project Facility (or any part thereof).

Total Project Cost means the total capital cost incurred on construction and financing of the Project, and shall be limited to the lowest of:

(a) the capital cost of the Project, as set forth in the Financial Package;
(b) the actual capital cost of the Project on COD certified by the Independent Engineer; and
(c) the capital cost as approved by TNERC in its tariff order for the Project.

For the avoidance of doubt, any grants or subsidies received by the Concessionaire shall be excluded from the Total Project Cost for the purpose of determining Termination Compensation.

Total Unloaded Waste has the meaning ascribed to it in Clause 18.6(e)(ii).

TPD means tons per day.

ULB has the meaning given to it in the array of Parties.

Vesting Certificate has the meaning ascribed to it in Clause 30.4.

Waste Acceptance and Rejection Plan means the plan required to be prepared by the Concessionaire and approved by the Authority in accordance with Clause 18.3, for the inspection, testing and rejection of waste delivered to the Concessionaire.

Weighbridges means the weighbridges to be installed by the Concessionaire at the Receipt Point to weigh each consignment of waste delivered by the Authority or the C&T Contractors on its behalf.

Wilful Misconduct means an intentional or reckless breach or disregard by a Party of any of its obligations under this Agreement.

WPI means the Wholesale Price Index for all commodities as published by the Ministry of Industry, GOI and shall include any index which substitutes the WPI, and any reference to WPI shall, unless the context otherwise requires, be construed as a reference to the latest monthly WPI published no later than 30 (thirty) days prior to the date of consideration hereunder.

1.2 Rules of Interpretation

In this Agreement, unless the context otherwise requires:

(a) Any reference to a statutory provision shall include such provision as modified or re-enacted or consolidated from time to time.

(b) The words importing the singular shall mean the plural and vice-versa; and words importing the masculine shall include the feminine and neuter and vice-versa.

(c) Headings in this Agreement are for convenience of reference only.

(d) The references to the word 'include' or 'including' or to the phrase 'in particular', shall be construed without limitation.

(e) References to any date or time of day are to Indian Standard Time; any reference to day shall mean a reference to a calendar day; any reference to a month shall mean a reference to a calendar month, any reference to a year shall mean a reference to a calendar year.

(f) The references to any agreement, deed or other instrument shall be construed as a reference to such agreement, deed, or other instrument as may be amended, varied, supplemented or novated, from time to time.

(g) Unless otherwise provided, any late payment charges to be calculated and payable under this Agreement shall accrue pro rata on a monthly basis and from the respective due dates as provided for in this Agreement.

(h) A requirement that a payment be made on a day which is not a business day shall be construed as a requirement that the payment be made on the next business day.

(i) Whenever provision is made for the giving or issuing of any notice, endorsement, consent, approval, permission, certificate or determination by any Person, such notice, etc., shall be reasonably given, shall not be unreasonably withheld or delayed and shall be in writing and the words 'notify', 'endorse', 'approve', 'permit', 'certify' or 'determine' shall be construed accordingly. Where any notice, consent or approval is to be given by any Party, the notice, consent or approval shall be given on their behalf only by any authorized persons.

(j) The words written and in writing include a facsimile transmission and any means of reproducing works in a tangible and permanently visible form.

(k) The terms of the RFP 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. In the event of any

discrepancy between this Agreement and the RFP, the provisions set out in this Agreement shall prevail.

(l) Subject to the provisions of this Agreement, the Concessionaire shall be responsible to and indemnify, the Authority for the acts and omissions of the Concessionaire Related Parties as if they were the acts and omissions of the Concessionaire and the Authority shall be responsible to and indemnify the Concessionaire for the acts and omissions of the Authority Related Parties as if they were the acts and omissions of the Authority.

(m) Neither the giving of any approval or consent, the review, knowledge or acknowledgement of the terms of any document by or on behalf of the Authority, nor the failure to do so, shall, unless expressly stated in this Agreement, relieve the Concessionaire of any of its obligations under this Agreement or of any duty which it may have under this Agreement to ensure the correctness, accuracy or suitability of the matter or thing which is the subject of the approval, consent, review, knowledge or acknowledgement.

(n) The rule of construction, if any, that an agreement should be interpreted against the Party responsible for the drafting and preparation thereof shall not apply to this Agreement.

(o) The Parties acknowledge that damages for specific defaults prescribed under this Agreement (including the Liquidated Damages) are a genuine pre-estimate of and reasonable compensation for the loss and damage that shall be suffered by the non-defaulting Party due to failure of the defaulting Party to perform its obligations in accordance with this Agreement and are not in the nature of a penalty.

1.3 Units of Measurement

All measurements and calculations shall be in the metric system and calculations done to 2 (two) decimal places, with the 3rd (third) digit of 5 (five) or above being rounded up and below being rounded down.

1.4 Priority of Agreements, Clauses and Schedules

(a) The provisions of the Clauses and the Schedules of this Agreement shall be interpreted in such a manner as to ensure that there is no inconsistency in interpretation between the intent expressed in the Clauses and the Schedules.

(b) In the event of any ambiguities or discrepancies within this Agreement, the following shall apply:

(i) Between two Clauses of this Agreement, the provisions of the specific Clause relevant to the issue under consideration shall prevail over those in other Clauses;

(ii) Between the requirements of two or more Schedules of this Agreement, the provisions of the specific Schedule relevant to the issue under consideration shall prevail over the more general; and

(iii) Between the Clauses and the Schedules, unless specified otherwise, the Clauses shall prevail over the Schedules.

(c) In the event of any discrepancy between various documents issued by or provided to the Authority as a part of the Bid Process, the following order of priority shall apply:

(i) This Agreement;

(ii) The Schedules to this Agreement;

(iii) The Letter of Award (LOA) issued to the Selected Bidder;

(iv) The Bid submitted by the Selected Bidder;

(v) The written clarifications, if any, issued to the bidders; and

(vi) The Request for Proposal (RFP).

ARTICLE 2. SCOPE OF THE PROJECT

2.1 Scope of the Project

The scope of the Project shall be as set out in Schedule B (Development Requirements) and shall include:

(a) Designing, financing, developing, constructing, completing, and commissioning the Project Facilities by the Scheduled COD, in accordance with Applicable Laws, Applicable Permits, Technical Specifications, DPR, Designs and Drawings, the Construction Plan, the EMP, the OHS Plan, and Good Industry Practices; and

(b) Operating and maintaining the Project Facilities in accordance with Applicable Laws, Applicable Permits, Technical Specifications, Designs and Drawings, the O&M Plan, the EMP, the OHS Plan, the Sampling Plan, the Waste Acceptance and Rejection Plan, and Good Industry Practices to ensure compliance with the KPIs; and

(c) Sale of electricity generated from the Project Facility in accordance with the Applicable Tariff and the provisions of this Agreement, together with the sale of recyclables, recoverable materials, by-products and derivatives arising from the processing and treatment of Acceptable Waste in accordance with Applicable Law and this Agreement, and the disposal of Residual Inert Matter exclusively in the Scientific Landfill in accordance with this Agreement.; and

(d) Hand back of the Project Facilities upon expiry or early termination of this Agreement in accordance with the Hand-back Conditions and the Hand-back Requirements.

ARTICLE 3. GRANT OF THE CONCESSION

3.1 Concession

On and from the Appointed Date, and subject to, and in accordance with the requirements of this Agreement, Applicable Laws, and Applicable Permits, the Authority grants to the Concessionaire the exclusive right, license, and authority to:

(a) Design, finance, develop, construct, complete, and commission the Project Facilities; and

(b) Upon completion of construction and commissioning of the Project Facilities, operate and maintain the Project Facilities during the O&M Period,

for the Concession Period (the "**Concession**"), and the Concessionaire hereby accepts the Concession and agrees to implement the Project subject to and in accordance with the terms and conditions set forth herein.

3.2 Rights Associated with the Grant of Concession

The grant of the Concession set out in Clause 3.1 shall oblige or entitle the Concessionaire, as the case may be, to the following:

(a) Perform and fulfil all of the Concessionaire's obligations under, and in accordance with, the requirements of this Agreement;

(b) Access to the Site, for the sole purpose of implementing the Project;

(c) Apply for and obtain all the Applicable Permits required to undertake the Project;

(d) Raise funds (through debt, equity or any other permitted financing) to finance the Project, and secure such financing solely on the cashflows, receivables and contractual rights of the Concessionaire, without creating or permitting any mortgage, charge, lien, pledge, encumbrance or security interest over the Project Facilities or any part thereof, it being expressly clarified that no lender or financing party shall have any recourse to, or right to take possession of, seize, assume control of, or otherwise interfere with, the Project Facilities, which shall at all times remain free of encumbrances in the public interest and in accordance with this Agreement.

(e) Undertake the Pre-Construction Works in accordance with Development Requirements;

(f) Design, engineer, procure, develop, construct, install, complete and commission the Project Facilities in order to achieve the COD by the Scheduled COD;

(g) Upon completion of construction of the Project Facilities, undertake the Trial Operations and performance testing of the Project Facility;

(h) Upon successful completion of the Trial Operations and performance tests, operate and maintain the Project Facilities for the O&M Period, either itself or through such person as may be selected

by it, provided that the ultimate obligation and responsibility for the performance of this Agreement shall continue to vest with the Concessionaire;

(i) Receive, handle and process the Acceptable Waste to generate electricity;

(j) Dispose Residual Inert Matter in the Scientific Landfill in accordance with clause 21.1;

(k) Obtain the utilities required for enabling the construction of the Project Facilities;

(l) Develop and maintain a buffer zone (including a green area) around the Project Facility in accordance with Applicable Laws;

(m) Sell any recyclable waste materials it can recover from the Acceptable Waste/ Residual Inert Matter at such price and to such person as it deems fit;

(n) Deliver the electricity generated from the Project Facility at the Interconnection Point in accordance with the terms of the PPA;

(o) Transfer the Site and the Project Facilities to the Authority upon the expiry of the Concession Period or termination of this Agreement, after rectification of any defects in the Project Facilities, in accordance with the Hand-back Conditions and the Hand-back Requirements;

(p) Receive the Concessionaire Payments, subject to compliance with the terms and performance of the obligations under this Agreement;

(q) Appoint Subcontractors, agents, advisors and consultants and enter into Subcontracts to undertake the Project, provided that subcontracts of a value exceeding 25% of the Total Project Cost will be executed only with the prior approval of the Authority.

3.3 Concession Period

The Authority grants to the Concessionaire the Concession for a term commencing on the Appointed Date and continuing for a period of 30 (thirty) years (the **Concession Period**), during which the Concessionaire shall be authorised and obligated to implement the Project in accordance with this Agreement, provided that:

(a) If the Concession Period is extended by the Authority in accordance with Clause 3.4 below, the Concession Period shall include the period by which the Concession Period is so extended; and

(b) In the event of an early termination of the Agreement by either Party in accordance with the terms of this Agreement, the Concession Period shall mean and be limited to the period commencing on the Appointed Date and ending on the date of termination of the Agreement.

3.4 Deleted

3.5 Deleted

ARTICLE 4. CONDITIONS PRECEDENTS

4.1 Effectiveness

(a) Save and except for this Article 4, Article 3 (Grant of the Concession), Clause 5.1(k) (Appointment of Concessionaire's Representative), Clause 5.10 (Change in Ownership), Clause 6.1(e) (Appointment of Authority's Representative), Article 7 (Representations and Warranties), Article 9 (Performance Security and O&M Security), Article 10 (Project Site), Article 12 (Financing Support, Substitution Agreement and Security), Article 13 (Independent Engineer), Clause 14.1 (Commencement and Duration), Clause 14.2 (Project Execution Plan, DPR and Designs and Drawings), Clause 14.3 (Construction Plan), Clause 14.4 (Environment and Occupational Health and Safety Related Obligations), Clause 14.6(a) (Completion of Pre-Construction Works), Article 26 (Force Majeure), Article 32 (Change in Law), Article 34 (Dispute Resolution) and Article 35 (Miscellaneous) and the related Schedules which come into effect on the Execution Date, the rights and obligations of the Parties under this Agreement shall come into full force and effect and be binding on the Parties on and from the day on which all of the Conditions Precedent have been satisfied, or waived in writing, in accordance with this Article 4 (Appointed Date) and shall continue until such time as this Agreement expires or is terminated in accordance with its terms.

(b) For the purposes of this Clause 4.1, the date on which the notice of completion of the last Condition Precedent specified in this Article 4 is issued by the Authority to the Concessionaire will be treated as the Appointed Date.

4.2 Concessionaire Conditions Precedent

The Concessionaire shall satisfy the following Conditions Precedent (if not already fulfilled on the Execution Date):

(a) provide the Performance Security to the Authority;

(b) prepare the Project Execution Plan and submit the Project Execution Plan to the Authority and the Independent Engineer for their approval in accordance with Clause 14.2(a);

(c) prepare the DPR and submit the DPR to the Authority and the Independent Engineer for their approval in accordance with Clause 14.2(b);

(d) prepare the Construction Plan and submit the Construction Plan to the Authority and the Independent Engineer for their approval in accordance with Clause 14.3;

(e) submit the EMP Report to the Authority and the Independent Engineer for their approval in accordance with Clause 14.4(a);

(f) obtain all Applicable Permits required for achieving Financial Close and for commencement of construction of the Project Facilities (including in-principle approval for evacuation of power generated from the Project Facility at the Interconnection Point and the environmental clearance) at its own cost and expense, and if such Applicable Permits are subject to any conditions, then, to the extent relevant, comply with all such conditions, such that the Applicable Permits are and shall

be kept in full force and effect for the entire Construction Period or such longer period as may be required under Applicable Laws;

(g) execute and provide a copy to the Authority of the technology licence agreement(s) executed with the Selected Bidder or the third-party technology supplier for setting up the Project Facility;

(h) submit to the Authority certified true copies of all resolutions adopted by the board of directors of the Concessionaire authorising execution, delivery and performance of this Agreement, the Substitution Agreement and the Escrow Agreement;

(i) achieve Financial Close and submit three (3) true copies of the Financing Documents and the Financial Package to the Authority, duly certified by a director of the Concessionaire, along with a soft copy of the Financial Model in MS Excel version or any substitute thereof acceptable to the Senior Lenders, provided that the Authority shall co-operate with the Concessionaire to achieve Financial Close, including by signing any relevant documents and providing such consents and waivers as may be reasonably required by the Senior Lenders;

(j) execute the PPA with the TNPDCL for supply of electricity generated from the Project Facility at the Applicable Tariff;

(k) execute a shareholders' agreement amongst the shareholders of the Concessionaire and deliver to the Authority a certified true copy of the shareholders' agreement (attested by a director of the Concessionaire);

(l) submit to the Authority certified true copies of the constitutional documents of the Concessionaire;

(m) submit to the Authority a confirmation from the Concessionaire, in original, of the correctness of its Representations and Warranties set out in Article 7 of this Agreement;

(n) submit to the Authority a legal opinion stating that:

    (i) this Agreement, the Substitution Agreement and the Escrow Agreement have been duly executed and are legally valid, binding and enforceable in accordance with their terms against the Concessionaire; and

    (ii) all actions, conditions and things required by Applicable Laws to be taken, fulfilled and done (including obtaining all necessary Applicable Permits and board resolutions) in order for the Concessionaire to enter into and comply with its obligations under this Agreement, the Substitution Agreement and the Escrow Agreement have been taken, fulfilled or done;

(o) if [the Selected Bidder / a Member / an Associate] submitted unaudited annual accounts or audited annual accounts for the accounting year immediately preceding the last accounting year along with the Bid, submit to the Authority:

    (i) a certified copy of such party's duly audited balance sheet, annual report and profit and loss account for the latest accounting year occurring prior to the Bid Due Date; and

(ii) certificate(s) issued by the statutory auditor(s) stating that such party met the Financial Capacity specified in the RFP as of the Bid Due Date;

(p) if [the Selected Bidder / a Member / an Associate] submitted a certificate from a chartered accountant to demonstrate that it met the Financial Capacity specified in the RFP on a date not more than seven (7) days prior to the Bid Due Date, the Concessionaire shall submit to the Authority:

(i) audited accounts for the period for which the chartered accountant certificate was submitted; and

(ii) certificate(s) issued by the statutory auditor(s) stating that such party met the Financial Capacity specified in the RFP as of the Bid Due Date;

(q) submit to the Authority a certificate, duly attested by a director, certifying the shareholding pattern of the Concessionaire;

(r) Subject to Article 24 open the Escrow Account with the Escrow Bank; and

(s) Within 45 days from the Execution Date, undertake all necessary actions and provide such documents, information, clarifications and support as may be reasonably required to enable TNPDCL to seek and obtain approval from TNERC for adoption of the Quoted Tariff, it being clarified that upon such approval by TNERC, the Quoted Tariff shall stand adopted and become the Applicable Tariff under this Agreement.

4.3 Authority Conditions Precedent

The Authority shall satisfy the following Conditions Precedent (if not already fulfilled on the Execution Date):

(a) grant the Concessionaire Right of Way to the Site, free of Encumbrances and encroachments in accordance with Clause 10;

(b) subject to Clause 4.2(b), review and approve the Project Execution Plan in accordance with Clause 14.2(a);

(c) subject to Clause 4.2(c), review and approve the DPR in accordance with Clause 14.2(b);

(d) subject to Clause 4.2(d), review and approve the Construction Plan in accordance with Clause 14.3;

(e) subject to Clause 4.2(e), review and approve the EMP Report in accordance with Clause 14.4;

(f) obtain all approvals and consents, required for the Authority to enter into this Agreement;

(g) Deleted

(h) Deleted;

(i) Deleted

(j) Extend necessary facilitation support for the execution of the PPA between TNPDCL and the Concessionaire;

(k) provide letters of recommendation to the Concessionaire for obtaining all Applicable Permits, if requested by the Concessionaire, including permits in relation to connectivity at the identified substation, supply of water for the operations of the Project Facilities, and environmental protection and conservation; and

(l) If any physical infrastructure is required by the Concessionaire, the Authority shall facilitate the supply of electricity and water to the Site for construction, ensuring it is made available at the Battery Limit of the Site (as identified in Schedule A); provided that the Concessionaire shall remain liable to obtain the connections for electricity and water supply and pay for the use of such utilities.

4.4 Other Conditions Precedent

(a) The Authority and Concessionaire shall satisfy the following Conditions Precedent (if not already fulfilled on the Execution Date):

(i) execute the Escrow Agreement with the Escrow Bank in the form set out at Annexure [•];

(ii) within [90 (ninety)] days of the Execution Date, appoint the Independent Engineer in accordance with Article 13; and

(iii) execute the Substitution Agreement with the Senior Lenders in the form set out at Schedule L, subject to the Concessionaire fulfilling the Financial Close requirements in terms hereof.

4.5 Satisfaction of Conditions Precedent

(a) Unless otherwise specified, each Party shall satisfy or procure the satisfaction of the Conditions Precedent that it is responsible for, within [180 (one hundred and eighty)] days from the Execution Date (the Scheduled CP Completion Date).

(b) If any Party fails to satisfy any Condition Precedent that it is required to fulfil by the Scheduled CP Completion Date due to:

(i) a Force Majeure Event;

(ii) a Change in Law;

(iii) in the case of the Concessionaire, any delay by a relevant Government Authority in granting an Applicable Permit, provided that the Concessionaire has applied for such Applicable Permit within the prescribed timelines, submitted all required information and documents, paid the applicable fees, and complied with Applicable Laws in relation thereto; or

(iv) delay by the other Parties in fulfilling any Condition Precedent required to be satisfied by them or in performing any other obligation under this Agreement, which impacts its ability to satisfy its Conditions Precedent,

then the Scheduled CP Completion Date shall be extended on a day-for-day basis for the period of such delay, provided that the Scheduled CP Completion Date shall not be extended beyond the date which is [180 (one hundred and eighty)] days from the Scheduled CP Completion Date (CP Long-stop Date).

(c) Deleted.

(d) The Parties shall notify each other in writing at least once a month on the progress made in satisfying the Conditions Precedent.

(e) Each Party shall promptly inform the other Parties when any Condition Precedent for which it is responsible has been satisfied. The Authority shall, within 7 (seven) days of the satisfaction of all the Conditions Precedent in accordance with this Article 4, issue a notice to the Concessionaire in which it shall declare the Appointed Date of the Agreement.

4.6 Consequences of failure to satisfy Conditions Precedent

(a) If:

(i) the Concessionaire fails to satisfy any of the Conditions Precedent that it is required to fulfil by the Scheduled CP Completion Date, as may be extended in accordance with Clause 4.5(b), then it shall be liable to pay liquidated damages for each week of delay beyond the Scheduled CP Completion Date at the rate of 0.75 % (zero point seven five percent) of the Performance Security up to the CP Long-stop Date. The Authority may recover such damages from the Performance Security.

(ii) the Authority fails to satisfy any of the Conditions Precedent that it is required to fulfil by the Scheduled CP Completion Date, as may be extended in accordance with Clause 4.5(b), then it shall be liable to pay liquidated damages for each week of delay beyond the Scheduled CP Completion Date at the rate of 0.3% (zero point three percent) of the Performance Security, up to the CP Long-stop Date. The Authority shall pay such liquidated damages within 30 (thirty) days of receipt of an invoice for such liquidated damages from the Concessionaire.

It is clarified for the avoidance of any doubt that if both the Concessionaire and the Authority have failed to fulfil any of their Conditions Precedent by the Scheduled CP Completion Date (including any Conditions Precedent under Clause 4.4(a)), then neither the Concessionaire nor the Authority shall be liable to pay liquidated damages under this Clause 4.6.

(b) Deleted.

(c) Subject to Clause 4.6(e), if the Concessionaire fails to satisfy any of the Conditions Precedent that it is required to fulfil by the CP Long-stop Date and the Authority has not waived, fully or partially,

such conditions, either the Authority or the Concessionaire may terminate this Agreement forthwith by issuing a notice to the other Parties.

(d) Subject to Clause 4.6(e), if the Authority fails to satisfy any of the Conditions Precedent that it is required to fulfil by the CP Long-stop Date and the Concessionaire has not waived, fully or partially, such conditions, either the Authority or the Concessionaire may terminate this Agreement forthwith by issuing a notice to the other Parties.

(e) The Concessionaire and the Authority shall be permitted to waive or relax any Condition Precedent required to be fulfilled by the other Party or agree to an extension of the CP Long-stop Date for satisfaction of the Conditions Precedent required to be fulfilled by the other Party.

(f) If the Concessionaire has failed to satisfy any of the Conditions Precedent required to be satisfied by it other than due to the reasons set out in Clause 4.5(b) by the CP Long-Stop Date and this Agreement is terminated in accordance with this Clause 4.6, then:

(i) the Authority shall be entitled to invoke and encash the Performance Security, in addition to and without prejudice to its right to recover liquidated damages under Clause 4.6(a), to the extent of an amount equivalent to the Bid Security. The balance, if any, of the Performance Security shall be returned to the Concessionaire after deducting all amounts due and payable by the Concessionaire under this Agreement up to and including the date of termination;

(ii) the Concessionaire shall not be entitled to receive any payment or compensation from the Authority for the costs and expenses incurred by the Concessionaire in performing any of its obligations under this Agreement (including preparing, the Construction Plan, the Project Execution Plan, the DPR and the EMP Report) prior to the termination of this Agreement;

(iii) the Concessionaire shall hand over to the Authority all documents, designs, plans, data and any Confidential Information provided by the Authority to the Concessionaire prior to termination of this Agreement;

(iv) the Authority shall hand over to the Concessionaire the Construction Plan, the Project Execution Plan, the DPR, the EMP Report and any other document and Confidential Information submitted by the Concessionaire to the Authority prior to termination of this Agreement; and

(v) if the access to any part of the Site has been granted to the Concessionaire prior to termination of this Agreement, then upon termination of this Agreement, the Concessionaire shall remove all equipment, temporary works, work sheds, labour camps and all other temporary installations on the Site, and thereafter, the Site will be deemed to automatically vest with Authority.

(g) If the Authority has failed to satisfy any of the Conditions Precedent required to be satisfied by it or the Concessionaire has failed to satisfy any of the Conditions Precedent required to be satisfied by

it due to the reasons set out in Clause 4.5(b), in each case by the CP Long-Stop Date, and this Agreement is terminated in accordance with this Clause 4.6, then:

(i) the Authority shall return the Performance Security submitted by the Concessionaire;

(ii) the Authority shall reimburse the Concessionaire for the reasonable documented costs incurred by the Concessionaire in preparing the Construction Plan, the Project Execution Plan, the DPR and the EMP Report less any liquidated damages paid by the Authority under Clause 4.6(a) provided that such costs shall be capped at a sum no greater than Rs 1,00,00,000 (Rupees One Crore);

(iii) the Concessionaire shall hand over to the Authority all documents, designs, plans, data and any Confidential Information provided by the Authority to the Concessionaire prior to termination of this Agreement;

(iv) Deleted;

(v) the Authority shall not use the soft copies of the Construction Plan, the Project Execution Plan, the DPR, the EMP Report and any other document and Confidential Information submitted by the Concessionaire to the Authority prior to termination of this Agreement without the prior written consent of the Concessionaire; and

(vi) if the access to any part of the Site has been granted to the Concessionaire prior to termination of this Agreement, then upon termination of this Agreement, the Concessionaire shall remove all equipment, temporary works, work sheds, labour camps and all other temporary installations on the Site, and thereafter, the Site will be deemed to automatically vest with the Authority.

(h) Upon termination of this Agreement pursuant to this Clause 4.6, other than to the extent specified in this Clause 4.6, no Party shall have any liability to the other Party in connection with this Agreement.

ARTICLE 5. OBLIGATIONS OF THE CONCESSIONAIRE

5.1 General Obligations of the Concessionaire

The Concessionaire shall:

(a) At its own cost and expense, procure finance for and undertake the design, engineering, procurement, development, construction, commissioning, operation and maintenance of the Project Facilities in a manner that is in compliance with the Technical Specifications, Applicable Laws, Applicable Permits, the O&M Plan, the Waste Acceptance and Rejection Plan, the Sampling Plan, EMP, the OHS Plan, and Good Industry Practice;

(b) Operate and maintain the Project Facilities throughout the O&M Period in a manner that is in compliance with the Technical Specifications, Applicable Laws, Applicable Permits, the O&M Plan, the Waste Acceptance and Rejection Plan, the Sampling Plan, EMP, the OHS Plan, and Good Industry Practice;

(c) Deleted

(d) Maintain and comply with the terms and conditions of all Applicable Permits in undertaking the construction and O&M of the Project Facilities;

(e) Obtain, maintain and comply with all Applicable Permits necessary for the interconnection of the Project Facility at the Interconnection Point and evacuation of power in accordance with the PPA;

(f) Undertake, at its own cost and responsibility, the periodic capping works of the Scientific Landfill, including intermediate and final capping, and all associated works required under Applicable Laws, the Technical Specifications and Good Industry Practice, and shall carry out such works in a timely manner so as to ensure continuous compliance with environmental, operational and safety requirements;

(g) Perform and fulfil all obligations under the Financing Documents;

(h) Procure, as required, all necessary rights (including proprietary rights), licenses, agreements and permissions for materials, methods, processes and systems used or incorporated into the Project;

(i) Discharge its obligations as a reasonable and prudent person and make reasonable efforts to maintain harmony and good industrial relations among the personnel employed by it or its Subcontractors in connection with the performance of its obligations under the Agreement;

(j) Ensure that the Project Facility is capable of handling and processing Acceptable Waste up to its Design Capacity on a daily basis;

(k) Within 30 (thirty) days of the Execution Date, and in any event, prior to the commencement of any work at the Site, appoint a Person with sufficient skill and expertise to act as the Concessionaire's Representative. The Concessionaire's Representative shall monitor, coordinate and supervise the completion of the Project Facilities, and liaise with the Authority's Representative and the

Independent Engineer during the Concession Period. At any time during the Concession Period, the Concessionaire may replace the Concessionaire's Representative with prior written notice to Authority;

(l) Provide all necessary assistance to the Independent Engineer and Authority in undertaking inspection of the Project Facilities, and in performing its other obligations and duties under this Agreement;

(m) Take all necessary measures to maintain the safety and security of personnel, material and property at the Site and the Adjoining Properties, in accordance with the approved EMP, OHS Plan, and all Applicable Laws;

(n) Ensure that all excavated materials, earthworks, waste materials, Residual Inert Matter and hazardous substances are stored and/or disposed in accordance with this Agreement, the EMP, OHS Plan, Applicable Laws and Applicable Permits;

(o) Obtain and maintain adequate insurances as per this Agreement;

(p) Provide and maintain a buffer zone around the Project Facility;

(q) Procure and maintain an adequate supply of water for the construction, operation and maintenance of the Project Facilities;

(r) Support, cooperate with and facilitate the Authority in the implementation and operation of the Project in accordance with the provisions of this Agreement; and

(s) Hand back the Project Facilities to the Authority upon expiry or early termination of this Agreement in accordance with the Hand-back Conditions and the Hand-back Requirements.

5.2 Obligations relating to Project Agreements

(a) It is expressly agreed that the Concessionaire shall, at all times, be liable for all its obligations under this Agreement notwithstanding anything contained in the Project Agreements or any other agreement, and no default under any Project Agreement or any other agreement shall excuse the Concessionaire from its obligations or liability under this Agreement.

(b) The Concessionaire shall submit to the Authority copies of all Project Agreements or any amendments or replacements thereto within 15 (fifteen) days from the date of their execution.

(c) The Concessionaire shall not make any addition, replacement or amendment to any of the Financing Documents without the prior written consent of the Authority if such addition, replacement or amendment has, or may have, the effect of increasing the financial liability of the Authority under this Agreement, and in the event that any replacement or amendment is made without such consent, the Concessionaire shall not enforce such replacement or amendment nor permit enforcement thereof against the Authority. For the avoidance of doubt, the Authority acknowledges and agrees that it shall not unreasonably withhold its consent for the restructuring or rescheduling

of the Debt to the extent that such restructuring or rescheduling does not increase the financial liability of the Authority under this Agreement.

(d) The Concessionaire shall procure that each of the Project Agreements contains provisions that entitle the Authority to step into such agreement, in its sole discretion, in substitution of the Concessionaire in the event of termination or suspension (the Covenant). The Parties agree that in the event the Authority does not exercise such rights of substitution within a period not exceeding 180 (one hundred eighty) days from the Hand-back Date, the Project Agreements shall be deemed to cease to be in force and effect on the Hand-back Date without any liability whatsoever on the Authority and the Covenant shall expressly provide for such eventuality. The Concessionaire expressly agrees to include the Covenant in all its Project Agreements and undertakes that it shall, in respect of each of the Project Agreements, procure and deliver to the Authority an acknowledgment and undertaking, in a form acceptable to the Authority, from the counterparty(ies) of each of the Project Agreements, whereby such counterparty(ies) shall acknowledge and accept the Covenant and undertake to be bound by the same and not to seek any relief or remedy whatsoever from the Authority in the event of termination or suspension.

(e) The Concessionaire shall also procure that such Project Agreements include a covenant that all disputes arising out of such Agreements shall be settled between the Concessionaire and the counterparty(ies) and that the Authority or its advisors/contractors/consultants shall not be impleaded in such disputes whatsoever.

5.3 Land Use

The Concessionaire shall ensure optimum utilization of the Site and land available and shall not use the same for any purpose unconnected with, or which is not incidental to, the Project.

5.4 Processing of Acceptable Waste

The technologies adopted for processing Acceptable Waste shall be those approved in the Detailed Project Report (DPR) and the Designs and Drawings.

5.5 Employment of Trained Personnel

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

5.6 Branding of the Project

(a) The Concessionaire agrees that the Project shall be known, promoted, displayed and advertised by the name of "Waste to Energy Facility in [insert the location]".

(b) Notwithstanding the name of the Project set out in Clause 5.6(a), the Concessionaire shall have the right to:

(i) Brand the Project or any part thereof in any manner that advertises, displays or reflects the name or identity of the Concessionaire or its shareholders; and

(ii) Utilize the name of the Project to exhibit technical and financial capability of the Concessionaire when bidding for other projects,

provided that any such branding of the Project or utilization of the name of the Project is subject to the Concessionaire expressly stating that the Project was developed on a PPP basis with the Authority.

5.7 Obligations relating to Information

(a) Without prejudice to the provisions of Applicable Laws, Applicable Permits and this Agreement, upon receiving a notice from the Authority for any information that it may reasonably require or that it considers may be necessary to enable it to perform any of its functions, the Concessionaire shall provide such information forthwith in the manner and form required by the Authority.

(b) After receiving a notice from the Authority for comments on the accuracy and text of any information relating to the Concessionaire's activities under or pursuant to this Agreement which the Authority proposes to publish, the Concessionaire shall provide such comments in the manner and form required by the Authority.

5.8 Obligations in relation to Other Charges

(a) The Concessionaire shall make timely payments for all utility services in respect of the Site, including water, sewerage, electricity, telecommunication, internet and cable charges, etc., on its own account.

(b) The Concessionaire shall hold harmless and keep the Authority indemnified from any fine, penalty, charges, levies, damages and losses that arise on account of any claims, suits, demands and proceedings due to the non-payment or delayed payment of such charges.

5.9 Sole purpose of the Concessionaire

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

5.10 Obligations relating to Change in Ownership

(a) Ownership Information

The shareholding pattern [of the Selected Bidder/Members] in the Concessionaire is as follows:

S. No.	Name of the shareholder	No. of shares held	Nature of the shares [Equity/Preference]	Value of the shares held [in Rs.]	Shareholding [in %]

The Concessionaire represents and warrants to the Authority that no arrangements are in place that have resulted or may result in a breach of the change in ownership restrictions set out in Clause 5.10(b) below.

(b) Change in Ownership Restrictions

(i) The Concessionaire shall ensure compliance with the following ownership restrictions:

(A) Where the Selected Bidder is a single entity:

a. Such Selected Bidder shall hold 100% (one hundred percent) of the paid-up equity share capital and voting rights in the Concessionaire from the date of incorporation of the Concessionaire until the expiry of 5 (five) years from the Commercial Operation Date (COD).

b. Thereafter and until the expiry of the Concession Period, such Selected Bidder shall hold not less than 51% (fifty-one percent) of the paid-up equity share capital and voting rights in the Concessionaire.

(B) Where the Selected Bidder is a Consortium:

a. The Consortium Members shall collectively hold 100% (one hundred percent) of the paid-up equity share capital and voting rights in the Concessionaire from the date of incorporation until the expiry of 5 (five) years from the COD.

b. Each Consortium Member shall hold not less than 26% (twenty-six percent) of the paid-up paid-up equity share capital and voting rights in the Concessionaire until the expiry of 5 (five) years from the COD.

c. Thereafter and until the expiry of the Concession Period, only the Consortium Member whose Technical Capacity was relied upon for qualification (the "Technical Member") shall be required to hold not less than 26% (twenty-six percent) of the paid-up equity share capital and voting rights in the Concessionaire.

(C) General Restrictions:

a. No change in the shareholding pattern or paid-up equity share capital of the Concessionaire shall be permitted from the date of incorporation of the Concessionaire until the COD.

b. In the event the Selected Bidder had submitted, as part of the bidding process, a binding agreement executed with a Technology Provider whose credentials were relied upon for qualification, the Concessionaire shall retain such Technology Provider until the expiry of 5 (five) years from the COD. Thereafter, such Technology Provider may be replaced, subject to prior written approval of the Authority, with a Technology Provider of equivalent technical capacity and credentials as submitted as part of the Bid,

provided that not more than 2 (two) such replacements shall be permitted during the Concession Period.

(ii) The Concessionaire shall ensure that the change in ownership restrictions set out in Clause 5.10(b) are incorporated in the articles of association of the Concessionaire.

ARTICLE 6. OBLIGATIONS OF THE AUTHORITY

6.1 General Obligations of the Authority

The Authority shall

(a) Comply with all its obligations under Applicable Laws;

(b) Issue such letters of recommendation as may be reasonably required for the Concessionaire to obtain the Applicable Permits from the relevant Government Authorities, provided that the Concessionaire has complied with all requirements under Applicable Laws for applying for such Applicable Permits, it being clarified that the Authority shall have no obligation to procure, obtain, pursue or follow up on any such Applicable Permits on behalf of the Concessionaire

(c) Grant, in a timely manner, all such approvals, permissions and authorizations which the Concessionaire may require, or is obliged to seek, from the Authority under this Agreement, in connection with implementation of the Project and the performance of its obligations;

(d) Issue such letters of recommendation as may be reasonably required for the Concessionaire to obtain permits or approvals for utilities such as power, water, sewerage, telecommunications or any other incidental services or utilities required for the Project, it being expressly clarified that the Authority shall have no obligation to procure, obtain, pursue, follow up on, or otherwise facilitate the provision or supply of any such utilities, all of which shall remain the sole responsibility of the Concessionaire.;

(e) Within 30 (thirty) days of the Execution Date, and in any event, prior to the commencement of any construction of the Project Facilities, appoint a Person with sufficient skill and expertise to act as Authority's Representative. The Authority's Representative shall liaise with the Concessionaire's Representative and the Independent Engineer during the Concession Period. At any time during the Concession Period, Authority may replace Authority’s Representative with prior written notice to the Concessionaire;

(f) Grant to the Concessionaire Right of Way and peaceful and actual possession of the Site in accordance with the timelines in this Agreement, provide access road(s) to the Site, and ensure that the Concessionaire enjoys peaceful access to the Site;

(g) Not assign, transfer, or otherwise dispose of its rights, title, and interest in the Site or create any Encumbrance over any part of the Site, which may adversely impact the exercise of the Concessionaire's rights and duties under this Agreement;

(h) Declare and maintain, or cause to declare and maintain, a buffer zone around the Site in accordance with Applicable Laws;

(i) Deleted;

(j) Cause the Independent Engineer to carry out timely inspection of the Project Facilities, and perform its other obligations and duties under this Agreement;

(k) Upon progressive completion of the works for the construction of the Project Facilities, inspect or cause the Independent Engineer to inspect the works and issue the Milestone Completion Certificates, the Completion Certificate or the Provisional Certificate, to the Concessionaire;

(l) Monitor and review the operations and performance of the Project Facilities, including the obligation to review the records and reports that the Concessionaire is required to maintain, during normal working hours;

(m) Supply adequate quantities of Acceptable Waste required by the Concessionaire for it to conduct the Trial Operations and performance testing of the Project Facilities;

(n) Supply the Annual Guaranteed Acceptable Waste Quantity to the Concessionaire at the Receipt Point in accordance with the requirements of this Agreement;

(o) Ensure that Acceptable Waste is delivered to the Concessionaire at the Receipt Point and is not dumped at any other place on or about the Site;

(p) Ensure that any excess Acceptable Waste (i.e., Acceptable Waste beyond Pre-Processing Design Capacity of the Project Facility), which is not utilized at the Project Facility, is diverted to an alternate location;

(q) Ensure that the waste delivered to the Concessionaire conforms to the definition of Acceptable Waste;

(r) Cause timely completion of the transmission system until the Interconnection Point, for synchronization of the Project Facility with the grid, Trial Operations and evacuation of power from the COD in accordance with the PPA;

(s) Deleted;

(t) Make the Grant payments, on satisfactory completion of the relevant Project Milestones in accordance with Article 22;

(u) Deleted;

(v) Deleted.

6.2 Obligations relating to Refinancing

(a) Without prejudice to any rights or remedies of the Authority under this Agreement or otherwise, upon a request made by the Concessionaire to this effect, the Authority shall, in conformity with Applicable Laws, permit and enable the Concessionaire to secure refinancing on such terms as may be agreed upon between the Concessionaire and the entity providing such refinancing, provided that any refinancing undertaken shall not have the effect of increasing the Authority's financial obligations under this Agreement. Any refinancing shall be subject to the prior consent of the Authority, provided that such consent shall not be withheld if the effect of such refinancing will not result in an increase in the Authority's financial obligations under the Agreement.

(b) The Authority shall endeavor to convey its decision on a request for refinancing submitted by the Concessionaire within 30 (thirty) days of receipt of the request. For the avoidance of doubt, the tenure of debt refinanced may be determined mutually between the Senior Lenders and the Concessionaire, but the repayment of the debt due shall be completed no later than 1 (one) year prior to expiry of the Concession Period.

ARTICLE 7. REPRESENTATIONS AND WARRANTIES

7.1 Mutual Representations and Warranties

Each Party represents and warrants to the other Parties that:

(a) It has full power and authority to execute, deliver and perform its obligations under this Agreement, the Substitution Agreement, the Escrow Agreement and any other agreements required in relation to the Project;

(b) It has taken all necessary action to authorize the execution, delivery and performance of this Agreement, the Substitution Agreement and the Escrow Agreement; and

(c) There are no actions, suits or proceedings pending or, to its best knowledge, threatened against or affecting it before any court, administrative body or arbitral tribunal which might materially and adversely affect its ability to meet or perform any of its obligations under this Agreement, the Substitution Agreement or the Escrow Agreement.

7.2 Concessionaire's Representations and Warranties

The Concessionaire represents and warrants to Authority that:

(a) It is duly organized, validly existing and of good standing under the laws of India;

(b) It has the financial standing and capacity to design, finance, construct, complete, operate and maintain the Project Facilities in accordance with this Agreement;

(c) This Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, and its obligations under this Agreement will be legally valid, binding and enforceable obligations against it in accordance with the terms hereof;

(d) It is subject to the laws of India, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising thereunder including any obligation, liability or responsibility hereunder;

(e) The information furnished in the Bid of the Selected Bidder or in response to the RFP, and as updated on or before the date of this Agreement, is true and accurate in all respects as on the Execution Date;

(f) The execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under any of the terms of its memorandum and articles of association/charter documents or any Applicable Laws or Applicable Permits or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;

(g) It has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of the GoI or relevant State Government which may result in any Material Adverse Effect on its ability to perform its obligations under this Agreement and no

fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;

(h) It has complied with all Applicable Laws and Applicable Permits in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities, which in the aggregate have or may have a Material Adverse Effect on its ability to perform its obligations under this Agreement;

(i) The Selected Bidder and any Consortium Member of the Selected Bidder is duly organized and validly existing under the laws of the jurisdiction of its incorporation, and has requested the Authority to enter into this Agreement with the Concessionaire pursuant to LOA and has agreed to unconditionally accept the terms and conditions set forth in this Agreement;

(j) All its rights and interests in the Project shall pass to and vest in the Authority on the Hand-back Date free and clear of all liens, claims and Encumbrances, without any further act or deed on its part or act of the Authority and none of the assets of the Project shall be acquired by it or be subject to any agreement under which a security interest or other lien or Encumbrance is retained by any person, save and except as expressly provided for in this Agreement;

(k) No sums, in cash or kind, have been paid or will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for securing the Concession or entering into this Agreement or for influencing or attempting to influence any officer or employee of the Authority in connection therewith;

(l) It shall at no time undertake or permit any change in ownership except as permitted by Clause 5.10; and

(m) No representation or warranty by it contained in this Agreement or in any other document furnished by it to Authority, the GoI or relevant State Government in relation to Applicable Permits contains any untrue or misleading statement of material fact or omits to state a material fact necessary to make such representation or warranty.

7.3 Authority's Representations and Warranties

Authority represents and warrants to the Concessionaire that:

(a) It is duly organized, validly existing and in good standing under the laws of India;

(b) It has the financial standing and legal capacity to execute this Agreement and perform its obligations under this Agreement;

(c) It has taken all necessary approvals to execute this and perform its obligations under this Agreement;

(d) This Agreement constitutes legal, valid and binding obligations enforceable against it in accordance with the terms hereof;

(e) It has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of the GoI or relevant State Government, which may result in any Material Adverse Effect on its ability to perform its obligations under this Agreement;

(f) It has complied with all Applicable Laws and Applicable Permits in all material respects;

(g) The Site is not subject to any mortgage, lien, charge or any other Encumbrance;

(h) It does not have any liability for any Taxes, or any interest or penalty in respect thereof, of any nature, that may constitute a lien against the Site; and

(i) All information provided by it in the RFP and this Agreement (including the Technical Specifications) in connection with the Project is, to the best of its knowledge and belief, true and accurate in all material respects.

7.4 Acknowledgement

(a) The Parties acknowledge and confirm that they have relied upon and entered into this Agreement on the basis of the representations, warranties, and undertakings made by the Parties hereunder.

(b) If any occurrence or circumstance comes to the attention of a Party that renders any of its aforesaid representations or warranties untrue or incorrect, such Party shall immediately notify the other Parties. Such notification shall not have the effect of remedying any breach of the representation or warranty that has been found to be untrue or incorrect, nor shall it adversely affect or waive any obligation of a Party under this Agreement.

(c) Authority and Authority Related Parties or any of their agents or employees shall not be liable to the Concessionaire in contract, tort (including negligence or breach of statutory duty), statute, or otherwise as a result of:

  (i) Any inaccuracy, omission, unfitness for any purpose, or inadequacy of any kind whatsoever in the information relating to the Project disclosed by Authority to the Concessionaire; or

  (ii) Any failure to make available to the Concessionaire any materials, documents, plans, or other information relating to the Project.

ARTICLE 8. DISCLAIMER

(a) The Concessionaire acknowledges that prior to the execution of this Agreement, it has, after a complete and careful examination, made an independent evaluation of the RFP, Development Requirements, Technical Specifications, the Site, existing structures, local conditions, physical qualities of ground, subsoil, and geology, waste characteristics, and all information provided by the Authority or obtained, procured, or gathered otherwise. The Concessionaire has determined to its satisfaction the accuracy or otherwise thereof and the nature and extent of difficulties, risks, and hazards likely to arise or be faced by it in the course of performing its obligations hereunder. The Authority makes no representation whatsoever, express, implicit, or otherwise, regarding the accuracy, adequacy, correctness, reliability, and/or completeness of any assessment, assumptions, statement, or information provided by it. The Concessionaire confirms that it shall have no claim whatsoever against the Authority in this regard.

(b) The Concessionaire acknowledges and hereby accepts the risk of inadequacy, mistake, or error in or relating to any of the matters set forth in Clause 8.1 above and agrees that the Authority shall not be liable for the same in any manner whatsoever to the Concessionaire, the Concessionaire Related Parties, or any person claiming through or under any of them.

(c) The Parties agree that any mistake or error in or relating to any of the matters set forth in Clause 8.1 above shall not vitiate this Agreement or render it voidable.

(d) In the event that any Party becomes aware of any mistake or error relating to any of the matters set forth in Clause 8.1 above, that Party shall immediately notify the other Parties, specifying the mistake or error; provided, however, that a failure on the part of the Authority to give any notice pursuant to this Clause 8.4 shall not prejudice the disclaimer of the Authority contained in Clause 8.1 and shall not in any manner shift to the Authority any risks assumed by the Concessionaire pursuant to this Agreement.

(e) Except as otherwise provided in this Agreement, all risks relating to the Project shall be borne by the Concessionaire, and the Authority shall not be liable in any manner for such risks or the consequences thereof.

ARTICLE 9. PERFORMANCE SECURITY AND O&M SECURITY

9.1 Performance Security

The Concessionaire shall have submitted to the Authority, prior to the Execution Date, an unconditional and irrevocable bank guarantee for an amount of INR 25,00,00,000 (Rupees twenty-five crore) (the "**Performance Security**"). Until the Performance Security has been submitted to the Authority, the Bid Security shall remain in force and effect, and upon the submission of the Performance Security, the Authority's Representative shall release the Bid Security to the Concessionaire. Notwithstanding anything to the contrary in this Agreement, in the event that the Performance Security is not provided by the Concessionaire on or before the execution of this Agreement, the Authority may encash the Bid Security and appropriate the proceeds thereof as damages, and all rights, privileges, claims and entitlements of the Concessionaire under or arising out of the LOA shall be deemed to have been waived by, and to have ceased with the concurrence of the Concessionaire.

9.2 Validity of Performance Security

The Performance Security shall remain valid till 1st (first) anniversary of COD.

9.3 O&M Security

To secure the performance of its obligations during the O&M Period, the Concessionaire shall furnish to the Authority, at least 30 (thirty) days prior to the 1st (first) anniversary of COD, a bank guarantee substantially in the form of bank guarantee for an amount of INR 10,00,00,000 (Rupees ten crore) (the "**O&M Security**"). The O&M Security shall initially be valid for a period of 3 (three) years from the COD and shall be renewed for successive periods of 3 (three) years each until the expiry of the Concession Period. Each renewal shall be effected no later than 30 (thirty) days prior to the expiry of the then current validity period. The amount of the O&M Security shall stand increased by 5% (five per cent) at the time of each such renewal.

9.4 Purpose of Performance and O&M Securities

The Performance Security shall secure the due performance of the Concessionaire's obligations up to the 1st (first) anniversary of COD. The O&M Security shall secure the due performance of the Concessionaire's obligations from the 1st (first) anniversary of COD until the expiry of the Concession Period. The cost of procuring the Performance Security and the O&M Security shall be borne solely by the Concessionaire.

9.5 Extension of Performance Security

If the Performance Security is scheduled to expire before the timeline mentioned in Clause 9.2, the Concessionaire shall arrange for an extension of the Performance Security at least 30 (thirty) days prior to such expiration. If the Concessionaire fails to procure such extension or replacement, the Authority shall be entitled to draw down the total amount available under the Performance Security and retain such amount as cash security until such time that the Concessionaire submits an extension or replacement of the Performance Security.

9.6 Renewal or Replacement of O&M Security

If the Concessionaire fails to renew or replace the O&M Security at least 30 (thirty) days prior to the expiry of its then current validity period, the Authority shall be entitled to encash the O&M Security and retain the proceeds thereof as cash security until such time as the Concessionaire furnishes a renewed or replacement O&M Security in accordance with this Agreement.

9.7 Utilisation of Retained Amounts

The Authority shall be entitled to utilise any retained amount in the same manner as it would utilise the Performance Security or the O&M Security, as the case may be.

9.8 Return of Retained Cash Security

Upon receipt of a renewed or replacement Performance Security or O&M Security, as the case may be, the Authority shall return the unutilised cash security amount to the Concessionaire.

9.9 Interest on Retained Amounts

The interest earned on any retained amounts or cash security shall be to the account of the Authority and the Authority shall not be required to pass on such sums to the Concessionaire.

9.10 Invocation of Performance Security

The Authority shall have the right to draw on the Performance Security and claim up to the amount guaranteed upon the Concessionaire's failure to satisfy any Condition Precedent or honour any of its obligations, responsibilities or commitments up to the 1st (first) anniversary of COD, or any amount due and payable by the Concessionaire to the Authority (including any Delay Liquidated Damages and any amounts the Concessionaire is liable to pay for breach of the indemnities under Article 33), in accordance with this Agreement.

9.11 Invocation of O&M Security

The Authority shall have the right to draw on the O&M Security and claim up to the amount guaranteed upon the Concessionaire's failure to honour any of its obligations, responsibilities or commitments from the 1st (first) anniversary of COD until the expiry of the Concession Period, or any amount due and payable by the Concessionaire to the Authority (including any Liquidated Damages, any amounts the Concessionaire is liable to pay for breach of the indemnities under Article 33 and any amounts the Concessionaire is liable to pay under Clause 30.2), in accordance with this Agreement.

9.12 No Prior Notice for Invocation

The Authority shall not be required to give any prior notice to the Concessionaire of its intention to make a demand under the Performance Security or the O&M Security, as the case may be. However, the Authority shall provide the Concessionaire with a copy of any demand notice issued under the relevant Security simultaneously with issuance of such notice to the Scheduled Bank.

9.13 Restoration of Security

If the Authority makes a demand under the Performance Security or O&M Security, in part or in full, the Concessionaire shall immediately and in no event later than 15 (fifteen) days of such demand, restore the value of such Security to the amount stated in Clause 9.1 or Clause 9.3, as applicable.

9.14 Release of Performance Security

Subject to Clause 28.5(d), within 30 (thirty) days from the 1st (first) anniversary of COD or the termination of this Agreement, whichever is earlier, the Performance Security or the amount retained as cash security under Clause 9.5 shall be released to the Concessionaire (except in case of Concessionaire Event of Default), provided that where the Agreement has not been terminated, the Performance Security shall not be released until the O&M Security has been delivered in accordance with Clause 9.3.

9.15 Release of O&M Security

Subject to Clause 28.5(d), upon the expiry of the Concession Period or termination of this Agreement, whichever is earlier, the O&M Security or the amount retained as cash security under Clause 9.6 shall be released to the Concessionaire (except in case of Concessionaire Event of Default), after setting-off any sums payable by the Concessionaire to the Authority, after the expiry of 90 (ninety) days from such expiry or termination.

9.16 Treatment of Securities during First Year after COD

Notwithstanding anything to the contrary contained in this Agreement, during the period from the COD until the 1st (first) anniversary of COD, the Performance Security shall remain valid and enforceable. Provided that any Liquidated Damages or other amounts payable by the Concessionaire in respect of obligations arising during the O&M Period, including during such first year following COD, shall be determined and calculated with reference to the O&M Security as specified in this Agreement. Provided further that any damages estimated and payable in accordance with Clause 14.8 shall be determined and linked to the Performance Security. Until the O&M Security becomes enforceable in accordance with Clause 9.3, the Authority shall be entitled to recover any amounts referred to above by invocation of the Performance Security, without prejudice to its right to require restoration of the Performance Security or submission of the O&M Security as provided herein.

ARTICLE 10. PROJECT SITE

10.1 The Site

(a) The Site shall comprise the land described in Schedule A, together with all existing assets and facilities located thereon as on the date of handover of the Site to the Concessionaire in accordance with Clause 10.2(b).

10.2 Grant of License over the Site

(a) The Authority shall, on and from the Execution Date, grant the Concessionaire access to the Site, along with all necessary Right of Way to enter upon the Site for conducting any site inspection and studies that may be required for preparing the Construction Plan, the DPR and conducting the EMP.

(b) The Authority shall handover to the Concessionaire the Site, free of any Encumbrances and from such date, the Authority shall grant the Concessionaire a license over the Site, along with all necessary Right of Way to enter upon, access, and occupy the Site. Provided that, license to use the Site granted to the Concessionaire shall always be subject to the right of the Authority and its nominated contractors to enter upon and access the Site. The license granted to the Concessionaire shall include the exclusive right to:

(i) undertake the Pre-Construction Works;

(ii) design, construct and commission the Project Facilities at the Site;

(iii) operate and maintain the Project Facilities during the O&M Period;

(iv) install, operate, use, maintain, and remove such equipment, devices or other structures and improvements on, over, or under the Site, as may be necessary or appropriate for the operations and activities required or permitted under this Agreement;

(v) use access roads, gates, fences and utilities at or about the Site; and

(vi) construct, use, operate, maintain, replace and repair electric lines, telecommunication lines, water supply networks and other utilities required to undertake the Project at the Site.

The authorised representatives of the Authority and the Concessionaire shall, on a mutually agreed date and time, inspect the Site and prepare a memorandum recording an inventory of the Site, including vacant and unencumbered land, buildings, structures, road networks, trees, pipelines, and any other immovable property on or attached to the Site. The memorandum shall include an appendix (the "Appendix") specifying in reasonable detail any parts of the Site over which vacant and unencumbered possession has not been granted to the Concessionaire. Signing of the memorandum by the authorised representatives of both Parties shall constitute, for all purposes, the handover of possession of the Site to the Concessionaire for free and unrestricted use and development of the vacant and unencumbered portions of the Site during the Concession Period, in accordance with this Agreement and for no other purpose. For avoidance of doubt, vacant and unencumbered possession of any part of the Site identified

in the Appendix shall be deemed granted to the Concessionaire upon actual handover of such part by the Authority.

(c) Deleted.

(d) The Authority shall provide the Site to the Concessionaire free of Encumbrances and encroachments. If the Concessionaire discovers any hazardous substances at the time of handover of the Site, the Authority will remove such hazardous substances at its own cost and expense.

(e) The Concessionaire shall not without the prior written consent or approval of Authority use the Site for any purpose other than to undertake the Project and purposes incidental thereto, as permitted under this Agreement or as may be otherwise approved by Authority.

(f) The full ownership and title over the Site shall, at all times during the Concession Period, vest with the Authority.

(g) The Authority warrants that the Concessionaire shall, subject to Clause 10.1(a), occupy the Site, from such time that access is granted to the Concessionaire and until the expiry of the Concession Period. If the Concessionaire is obstructed by any Person claiming to be affected by the Project, including construction of the Project Facilities at the Site or if any injunction is granted by a court against the construction of the Project Facilities at the Site, the Authority shall, if called upon by the Concessionaire, take appropriate actions to tackle or defend such claims and proceedings.

(h) Subject to any substitution rights exercised by the Senior Lenders, the license and the Right of Way granted by the Authority shall automatically terminate upon termination of this Agreement or expiry of the Concession Period.

10.3 Right, Title and Interest in the Project Facilities

(a) The full ownership, rights and title to the Project Facilities constructed or installed pursuant to this Agreement shall vest with the Concessionaire, until the Project is transferred to the Authority in accordance with the provisions in this Agreement.

(b) Except as otherwise provided in this Agreement, the Concessionaire shall not:

(i) sell or create any Security over the Project Facilities or any part thereof, except to the limited extent permitted under the Financing Documents in respect of cashflows only;

(ii) dispose of any assets forming part of the Project Facilities, other than for the purposes of replacement due to normal wear and tear; or

(iii) transfer, assign or novate all of its rights and obligations under this Agreement and in contravention of the terms of this Agreement,

without the prior written consent of the Authority (such consent not being unreasonably withheld or delayed).

10.4 Site Data and Verification

(a) The Authority has made available to the Concessionaire, the layout plans and all other relevant data, studies and reports in the Authority's possession in connection with the Site and the Project Facilities.

(b) The Concessionaire shall be deemed to have obtained all necessary information as to risks, contingencies and other circumstances which may influence or affect the implementation of the Project at the Site.

(c) The Concessionaire shall also be deemed to have inspected and examined the Site and its surroundings, analysed and verified the accuracy and reliability of the studies, reports and data provided by Authority and any other information available with respect to the Project Facilities and the Site and to have satisfied itself as to all the relevant matters including:

(i) the nature of the Site, including the subsurface conditions, ecosystem, water table, drainage, subsoil, the load bearing and other characteristics of the Site;

(ii) the suitability of the Site for undertaking the construction and operation of the Project Facilities;

(iii) Deleted;

(iv) the extent, nature and availability of labour, material, transport, accommodation, storage facilities and other facilities and resources necessary to undertake the Project;

(v) the nature of design, construction work and O&M services necessary to perform its obligations under this Agreement;

(vi) Applicable Laws and Applicable Permits required to be obtained and maintained to undertake the Project;

(vii) the risk of injury or damage to Adjoining Property and to the occupiers of such property or any other risk;

(viii) the precautions, and methods of working necessary to prevent any public nuisance; and

(ix) all other matters that may affect the performance of its obligations under this Agreement.

(d) The Concessionaire acknowledges and agrees that if any error or discrepancy is subsequently discovered in the data made available by the Authority, then the Authority and the Concessionaire may mutually arrive at a decision regarding any extension of the Scheduled Project Milestone Completion Date or the Scheduled COD and/or compensation for additional costs incurred due to such error or discrepancy. Provided that, the Concessionaire shall not be entitled to any extension as mentioned above, nor shall it be open to the Concessionaire to justify any default or delay on the ground of the Concessionaire having not visited or acquainted itself with the Sites and Sites' conditions in any manner whatsoever. Further, any misinterpretation of the data, studies and

reports provided by the Authority shall not relieve the Concessionaire from the performance of its obligations under this Agreement on the ground that it could not reasonably be expected to have foreseen any of the matters listed in Clause 10.4(c) above, which affect or may affect the Project or the performance of any of its obligations under this Agreement.

10.5 Deleted

10.6 Site Related Covenants

The Concessionaire agrees and undertakes that:

(a) The Concessionaire shall not transfer, alienate, assign, dispose of, sub-license or create any Security over any part of the Site or its rights and interest in the Site, other than as specifically permitted under this Agreement;

(b) The Concessionaire shall not allow any encroachment on, or unauthorized occupation of any part of the Site and in the event of any encroachment or unauthorized occupation, the Concessionaire shall immediately cause such encroachment or any unauthorized occupants to be removed from the Site. The Concessionaire shall not be entitled to any extension of time or costs incurred in removal of any encroachment or any unauthorized occupants from the Site where such encroachment or unauthorized occupation occurs after the date on which the Site is handed over to the Concessionaire in accordance with Clause 10.2(b);

(c) The Concessionaire shall not use the Site for any purpose unconnected with the Project;

(d) The grant of any rights to a Subcontractor or any other third party shall not interfere with or hinder the performance of the Concessionaire's obligations under this Agreement;

(e) The Concessionaire shall be wholly responsible for safety at and security of the Site and the Project Facilities;

(f) The Concessionaire shall take all necessary measures to confine its operations, personnel and equipment to the Site and not encroach on any Adjoining Property;

(g) All minerals, fossils, articles of value or antiquity, structures and other remains or things of geological or archaeological interest and other objects with historic, antique or monetary value discovered at, on or under the Site shall be dealt with in accordance with Applicable Laws and the Concessionaire shall take all necessary precautions to prevent its or its Subcontractor's personnel from removing or damaging any such article or thing. Further, immediately upon the discovery of any such article or thing of value, the Concessionaire shall inform the Authority of such discovery and carry out the instructions of the Authority in this regard;

(h) The Concessionaire shall make good any damage to any roads, footpaths, conduits, and other works on any Adjoining Property, which is caused by the Concessionaire or the Concessionaire Related Parties; and

(i) The Concessionaire shall use all reasonable endeavours not to do or permit to be done anything which might:

(i) cause destruction, scarring or defacing of natural surroundings in the vicinity of the Site;

(ii) be or become a danger or nuisance or give rise to liability in tort to any owners or occupiers of the Adjoining Property or to members of the public; or

(iii) cause any contamination or damage to any Adjoining Property,

and the Concessionaire shall, at its own expense, take all reasonable measures and precautions to avoid any such danger, nuisance, tort, damage or interference and shall make good any damage so caused.

If the construction works and/or the O&M services cannot be carried out without interfering with the rights of the owner or occupier of any Adjoining Property, the Concessionaire shall promptly and at its own cost obtain all necessary third party consents and/or the approval of any Government Authority to undertake such construction works and/or the O&M services. The Authority shall provide all assistance to the Concessionaire for procuring such approvals.

10.7 Access to the Authority Related Parties and Government Authorities

The Concessionaire shall ensure that the Authority Related Parties and relevant Government Authorities have access to the Site and the license granted to the Concessionaire over the Site shall always be subject to:

(a) The rights of the Authority, the Authority's Representative, other Authority Related Parties, and the Independent Engineer to enter upon and access the Site to inspect and monitor the progress of the Project, and for the exercise of their rights and the performance of their obligations under this Agreement, provided that the Authority shall ensure that the exercise of the inspection or monitoring rights do not impede or obstruct the construction and/or operation of the Project Facilities in any manner whatsoever; and

(b) The rights of the Government Authorities or other utility providers to enter upon and access the Site for laying or installing telegraph lines, electric lines or for any other public purpose.

If any physical damage is caused to the Site or the Project Facilities as a result of such access and use of the Site by the Authority, the Independent Engineer, the Authority Related Parties or Government Authorities, then the Authority shall bear the costs of remedying such damage and restoring the Site and the Project Facilities.

ARTICLE 11. UTILITIES, ASSOCIATED ROADS AND TREES

11.1 Existing Utilities and Roads

The Concessionaire shall ensure that the respective entities owning the existing roads, right of way or utilities on, under or above the Site are enabled by it to keep such utilities in continuous satisfactory use, if necessary, by providing suitable temporary or permanent diversions with the Authority as the controlling body of such road, right of way or utility.

11.2 Shifting of Obstructing Utilities

The Authority (depending on the respective jurisdiction) shall, subject to Applicable Laws, undertake the shifting of any utility at its own cost including electric lines, water pipes and telephone cables, to an appropriate location or alignment within or outside the Site if and to the extent that such utility causes or shall cause a Material Adverse Effect on the construction, operation or maintenance of the Project.

11.3 New Utilities and Roads

(a) The Concessionaire shall obtain install and maintain at its cost, all utilities necessary for undertaking the construction of the Project Facilities, including all temporary power and water connections, lighting facilities, telephone connections, internet connections, etc. at the Site.

(b) The Concessionaire shall allow, subject to such conditions as the Authority may specify, access to, and use of the Site for laying telephone lines, water pipes, electric cables or other public utilities. Where such access or use causes any financial loss to the Concessionaire, it may require the user of the Site to pay compensation or damages as per Applicable Laws.

(c) The Concessionaire shall not be entitled to any extension of time or costs or in any other manner be relieved from the performance of its obligations in relation to Project Facilities to comply with its obligations under Clause 11.1, 11.3(a) and 11.3(b) above.

(d) The Authority shall provide any reasonable assistance required by the Concessionaire to obtain the utilities for the construction of the Project Facilities.

11.4 Felling of Trees

The Authority shall assist the Concessionaire in obtaining Applicable Permits for felling of any trees identified by the Concessionaire for this purpose if such trees cause a Material Adverse Effect on the construction, operation or maintenance of the Project. The cost of such felling shall be borne by the Authority, and in the event of any delay in felling of the trees for reasons beyond the control of the Concessionaire, it shall be excused for failure to perform any of its obligations under this Agreement if such failure is a direct consequence of delay in the felling of trees. For the avoidance of doubt, the Parties agree that the felled trees shall be deemed to be owned by the Authority and shall be disposed in such manner and subject to such conditions as the Authority may in its sole discretion deem appropriate.

ARTICLE 12. FINANCING SUPPORT, SUBSTITUTION AGREEMENT AND SECURITY

12.1 Financing and Bankability Support

The Parties acknowledge that for the purposes of implementing the Project, the Concessionaire may require Financial Assistance from the Senior Lenders.

12.2 Substitution Agreement

(a) This Agreement shall not be assigned by the Concessionaire, provided that, subject to the provisions of this Agreement, the Senior Lenders may be given the right of substitution by execution of the Substitution Agreement.

(b) In case of a Concessionaire Event of Default and if a Substitution Agreement has been entered into, the Authority acknowledges that the Senior Lenders will have a right to substitute the Concessionaire in accordance with Clause 28.2 and the Substitution Agreement. The Authority will suspend its right to step-in or terminate this Agreement until the expiry of the period available to the Senior Lenders to exercise their substitution rights under Clause 28.2.

12.3 Security Creation

(a) The Concessionaire may create Security over its rights, title and interests in this Agreement and the Escrow Agreement, solely for obtaining Financial Assistance, provided such Security does not create any financial liability for the Authority.

(b) The Concessionaire may include the Senior Lenders as co-insured and/or additional loss payees under insurances taken in accordance with Article 25, and may create Security over insurance proceeds.

(c) The Concessionaire shall not create any Security over the Project Facilities, and may create Security only over cashflows arising from the Project in accordance with the Financing Documents.

(d) The Concessionaire shall not create any Security over the Site, or any part of it, whether in favour of the Senior Lenders or any third Persons.

ARTICLE 13. INDEPENDENT ENGINEER

13.1 Procedure for appointment and duties and functions of the Independent Engineer

(a) Within 60 (Sixty) days of the Execution Date, the Authority the Authority shall appoint an appropriately qualified consulting engineering firm as the Independent Engineer. The initial term of appointment of the Independent Engineer shall be for a period of 4 (four) years. Thereafter, the Authority may extend the term of the Independent Engineer or appoint a replacement Independent Engineer, as may be required based on the needs of the Project, in accordance with the provisions of Schedule I.

(b) In appointing any replacement of the Independent Engineer, Authority and the Concessionaire shall comply with this Article 13 and Schedule I.

(c) The Authority shall ensure that a copy of this Agreement is annexed to the appointment letter of the Independent Engineer highlighting all the rights and obligations of the Independent Engineer. The appointment letter signed and returned by the Independent Engineer shall acknowledge acceptance of its rights and obligations set out in this Agreement.

(d) The Independent Engineer shall be required to act independently, reasonably, fairly and expeditiously to ensure: (a) the timely completion of construction of the Project Facilities in accordance with the timelines prescribed in this Agreement; and (b) compliance with the KPIs and other O&M obligations of the Concessionaire after the COD.

(e) The Independent Engineer shall inspect the Project Facilities at least once a month and prepare inspection reports, setting out the progress of the construction and operation of the Project Facilities, defects or deficiencies, if any, and status of compliance with the Construction Plan, the Project Execution Plan, the DPR, Technical Specifications, Designs and Drawings, EMP, OHS Plan, Waste Acceptance and Rejection Plan, Sampling Plan, EMP Report, Subcontractor management plan, O&M Plan, and KPIs. The Independent Engineer shall send monthly inspection reports to the Authority.

(f) The Independent Engineer shall at all times during the Concession Period have the right to enter upon and access the Site to carry out any inspections or to attend meetings or discussions at the Site, in accordance with its Scope of work and responsibilities. The Concessionaire shall have the right to accompany the Independent Engineer during its inspection of the Project Facilities.

(g) The Independent Engineer shall, at all times, have the right to attend any meetings held by the Concessionaire to review the progress of the construction or O&M of the Project Facilities, and to provide its comments/suggestions regarding the progress as well as the manner in which the construction works or O&M services is being undertaken. Neither any comments/suggestions provided by the Independent Engineer nor any failure to provide comments/suggestions shall be deemed to be an acceptance of the construction works or the O&M services or a waiver of the Concessionaire's obligations to implement the Project, in accordance with this Agreement, the Technical Specifications, the Designs and Drawings, the EMP, OHS Plan, Subcontractor management plan, the O&M Plan and all Applicable Laws and Applicable Permits.

(h) Except as specifically provided in this Agreement, the Independent Engineer shall have no authority, whether express or implied, to amend, vary or curtail any of the rights or obligations of the Parties.

(i) The Concessionaire agrees that notwithstanding any review by the Independent Engineer of any or all of the construction works or O&M services, the Concessionaire shall bear all risk, responsibility and liability for the quality, adequacy and suitability of the Project Facilities and its compliance with the terms of this Agreement.

13.2 Payments to the Independent Engineer

All fees, costs, charges, and expenses payable to the Independent Engineer shall be agreed in advance of its appointment and shall be equally shared by the Authority and the Concessionaire. Such amounts shall be paid to the Independent Engineer by the Authority. The Authority shall raise an invoice on the Concessionaire for the payment of its share of the Independent Engineer's fees, and the Concessionaire shall make such payments to the Authority within 30 (thirty) days from the date of receipt of the invoice. If the Concessionaire fails to make such payment within the said period, the Authority may deduct the unpaid amount from any Concessionaire Payments becoming due thereafter.

13.3 Termination of Appointment

The Authority may, at its discretion, terminate the appointment of the Independent Engineer at any time; provided that no such termination shall take effect unless and until another Independent Engineer has been appointed in accordance with Article 13 and Schedule I. If the Concessionaire has reasonable grounds to believe that the Independent Engineer is not discharging its duties and functions in a fair, impartial, efficient or diligent manner in accordance with this Agreement, it may submit a written representation to the Authority seeking termination of such appointment. Upon receipt of such representation, the Authority shall convene a tripartite meeting with the Concessionaire and the Independent Engineer in an effort to resolve the matter amicably, and if the issue remains unresolved between the Authority and the Concessionaire, the matter shall be referred to resolution in accordance with the Dispute Resolution Procedure under this Agreement. In the event that the appointment of the Independent Engineer is terminated pursuant to this Article, the Authority shall forthwith appoint a replacement Independent Engineer in accordance with Article 13 and Schedule I and shall ensure that an Independent Engineer remains in place at all times during the Concession Period.

13.4 Authorised Signatories

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

13.5 Dispute resolution

If either Party disputes any advice, instruction, decision, direction or award of the Independent Engineer, or, as the case may be, the assertion or failure to assert jurisdiction, the Dispute shall be resolved in accordance with the Article 34.

13.6 Interim arrangement

In the event that the Authority does not appoint an Independent Engineer, or the Independent Engineer so appointed has relinquished its functions or defaulted in discharge thereof, the Authority may, in the interim, designate and authorise any person to discharge the functions of the Independent Engineer in accordance with the provisions of this Agreement, save and except that such person shall not exercise any functions relating to review, comment, approval or inspection as specified in this Agreement for and in respect of the Independent Engineer, and such functions shall be discharged as and when an Independent Engineer is appointed in accordance with the provisions of this Agreement. Provided, however, that nothing contained in this Clause 13.6 shall in any manner restrict the rights of the Authority to enforce compliance of the provisions of this Agreement.

ARTICLE 14. CONSTRUCTION PERIOD

14.1 Commencement and Duration

The period for construction of the Project Facilities shall commence on and from the Appointed Date and shall continue until the COD (the Construction Period).

Notwithstanding anything to the contrary in this Agreement, the Concessionaire shall, prior to the Appointed Date, be entitled to commence:

(a) soil or geophysical investigation or testing at the Site;

(b) the Pre-Construction Works; and

(c) appointment of Subcontractors for the construction works for the Project Facilities, with the prior approval of the Authority.

14.2 Project Execution Plan, DPR, Designs and Drawings

(a) Project Execution Plan

(i) Within 2 (two) months from the Execution Date, the Concessionaire shall prepare and submit to the Authority and the Independent Engineer a Project Execution Plan in accordance with the requirements set out in Schedule B (Annexure A). The Project Execution Plan shall include details of the execution strategy for the Project, manpower deployment, environment, health and safety standards, estimated timelines for procurement of equipment and materials and construction of the Project and a Site mobilization plan.

(ii) The Authority and the Independent Engineer shall review and provide comments, if any, on the draft Project Execution Plan to the Concessionaire, or notify the Concessionaire of their approval of the draft Project Execution Plan, within 15 (fifteen) days from the date of receipt of the draft Project Execution Plan from the Concessionaire. The Authority may require the Concessionaire to amend or modify the draft Project Execution Plan if the Authority or the Independent Engineer identifies any deficiencies or shortcomings in the draft Project Execution Plan. If the Concessionaire receives any comments, suggestions or instructions to modify the draft Project Execution Plan (including any plan included within the Project Execution Plan) from the Authority or the Independent Engineer, then the Concessionaire shall incorporate the suggestions made by the Authority and the Independent Engineer and modify the draft Project Execution Plan to address any such comments, shortcomings or deficiencies identified by the Authority and the Independent Engineer. Thereafter, the Concessionaire shall submit the revised Project Execution Plan to the Authority and the Independent Engineer for their approval. The process set out in this Clause 14.2(a)(ii) shall continue until the Project Execution Plan is approved by the Authority and the Independent Engineer in accordance with this Clause 14.2(a)(ii). Within 7 (seven) days from the approval of the Project Execution Plan, the Concessionaire shall submit 4 (four) hard copies and 1 (one) soft copy on a USB drive of the Project Execution Plan to the Authority.

(iii) The Concessionaire shall design, engineer and construct the Project Facilities strictly in accordance with the approved Project Execution Plan. The Concessionaire shall not deviate from or make any subsequent modification or amendment to the approved Project Execution Plan without the prior written approval of the Authority. Provided that the Authority shall not unreasonably withhold such approval if the proposed modification or amendment to the Project Execution Plan does not result in an extension of the Scheduled COD. The Concessionaire shall not commence construction of any part of the Project Facilities prior to approval of the Project Execution Plan in accordance with this Clause 14.2(a).

(iv) Notwithstanding any approval of the Project Execution Plan by the Authority, the Concessionaire shall, subject to Clause 14.7(b), be solely liable for achieving the COD by the Scheduled COD. Subject to Clause 14.7(b), the Concessionaire shall not be entitled to any extension of time and/or costs incurred in the preparation of the Project Execution Plan and complying with the requirements of this Clause 14.2(a).

(b) Detailed Project Report

(i) Within 4(four) months from the Execution Date, the Concessionaire shall prepare and submit to the Authority and the Independent Engineer a DPR in accordance with the requirements set out in Schedule B (Annexure B). The DPR shall include details of the Proposed Technology, mass and energy balances, tentative equipment list (including evacuation infrastructure until the Interconnection Point), demand assessment, technical feasibility, process flow diagrams, process and instrumentation diagram, order of magnitude costs and detailed cost estimates, capital investment plan, project financing details, revenue projections and financial analysis.

(ii) The Authority and the Independent Engineer shall review and provide comments, if any, on the draft DPR to the Concessionaire or notify the Concessionaire of their approval of the draft DPR within 15 (fifteen) days from the date of receipt of the draft DPR from the Concessionaire. The Authority may require the Concessionaire to amend or modify the draft DPR if the Authority or the Independent Engineer identifies any deficiencies or shortcomings in the draft DPR. If the Concessionaire receives any comments, suggestions or instructions to modify the draft DPR (including any plan included within the DPR) from the Authority or the Independent Engineer, then the Concessionaire shall incorporate the suggestions made by the Authority and the Independent Engineer and modify the draft DPR to address any such comments, shortcomings or deficiencies identified by the Authority and the Independent Engineer. Thereafter, the Concessionaire shall submit the revised DPR to the Authority and the Independent Engineer for their approval. The process set out in this Clause 14.2(b)(ii) shall continue until the DPR is approved by the Authority and the Independent Engineer in accordance with this Clause 14.2(b)(ii). Within 7 (seven) days from the approval of the DPR, the Concessionaire shall submit 4 (four) hard copies and 1 (one) soft copy on a USB drive of the DPR to the Authority.

(iii) The Concessionaire shall design, engineer and construct the Project Facilities strictly in accordance with the approved DPR. The Concessionaire shall not deviate from or make any subsequent modification or amendment to the approved DPR without the prior written approval of the Authority. Provided that the Authority shall not unreasonably withhold such approval if the proposed modification or amendment to the DPR does not result in an extension of the Scheduled

COD. The Concessionaire shall not commence construction of any part of the Project Facilities prior to approval of the DPR in accordance with this Clause 14.2(b).

(iv) Notwithstanding any approval of the DPR by the Authority, the Concessionaire shall, subject to Clause 14.7(b), be solely liable for achieving the COD by the Scheduled COD. Subject to Clause 14.7(b), the Concessionaire shall not be entitled to any extension of time and/or costs incurred in the preparation of the DPR and complying with the requirements of this Clause 14.2(b).

(c) Designs and Drawings

(i) The Concessionaire shall prepare the Designs and Drawings in accordance with the Technical Specifications, Applicable Laws and Applicable Permits. The Designs and Drawings shall be drawn to scale, with accurate dimensions, to minimize construction delays, disputes and cost overruns and to ensure smooth development of the Project Facilities. The Project Facilities should be designed in a manner such that the Concessionaire can obtain an environmental clearance for the Project Facility, an authorisation under the SWM Rules for setting up the Project Facility, approvals for grid connection and commissioning certificates from TNPDCL or the relevant Governmental Authority, and a consent to operate for the operation of the Project Facilities.

(ii) Within 4 (four) months from the Execution Date, the Concessionaire shall submit 4 (four) hard copies and 1 (one) soft copy on a USB drive of the draft Designs and Drawings to the Authority and the Independent Engineer for their review and approval. By submitting the Designs and Drawings for review to the Authority and the Independent Engineer, the Concessionaire shall be deemed to have represented that it has determined and verified that the Designs and Drawings, including the field construction criteria related thereto, are in conformity with the Technical Specifications, Applicable Laws and Good Industry Practice.

(iii) The Authority and the Independent Engineer shall provide comments if any, on the draft Designs and Drawings to the Concessionaire or notify the Concessionaire of their approval of the draft Designs and Drawings within 15 (fifteen) days from the date of receipt of the draft Designs and Drawings. The Authority may require the Concessionaire to amend or modify the draft Designs and Drawings if the Authority or the Independent Engineer identifies any deficiencies, inaccuracies or shortcomings in the draft Designs and Drawings. If the Concessionaire receives any comments, suggestions or instructions to modify the draft Designs and Drawings from the Authority or the Independent Engineer, then the Concessionaire shall modify the draft Designs and Drawings to correct any such shortcomings, inaccuracies or deficiencies and/or address, in writing, the Authority's/the Independent Engineer's comments on the draft Designs and Drawings and submit the revised Designs and Drawings to the Authority and the Independent Engineer for their approval within 15 (fifteen) days of receipt of comments. The process set out in this Clause 14.2(c)(iii) shall continue until the Designs and Drawings are approved by Authority and the Independent Engineer in accordance with this Clause 14.2(c)(iii).

(iv) Within 7 (seven) days from the approval of the Designs and Drawings, the Concessionaire shall submit 4 (four) hard copies and 1 (one) soft copy on a USB drive of the final Designs and Drawings to the Authority.

(v) The Concessionaire shall construct the Project Facilities strictly in accordance with the approved Designs and Drawings. If there are any errors or deficiencies in the Technical Specifications, the Designs and Drawings shall take into account, address or rectify such errors or deficiencies. The Concessionaire shall not deviate from or make any subsequent modification or amendment to the approved Designs and Drawings without the prior written approval of the Authority. The Concessionaire shall not commence construction of any part of the Project Facilities prior to approval of the Designs and Drawings in accordance with this Clause 14.2(c). If the Concessionaire undertakes any construction work for the Project Facilities prior to the approval of the Designs and Drawings, it shall do so at its own risk and the Authority shall have the right to reject any such construction work that does not comply with the approved Designs and Drawings.

(vi) Notwithstanding any approval of the Designs and Drawings by the Authority and the Independent Engineer, the Concessionaire shall bear all risk, responsibility and liability for the suitability, accuracy, adequacy and practicality of the Designs and Drawings. Subject to Clause 14.7(b), the Concessionaire shall not be entitled to any extension of time and/or costs incurred in the preparation of the Designs and Drawings and complying with the requirements of this Clause 14.2(c).

(vii) Within 90 (ninety) days of COD, the Concessionaire shall furnish to the Authority and the Independent Engineer a complete set of as-built Drawings, in 2 (two) hard copies and in its editable digital format or in such other medium and manner as may be acceptable to the Authority, reflecting the Project Facilities as actually designed, engineered and constructed, including an as-built survey illustrating the layout of the Project Facilities and setback lines, if any, of the buildings and structures forming part of Project.

(d) Use of Proposed Technology

(i) The Concessionaire shall design and develop the Project Facility on the basis of the Proposed Technology, approved by the Authority as part of the Designs and Drawings.

(ii) If the Selected Bidder is the owner of the Proposed Technology, then the Concessionaire shall enter into a technology license agreement with the Selected Bidder, under which the Selected Bidder will grant to the Concessionaire an irrevocable, perpetual, assignable, non-exclusive and royalty-free license to use the Proposed Technology to develop and operate the Project Facility.

(iii) If the Selected Bidder does not own the Proposed Technology, then the Concessionaire shall, at its own cost, enter into a technology licence agreement with the technology provider, under which the technology provider will grant to the Concessionaire an irrevocable, perpetual, assignable and royalty-free licence to use the Proposed Technology. At no point will the Authority be obliged to make any payments to the Concessionaire towards the licensing and use of the Proposed Technology.

If the Selected Bidder has, as part of its Bid, submitted a binding agreement or arrangement with a technology provider in relation to the Proposed Technology, the Concessionaire shall ensure that the technology licence agreement entered into under this Clause (iii) is executed with the same technology provider identified in the Bid.

(iv) Upon the expiry or early termination of this Agreement, the Concessionaire shall assign the license and related rights to use the Proposed Technology for the sole purpose of operating and maintaining the Project Facility to the Authority at no additional cost to the Authority.

(v) The Concessionaire shall indemnify the Authority for any claims, losses, damages and costs suffered by the Authority as a result of an infringement of any third party's Intellectual Property Rights caused by the operation and use of the Project Facilities.

(vi) The Concessionaire shall be permitted to undertake any upgradation or augmentation of the Proposed Technology with the prior approval of the Authority, provided that, such upgradation or augmentation is at no additional cost to the Authority and does not, in any manner, increase the financial liability of the Authority under this Agreement.

14.3 Construction Plan

(a) Within 4 (four) months from the Execution Date, the Concessionaire shall prepare and submit to the Authority a detailed Construction Plan. The Construction Plan shall be prepared in accordance with the requirements set out in Schedule B (Annexure D) and must include:

(i) the 4 (four) proposed Project Milestones for disbursement of the Grant and the specific activities to be performed by the Concessionaire to achieve the Project Milestones; (ii) the detailed plan for completing the construction of the Project Facilities in order to complete the Project Milestones by the Scheduled Project Milestone Completion Date and achieve the COD by the Scheduled COD;

(ii) a quality assurance plan setting out the activities and actions, proposed to be undertaken and the construction materials, equipment, and machinery to be used for the construction of the Project Facilities to ensure that the Project Facilities comply with the requirements of the Technical Specifications and Applicable Laws; and

(iii) an emergency response plan setting out in detail the procedures to be followed by the Concessionaire, its Sub-Contractors, agents and employees upon the occurrence of an Emergency.

(b) The Authority and the Independent Engineer shall review and provide comments, if any, on the draft Construction Plan to the Concessionaire or notify the Concessionaire of their approval of the draft Construction Plan within 15 (fifteen) days from the date of receipt of the draft Construction Plan from the Concessionaire. The Authority may require the Concessionaire to amend or modify the draft Construction Plan if the Authority or the Independent Engineer identifies any deficiencies or shortcomings in the draft Construction Plan. If the Concessionaire receives any comments, suggestions or instructions to modify the draft Construction Plan (including any plan included within the Construction Plan) from the Authority or the Independent Engineer, then the Concessionaire shall incorporate the suggestions made by the Authority and the Independent Engineer and modify the draft Construction Plan to address any such comments, shortcomings or deficiencies identified by the Authority and the Independent Engineer. Thereafter, the Concessionaire shall submit the revised Construction Plan to the Authority and the Independent Engineer for their approval. The

process set out in this Clause 14.3(b) shall continue until the Construction Plan is approved by the Authority and the Independent Engineer in accordance with this Clause 14.3(b). Within 7 (seven) days from the approval of the Construction Plan, the Concessionaire shall submit 4 (four) hard copies and 1 (one) soft copy on a USB drive of the Construction Plan to the Authority.

(c) The Concessionaire shall construct the Project Facilities strictly in accordance with the approved Construction Plan. The Concessionaire shall not deviate from or make any subsequent modification or amendment to the approved Construction Plan without the prior written approval of the Authority. Provided that the Authority shall not unreasonably withhold such approval if the proposed modification or amendment to the Construction Plan does not result in an extension of the Scheduled COD. The Concessionaire shall not commence construction of any part of the Project Facilities prior to approval of the Construction Plan in accordance with this Clause 14.3.

(d) Notwithstanding any approval of the Construction Plan by the Authority, the Concessionaire shall, subject to Clause 14.7(b), be solely liable for achieving the COD by the Scheduled COD. Subject to Clause 14.7(b), the Concessionaire shall not be entitled to any extension of time and/or costs incurred in the preparation of the Construction Plan and complying with the requirements of this Clause 14.3.

(e) If, after completing the Pre-Construction Works, the Concessionaire is of the view that the Construction Plan approved under this Clause 14.3 needs to be amended or modified in any way so as to incorporate any learnings from the Pre-Construction Works, it shall revise the Construction Plan and submit it to the Authority and the Independent Engineer and the process set out in Clause 14.3(b) shall follow for approval of the revised Construction Plan. Within 7 (seven) days from the approval of the revised Construction Plan, the Concessionaire shall submit 4 (four) hard copies and 1 (one) soft copy on a USB drive of the Construction Plan to the Authority.

14.4 Environment and Occupational Health and Safety Related Obligations

(a) Within 30 (thirty) days from the Execution Date, the Concessionaire shall prepare and submit a draft Environmental Management Plan (EMP) to the Authority and the Independent Engineer. The EMP shall set out the environment policies, guidelines, and procedures to be followed by the Concessionaire in undertaking the Project in accordance with Applicable Laws, Terms and Conditions of the CTE/CTO, Applicable Permits, and Good Industry Practices. As part of the EMP, the Concessionaire shall comply with the requirements as specified in the CTE/CTO, as applicable, with regards to monitoring and mitigating environmental impacts of the Project during the Construction Period and the Operation Period.

(b) The Authority and the Independent Engineer shall review and provide comments, if any, on the draft EMP to the Concessionaire within 15 (fifteen) days from the date of receipt of the draft EMP from the Concessionaire. The Authority may require the Concessionaire to amend or modify the draft EMP if the Authority or the Independent Engineer identifies any deficiencies or shortcomings in the draft EMP. If the Concessionaire receives any comments, suggestions or instructions to modify the draft EMP from the Authority or the Independent Engineer, then the Concessionaire shall incorporate the suggestions made by the Authority and the Independent Engineer and modify the draft EMP to address any such comments, shortcomings or deficiencies identified by the Authority

and the Independent Engineer within a period of 7 days and submit to the Authority and the Independent Engineer in accordance with this Clause 14.4(b). The Concessionaire shall submit 4 (four) hard copies and 1 (one) soft copy on a USB drive of the EMP to the Authority.

(c) The details set out in the EMP will include (i) measures to mitigate the environmental impact of construction and operations of the Project Facilities as identified and (ii) details of the stakeholder communications plan to be developed, implemented and maintained by the Concessionaire, as set out in Schedule B (Annexure E).

(d) The Concessionaire shall also, within 1 (one) month from the Appointed Date, develop an OHS Plan, which sets out the health and safety policies, guidelines and procedures to be followed by the Concessionaire in undertaking the Project and shall include a comprehensive Site safety assurance plan developed in accordance with the EMP , Applicable Laws, Applicable Permits, the Technical Specifications and Good Industry Practices.

(e) The Authority and the Independent Engineer shall provide comments, if any, on the draft EMP and OHS Plan to the Concessionaire or notify the Concessionaire of their approval of the draft EMP and OHS Plan within 15 (fifteen) days from the date of receipt of the draft EMP and OHS Plan from the Concessionaire. The Authority may require the Concessionaire to amend or modify the draft EMP and/or OHS Plan if the Authority or the Independent Engineer identifies any deficiencies or shortcomings in the draft EMP and/or OHS Plan. If the Concessionaire receives any comments, suggestions or instructions to modify the draft EMP and/or OHS Plan from the Authority or the Independent Engineer, then the Concessionaire shall modify the EMP and/or OHS Plan to address any such comments, shortcomings or deficiencies identified by the Authority or the Independent Engineer. Thereafter, the Concessionaire shall submit the revised EMP and/or OHS Plan to the Authority and the Independent Engineer for their approval. The process set out in this Clause 14.4(e) shall continue until the EMP and OHS Plan are approved by the Authority and the Independent Engineer in accordance with this Clause 14.4(e). Provided that, if the Authority or the Independent Engineer fail to approve the EMP and/or OHS Plan at least 30 (thirty)] days prior to the Scheduled COD, then the delay in approval of the EMP and/or OHS Plan shall not prevent the Concessionaire from obtaining the Completion Certificate or Provisional Certificate, as the case may be, and commencing commercial operations in accordance with Clause 17.1. Provided further that, if the Authority or Independent Engineer revert with comments, modifications or suggestions on the draft EMP and/or OHS Plan after the COD, the Concessionaire shall be required to respond to or incorporate such modifications in accordance with this Clause 14.4(e). Within 7 (seven) days from the approval of the EMP and OHS Plan, the Concessionaire shall submit 4 (four) hard copies and 1 (one) soft copy on a USB drive of the EMP and OHS Plan to the Authority.

(f) The Concessionaire shall, and shall ensure that its Subcontractors also, comply and conform with all aspects of the EMP and OHS Plan, approved in accordance with this Clause 14.4, in executing the Project. Any failure of the Concessionaire or the Subcontractors to comply with the EMP or OHS Plan shall constitute a Concessionaire Event of Default. The Concessionaire shall indemnify the Authority against all costs, expenses, penalties and liabilities incurred/suffered by the Authority due to the Concessionaire's or any Subcontractor's failure to comply with the EMP or OHS Plan in the course of execution of the Project. The Concessionaire shall not deviate from or make any

subsequent modification or amendment to the approved EMP or OHS Plan without the prior written approval of the Authority.

(g) Neither any approval of the EMP and OHS Plan by the Authority, nor any failure to review and provide comments on the EMP or OHS Plan shall excuse any failure by the Concessionaire or any Subcontractor to adopt proper and recognized safety and environment friendly practices during the execution of the Project. The Concessionaire shall bear all risk, responsibility and liability for the accuracy and adequacy of the final EMP or OHS Plan in ensuring compliance with all Applicable Laws, Applicable Permits and Good Industry Practices in the execution of the Project. Subject to Clause 14.7(b) and 14.4(e), the Concessionaire shall not be entitled to any extension of time and/or costs incurred in preparation of the EMP or OHS Plan and complying with the requirements of this Clause 14.4.

14.5 Subcontracting

(a) The Concessionaire shall, within 30 (thirty) days of the approval of the Construction Plan in accordance with Clause 14.3(b) above, submit to Authority, the draft Subcontractor management plan, which outlines the works and services (including procurement of equipment and materials) which the Concessionaire proposes to Subcontract, along with the estimated value of each Subcontract, details of the Subcontractor and methods by which the Concessionaire will ensure the Subcontractors comply with the terms of this Agreement, the Construction Plan, the Project Execution Plan, the DPR, the EMP and OHS Plan, the O&M Plan, Applicable Laws and Applicable Permits. The Authority and the Independent Engineer shall review and provide comments, if any, on the draft Subcontractor management plan to the Concessionaire or notify the Concessionaire of their approval of the draft Subcontractor management plan within 15 (fifteen) days from the date of receipt of the draft Subcontractor management plan from the Concessionaire. The Authority may require the Concessionaire to amend or modify the draft Subcontractor management plan. If the Concessionaire receives any comments, suggestions or instructions to modify the draft Subcontractor management plan from the Authority or the Independent Engineer, then the Concessionaire shall incorporate the suggestions made by the Authority and/or the Independent Engineer and modify the draft Subcontractor management plan to address any such comments. Thereafter, the Concessionaire shall submit the revised Subcontractor management plan to the Authority and the Independent Engineer for their approval. The process set out in this Clause 14.5(a) shall continue until the Subcontractor management plan is approved by Authority and the Independent Engineer in accordance with this Clause 14.5(a). Provided that, if the Authority or the Independent Engineer fail to approve the Subcontractor management plan at least 30 (thirty) days prior to the Scheduled COD, then the delay in approval of the Subcontractor management plan shall not prevent the Concessionaire from obtaining the Completion Certificate or Provisional Certificate, as the case may be, and commencing commercial operations in accordance with Clause 17.1. Provided further that, if the Authority or Independent Engineer revert with comments, modifications or suggestions on the draft Subcontractor management plan after the COD, the Concessionaire shall be required to respond to or incorporate such modifications in accordance with this Clause 14.5(a). Within 7 (seven) days from the approval of the Subcontractor management plan, the Concessionaire shall submit 4 (four) hard copies and 1 (one) soft copy on a USB drive of the Subcontractor management plan to Authority. The Concessionaire shall not make any

subsequent modification or amendment to the approved Subcontractor management plan without the prior written approval of Authority.

(b) The Concessionaire may enter into Subcontracts to perform any part of its Development Requirements, in accordance with the approved Subcontractor management plan, provided that notwithstanding the approval of the Subcontractor management plan, subcontracts of a value above 25% (twenty-five per cent) of the Total Project Cost will be executed only with the prior approval of the Authority. To clarify, subcontracts proposed to be executed by the Concessionaire of a value below 25% (twenty-five per cent) of the Total Project Cost with an approved Subcontractor do not need to be separately approved by the Authority.

(c) The Concessionaire shall provide a copy of each proposed Subcontract of a value above 25% (twenty-five per cent) of the Total Project Cost, along with details of the relevant Subcontractor, to the Authority for its approval, which should set out the precise Development Requirements to be subcontracted to such Subcontractor and should be consistent with the terms of this Agreement and the approved Subcontractor management plan.

(d) Within 15 (fifteen) days of receipt of a draft Subcontract under Clause 14.5(c) above, the Authority shall notify the Concessionaire of its approval or rejection (along with reasons) of the Subcontractor.

(e) The approval of any Subcontractor and the corresponding Subcontract by the Authority shall be subject to the following conditions:

(i) the Subcontractor appointed by the Concessionaire possesses the requisite skill, expertise and capability to perform the relevant obligations of the Concessionaire;

(ii) the Subcontract is on terms consistent with this Agreement;

(iii) the Subcontract contains provisions that provide, at the Authority's option, for the subcontract to be novated or assigned to the Authority or its nominee without any further consent or approval from the Concessionaire or the Subcontractor or entitle the Authority or its nominee to step into such Subcontract, in substitution of the Concessionaire, if this Agreement is terminated due to a Concessionaire Event of Default. However, the step-in rights of the Authority shall always be subject to the substitution rights of the Senior Lenders under this Agreement or the Substitution Agreement; and

(iv) the Concessionaire shall be responsible for the supervision and monitoring of the performance of any work or services by the Subcontractor.

(f) If the Authority does not notify its approval or rejection of any Subcontract to the Concessionaire within 15 (fifteen) days of the receipt of the draft Subcontract, then such Subcontract will be deemed to be approved by the Authority.

(g) Within 7 (seven) days of the execution of an amendment to any approved Subcontract, the Concessionaire shall submit a copy of such amendment to the Authority for its records.

(h) If the Concessionaire proposes to novate an approved Subcontract and/or replace an approved Subcontractor, then such novation or replacement shall be with prior approval of the Authority and the process set out in this Clause 14.5 shall apply in such case.

(i) Notwithstanding the approval of the Subcontractor management plan or any Subcontractor by the Authority, the Concessionaire shall be and remain liable under this Agreement for all work and services subcontracted under this Agreement and for all acts, omissions or defaults of any Subcontractor. No default under any Subcontract shall excuse the Concessionaire from its obligations or liabilities under this Agreement. All references in this Agreement to any act, default, omission, breach or negligence of the Concessionaire shall be construed to include any such act, default, omission, breach or negligence of the Subcontractors.

14.6 Concessionaire's Pre-Construction and Construction Obligations

The Concessionaire shall design, finance, construct and complete the Project Facilities and achieve the COD in accordance with Applicable Laws, Applicable Permits, Good Industry Practice, the Technical Specifications, the EMP, OHS Plan, the Designs and Drawings, the Construction Plan, the Project Execution Plan, the DPR and other provisions of this Agreement, and the PPA.

For this purpose, from the Execution Date and during the Construction Period, the Concessionaire shall:

(a) complete Pre-Construction Works in accordance with Development Requirements and Technical Specifications. Subject to Clause 4.3(a) and Article 26, the Concessionaire shall not be entitled to any extension of time or costs on account of any delays in completing the Pre-Construction Works.

(b) complete the work corresponding to each Project Milestone by the Scheduled Project Milestone Completion Date and so as to ensure that the Project Facility achieves the COD on or before the Scheduled COD in a manner that:

  (i) is in compliance with the Technical Specifications, the Designs and Drawings, the Construction Plan, the Project Execution Plan, the DPR, the EMP, OHS Plan, Applicable Laws, Applicable Permits and Good Industry Practices. For the avoidance of doubt, if there arises any ambiguity or conflict between the Technical Specifications, and any Applicable Laws, then the one setting out the more stringent requirements or specifications shall prevail;

  (ii) the Project Facilities are free from all defects in design, materials, and workmanship;

  (iii) the Project Facilities are safe, reliable and fit for purpose;

  (iv) the Project Facility is capable of handling and processing the Acceptable Waste up to the Design Capacity; and

  (v) all aspects of the Project Facilities, including the processes and materials employed in the construction, operation, and maintenance of the Project Facilities comply with the Applicable Laws in relation to environment, health, and safety, including in particular the SWM Rules, and there is no damage to the environment resulting from the construction of the Project Facilities.

(c) reasonably consider and act upon the comments/suggestions made by the Independent Engineer and Authority during any meetings with the Concessionaire;

(d) rectify any defects and/or deficiencies in the Project Facilities, including any defects and/or deficiencies identified by the Independent Engineer and Authority;

(e) ensure that an adequate number of suitably skilled and experienced contractors, architects, workmen and other personnel are engaged to undertake the Project. The Concessionaire shall be solely responsible for the work performed by any staff and labour engaged by it to execute the Project and for payment of all labour charges, fees, cess, payable under Applicable Laws (including labour welfare legislations) in connection with the skilled and unskilled manpower employed for the Project, including specifically the Building and Other Construction Workers Welfare Cess Act, 1996. The Concessionaire shall ensure that its Subcontractors provide all necessary amenities and welfare facilities for the staff and labour engaged by them at the Site and comply with all applicable labour laws. The Concessionaire shall indemnify and hold harmless the Authority from and against all claims, liabilities, expenses, costs and losses suffered or incurred by the Authority due to the Concessionaire's or any Subcontractor's failure to comply with any Applicable Laws (including labour welfare legislations);

(f) arrange for all equipment, machinery, tools and other resources required to undertake the Project and be solely responsible for such equipment, machinery, tools and resources, in accordance with the quality assurance plan submitted as part of the Construction Plan. The Authority may provide the Concessionaire an indicative list of vendors for procurement of equipment for the Project Facilities, and the Concessionaire may, at its discretion, procure equipment from such vendors;

(g) take all reasonable measures to ensure that the transportation of any of the Concessionaire's or the Subcontractors' personnel or equipment, to or from the Site, does not interfere with local traffic in the vicinity of the Site;

(h) maintain accurate and systematic accounts and records of goods and material utilized and other costs and expenses incurred in connection with the construction works for the Project Facilities, including all invoices, receipts, challans, vouchers, quotations and other records and documents with respect to the Project Facilities in accordance with Applicable Laws; and

(i) prepare and keep up-to-date, "as-built" records of the execution of the work for the Project Facilities, showing the exact as-built locations, sizes and details of the works executed. The "as-built" records shall be kept on the Site and be made available to the Independent Engineer and Authority for review and verification.

14.7 Construction Timelines

(a) The Concessionaire shall comply with the DPR, the Project Execution Plan, the Construction Plan, the Designs and Drawings and the Technical Specifications and complete the construction of the Project Facilities so as to ensure that the Project Facility achieves the COD on or before the Scheduled COD.

(b) Subject to Clause 14.7(c) below, the Concessionaire shall be entitled to a day-for-day extension of the relevant Scheduled Project Milestone Completion Date or, as the case may be, the Scheduled COD, if the completion of construction is delayed due to any of the following reasons (each such event, a Delay Event):

(i) occurrence of a Force Majeure Event, provided that the requirements of Article 26 have been complied with;

(ii) a Change in Law;

(iii) undue delay by the relevant Government Authority or Offtaker in granting or renewing any Applicable Permit (including the commissioning certificate under the PPA), despite the Concessionaire having applied for such grant or renewal expeditiously and having complied with the requirements of Applicable Laws in making such application;

(iv) undue delay by the relevant Government Authority in providing any utility connection, despite the Concessionaire having applied for such utility connection expeditiously and having complied with the requirements of Applicable Laws in making such application;

(v) any delay attributable to unforeseen site conditions in accordance with Clause 10.5;

(vi) any delay by the Authority in providing comments or approving the Designs and Drawings in accordance with the process and timelines set out in Clause 14;

(vii) a suspension of construction of the Project Facilities pursuant to Clause 27.1(a)(i) or Clause 27.2(a)(i), which is not attributable to the Concessionaire;

(viii) delay by the Independent Engineer in inspecting the completed portion of the works or notifying the Concessionaire of any defects or deficiencies in the works in accordance with Clause 16.1(a)(iv);

(ix) delay by the Authority in issuing the Milestone Completion Certificate in accordance with Clause 16.1(b).

(x) deleted;

(xi) delay in operationalization of the substation at which the electricity generated from the Project Facility is proposed to be injected at the Interconnection Point or unavailability of the transmission system for evacuation of power beyond the Interconnection Point;

(xii) Deleted;

(xiii) delay by the Authority of more than 30 (thirty) days beyond the due date in making payment of the Grant to the Concessionaire in accordance with the terms of this Agreement; or

(xiv) any Change of Scope proposed by Authority or necessitated by actual Site conditions in the Development Requirements, Technical Specifications or the Designs and Drawings in accordance with Article 31.

The Concessionaire shall promptly provide the Authority (with a copy to the Independent Engineer) with a notice upon becoming aware of any Delay Event listed in this Clause 14.7(b). The notice should specify the nature of the Delay Event, the extent of delay suffered or likely to be suffered by the Concessionaire and mitigation measures being taken by the Concessionaire.

The issuance of the notice under this Clause 14.7(b), within 7 (seven) days from the date the Concessionaire became aware of the Delay Event, shall be a condition precedent to the Concessionaire's entitlement to an extension under Clause 14.7(b).

(c) Without prejudice to the Concessionaire's obligations to notify the Authority regarding the occurrence of a Delay Event above, the Concessionaire shall:

(i) keep and maintain records as reasonably necessary to substantiate and establish claims for extensions under Clause 14.7(b); and

(ii) give the Authority and the Independent Engineer access to such records and documents or provide the Authority and the Independent Engineer with copies, if so requested.

(d) If the Concessionaire claims an extension of time in accordance with Clause 14.7(b) and Authority is of the opinion that such delay was caused or materially contributed to by any concurrent or interacting cause or causes of delay not listed in Clause 14.7(b), then the Concessionaire shall not be entitled to any extension of time for the concurrent period of delay.

(e) If two or more of the Delay Events listed in Clause 14.7(b) occur concurrently, then such concurrent period shall not be counted twice in determining an extension under Clause 14.7(b).

(f) Except as provided in Clause 14.7(b), the Concessionaire shall not be entitled to any extension of time for any reason whatsoever, including due to:

(i) delay caused in complying with any instructions of Authority or the Independent Engineer which are attributable to any act or omission of the Concessionaire;

(ii) failure of any Subcontractor to commence or carry out any work within the prescribed timelines; or

(iii) unavailability or shortage of equipment, materials, or any other resources.

(g) Any Dispute between the Parties with respect to the occurrence, length of subsistence or consequence of any of the Delay Event shall be settled in a final and binding manner in accordance with Article 34.

14.8 Delay Liquidated Damages

(a) Subject to Clause 14.7(b), if the Concessionaire fails to complete the work corresponding to any Project Milestone by the relevant Scheduled Project Milestone Completion Date or fails to achieve the COD by the Scheduled COD, then the Authority shall be entitled to liquidated damages for each day of delay beyond the Scheduled Project Milestone Completion Date, or, as the case may be, the Scheduled COD, at the rate of 0.1 (zero point one percent)% of the Performance Security, up to 6 (six) months from the relevant Scheduled Project Milestone Completion Date, or, as the case may be, the Scheduled COD (collectively, the Delay Liquidated Damages).

(b) The Delay Liquidated Damages will be payable until the work for the relevant Project Milestone is completed or, as the case may be, the COD is achieved or deemed to be achieved in accordance with Article 17.

(c) If the Concessionaire achieves the COD by the Scheduled COD, the aggregate Delay Liquidated Damages recovered by the Authority under Clause 14.8(a) for a delay in achieving any Project Milestone shall be refunded by the Authority to the Concessionaire, without any interest.

(d) The Authority shall be entitled to deduct the Delay Liquidated Damages from the amount payable to the Concessionaire for any Project Milestone, and if such amounts are insufficient, the Authority shall have a right to invoke the Performance Security to the extent of the Delay Liquidated Damages.

(e) The Parties acknowledge that the Delay Liquidated Damages are a genuine pre-estimation of and reasonable compensation for the loss that shall be suffered by the Authority as a result of the delay in the completion of the Project Facilities, and not as penalty.

(f) If, for any reason, the above paragraphs relating to the payment of Delay Liquidated Damages are void, invalid or otherwise inoperative so as to disentitle the Authority from claiming any Delay Liquidated Damages, then the Authority will be entitled to claim against the Concessionaire for general damages for delay in completing the works for the relevant Project Milestone by the Scheduled Project Milestone Completion Date, or for the delay in achieving the COD by the Scheduled COD.

(g) If the Concessionaire fails to complete the works for a Project Milestone within 6 (six) months of the Scheduled Project Milestone Completion Date or if the Concessionaire fails to achieve the COD within 6 (six) months of the Scheduled COD, other than on account of any Delay Event, then such failure shall be deemed to be a Concessionaire Event of Default in accordance with Clause 28.1.

(h) The payment of Delay Liquidated Damages shall not relieve the Concessionaire from its obligations to complete the construction of the Project Facilities and commission the Project Facility, or from any of its other duties, obligations or responsibilities under the Agreement.

(i) The Concessionaire shall pay any Delay Liquidated Damages within 30 (thirty) days of receipt of an invoice for such liquidated damages from the Authority.

ARTICLE 15. MONITORING OF CONSTRUCTION

15.1 Monthly Progress Reports

During the Construction Period, the Concessionaire shall submit monthly reports to the Independent Engineer (with a copy to the Authority), no later than 7 (seven) days after the end of each month, which should set out the following:

(a) extent of progress of construction activities performed by the Concessionaire for the Project Facilities;

(b) comparison of actual progress against the planned progress of construction works, reasons for delay, if any, and steps taken by the Concessionaire to mitigate the delay;

(c) details of any accident or hazardous incident at the Site and the steps taken by the Concessionaire to mitigate the consequences of such accident or hazardous incident; and

(d) status of rectification of defects and/or deficiencies discovered by the Independent Engineer or the Authority.

The Concessionaire shall promptly give such other relevant information as may be required by the Independent Engineer.

15.2 Inspection

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

15.3 Construction Tests

(e) For determining that the construction works conform to the Technical Specifications, the Independent Engineer may require the Concessionaire to carry out, or cause to be carried out, tests, in accordance with Good Industry Practice, for quality assurance. The costs incurred on the tests shall be borne solely by the Concessionaire.

(f) If the results of any tests conducted under this Clause 15.3 establish any defects or deficiencies in the construction works, the Concessionaire shall carry out remedial measures and furnish a report to the Independent Engineer in this regard. The Independent Engineer shall have the right to verify such reports and if required, request the Concessionaire to carry out or cause to be carried out tests to determine that such remedial measures have brought the construction works into compliance with the

Technical Specifications, and the procedure set forth in this Clause 15.3 shall be repeated until such construction works conform to the Technical Specifications.

15.4 Suspension of Unsafe Construction Works

(a) Upon recommendation of the Independent Engineer to this effect, the Authority may, by notice, require the Concessionaire to suspend forthwith the whole or any part of the construction work if, in the reasonable opinion of the Authority, such work is unsafe and a potential safety hazard.

(b) The Concessionaire shall, pursuant to a notice under this Clause 15.4, suspend all or part of the construction works for such time and in such manner as may be specified by the Authority and carry out remedial measures to secure the safety of the suspended works. The Concessionaire may by notice, require the Independent Engineer to inspect such remedial measures adopted and submit a report to the Authority recommending whether such suspension may be revoked. Upon receiving the recommendations of the Independent Engineer, the Authority shall either revoke such suspension or instruct the Concessionaire to carry out further remedial measures that are necessary, in the reasonable opinion of the Authority, and the procedure set forth in this Clause 15.4 shall be repeated until the suspension is revoked.

15.5 Video Recording

During the Construction Period, the Concessionaire shall provide to the Authority for every quarter, a video recording, which will be compiled into a 3 (three) hour USB drive, covering the status and progress of construction works in that quarter. The first such video recording shall be provided to the Authority within 7 (seven) days of the Appointed Date and thereafter, no later than 15 (fifteen) days after the close of each quarter.

15.6 Delays during construction

Without prejudice to the provisions of Clause 14.8, if the Concessionaire does not achieve any of the project milestones or the Independent Engineer shall have reasonably determined that the rate of progress of Construction Works is such that the Project is not likely to be completed by the Scheduled COD, it shall notify the Concessionaire to this effect, and the Concessionaire shall, within 15 (fifteen) days of such notice, by a communication inform the Independent Engineer in reasonable detail about the steps it proposes to take to expedite progress and the period within which it shall achieve COD.

ARTICLE 16. COMPLETION CERTIFICATE

16.1 Completion of Works

(a) Completion of Project Milestones

(i) Upon completion of construction of the works corresponding to a Project Milestone, as specified in the Construction Plan, the Concessionaire shall issue a notice to the Authority, with a copy to the Independent Engineer, requiring the Authority to cause the Independent Engineer to inspect the completed works covered by the relevant Project Milestones. The purpose of such inspection shall be to determine whether the works corresponding to the relevant Project Milestones have been completed in accordance with the requirements of Clause 14.6.

(ii) If the Independent Engineer is satisfied that the works for the relevant Project Milestone have been completed in accordance with the requirements of Clause 14.6, then it shall submit a report to the Authority to this effect within 3 (three) days of such inspection and thereafter, the Authority shall issue a Milestone Completion Certificate to the Concessionaire for such completed Project Milestone, within 7 (seven) days from the date of the Independent Engineer's report.

(iii) If the Independent Engineer is of the view that the works for the relevant Project Milestone do not satisfy the requirements of Clause 14.6, then the Independent Engineer shall have the right to provide comments, suggestions and/or instruct the Concessionaire to carry out necessary modifications, to ensure that the works comply with the requirements of Clause 14.6. Upon receipt of such comments, suggestions, or instructions from the Independent Engineer, the Concessionaire shall make necessary modifications to the works to remedy any defects or deficiencies and re-issue a notice to the Authority and the Independent Engineer.

The Concessionaire shall bear all costs of remedying the defects and deficiencies in the works and shall not be entitled to any extension of time for remedying such defects or deficiencies. This process shall be repeated until the Independent Engineer is satisfied that the works for the relevant Project Milestone have been completed in accordance with the requirements of Clause 14.6 and the Authority issues a Milestone Completion Certificate in accordance with this Clause 16.1(a).

(iv) If:

(A) the Independent Engineer fails to inspect the completed portion of the works covered by the relevant Project Milestone, within 7 (seven) days from the date of receipt of a notice from the Concessionaire under Clause 16.1(a)(i) above;

(B) the Independent Engineer fails to provide any comments or suggestions or notify the Concessionaire of any defects or deficiencies in the completed portion of the works covered by the relevant Project Milestone, within 7 (seven) days from the date of inspection of such completed portion of the works; or

(C) the Authority fails to issue the Milestone Completion Certificate, within 7 (seven) days from the date of inspection of the completed portion of the works covered by the relevant Project Milestone,

then, such delay shall be treated as a Delay Event under Clause 14.7.

(b) Tests on Completion

(i) No later than 30 (thirty) days prior to the likely completion of the Project, the Concessionaire shall notify the Independent Engineer of its intention to subject the Project Facility to the required tests. The date and time of each test shall be determined by the Independent Engineer in consultation with the Concessionaire and notified to the Authority, which may designate its representative to witness such tests. The Concessionaire shall provide such assistance, access, materials, utilities and personnel as the Independent Engineer may reasonably require for conducting the tests. In the event that the Concessionaire and the Independent Engineer are unable to agree on the dates for conducting the tests, the Concessionaire may fix such dates by giving not less than 10 (ten) days' prior notice to the Independent Engineer and the Authority. The Authority shall ensure that the tests are conducted in a timely manner.

(ii) All tests shall be conducted in accordance with this Agreement, including the applicable Technical Specifications, at the cost and expense of the Concessionaire. The Independent Engineer shall observe, monitor and review the results of the tests to determine whether the Project Facility complies with the Development Requirements. If, during the course of any test, the Independent Engineer reasonably determines that the Project Facility or any part thereof does not conform to the Development Requirements, it may suspend or delay such test and require the Concessionaire to rectify the defects or deficiencies. The Concessionaire shall carry out such trial operations, commissioning runs and performance demonstrations as may be necessary for successful commissioning of the Project Facility and for demonstrating compliance with the Development Requirements. Upon completion of each test, the Independent Engineer shall provide to the Concessionaire and the Authority copies of the test data, including detailed results. The Independent Engineer may require the Concessionaire to carry out additional tests, in accordance with Good Industry Practice, to determine compliance with the Development Requirements.

16.2 Completion Certificate

Upon completion of the construction works (including trial operations), and upon the Independent Engineer determining that the tests have been successfully completed, the Independent Engineer shall, subject to Clause 16.7, forthwith issue to the Concessionaire and the Authority a certificate substantially in the form set out in Schedule N (the "**Completion Certificate**")

16.3 Provisional Certificate

The Independent Engineer may, subject to Clause 16.7 and at the request of the Concessionaire, issue a provisional certificate of completion substantially in the form set out in Schedule N (the "**Provisional Certificate**") if the tests have been successfully completed and the Project Facility can be safely and

reliably placed in commercial operation, notwithstanding that certain minor works or items forming part thereof remain outstanding or incomplete. In such event, the Provisional Certificate shall be accompanied by a list of such outstanding works or items, jointly signed by the Independent Engineer and the Concessionaire (the "**Punch List**"). The Independent Engineer shall not withhold issuance of the Provisional Certificate on account of any incomplete work if the delay in completion thereof is attributable to the Authority.

16.4 Completion of Punch List Items

(a) The Concessionaire shall complete all items set out in the Punch List within 90 (ninety) days from the date of issuance of the Provisional Certificate. In the event of any delay beyond such period, other than for reasons solely attributable to the Authority or due to Force Majeure, the Authority shall be entitled to recover damages for each day of delay until completion of all Punch List items, at the lower of:

(i) 0.1% (zero point one per cent) of the Performance Security; and

(ii) 0.2% (zero point two per cent) of the estimated cost of completing such items, as determined by the Independent Engineer.

Upon payment of such damages, the Concessionaire shall be entitled to an additional period not exceeding 120 (one hundred and twenty) days for completion of the Punch List items. For the avoidance of doubt, where completion of any Punch List item is delayed for reasons solely attributable to the Authority or due to Force Majeure, the revised completion timeline shall be determined by the Independent Engineer in accordance with Good Industry Practice, and no damages shall be payable for such period of delay.

(b) Upon completion of all Punch List items to the satisfaction of the Independent Engineer, the Independent Engineer shall issue the Completion Certificate. If the Concessionaire fails to complete all Punch List items within the time permitted under Clause 16.4(a), for reasons other than Force Majeure or reasons solely attributable to the Authority, the Authority shall be entitled to terminate this Agreement in accordance with the provisions relating to Concessionaire Event of Default.

16.5 Withholding of Provisional or Completion Certificate

(a) If the Independent Engineer determines that the Project Facility, or any part thereof, does not conform to the provisions of this Agreement or the Development Requirements and cannot be safely and reliably placed in commercial operation, it shall promptly submit a report to the Authority and the Concessionaire setting out the defects and deficiencies. Upon receipt of such report, the Authority may, after its own review, notify the Concessionaire within 7 (seven) days that the Provisional Certificate or Completion Certificate, as the case may be, shall be withheld. Upon receipt of such notice, the Concessionaire shall promptly remedy the identified defects or deficiencies, and the relevant tests shall thereafter be conducted again in accordance with this Article. This process shall be repeated until the Project Facility complies with the Development Requirements.

(b) Notwithstanding the foregoing, the Authority may, after receipt of the report of the Independent Engineer, direct the Independent Engineer to issue a Provisional Certificate under Clause 16.3 and the Independent Engineer shall comply with such direction.

16.6 Rescheduling of Tests

If the Independent Engineer certifies to the Authority and the Concessionaire that it is unable to issue the Provisional Certificate or Completion Certificate due to events or circumstances as a result of which the tests could not be conducted or were suspended, the Concessionaire shall be entitled to reschedule and conduct such tests as soon as reasonably practicable.

16.7 Additional Conditions for Issue of Completion or Provisional Certificate

The Completion Certificate or the Provisional Certificate, as the case may be, shall be issued only upon the Concessionaire having satisfied the following additional conditions, in addition to the requirements set out elsewhere in this Agreement:

(a) the Concessionaire having obtained all Applicable Permits necessary for operation of the Project Facility (including but not limited to all approvals for the safety, installation and energization of any electrical equipment and the consent to operate from the relevant Government Authorities) and necessary for the interconnection of the Project Facility at the Interconnection Point and evacuation of power in accordance with the terms of the PPA;

(b) the Concessionaire having obtained adequate insurance for the Project Facilities in accordance with Article 25;

(c) the Concessionaire having paid, or the Authority having fully recovered any Delay Liquidated Damages due and payable to Authority in accordance with Clause 14.8;

(d) the Concessionaire having submitted to the Authority the Scheduled Maintenance Programme for the first-year post COD;

(e) TNPDCL having issued a commissioning certificate in accordance with the terms of the PPA; and

ARTICLE 17. ENTRY INTO COMMERCIAL SERVICE

17.1 Commercial Operations Date

(a) The Project Facility shall be deemed complete upon issuance of the Completion Certificate or the Provisional Certificate, as the case may be, in accordance with this Agreement, and the Commercial Operation Date ("COD") shall be the date on which such Completion Certificate or Provisional Certificate is issued.

(b) In the event that the Authority prevents, causes to be prevented, or in any manner delays the commencement of commercial operation of the Project Facility after issuance of the Completion Certificate or Provisional Certificate, or where there is a delay in issuance of such certificate for reasons attributable to the Authority or the Independent Engineer, the Concessionaire may declare COD and notify the Authority accordingly.

ARTICLE 18. OPERATIONS AND MAINTENANCE PERIOD

18.1 Commencement and Duration

The period for the operation and maintenance of the Project Facilities shall commence on and from the COD and shall continue until the expiry of the Concession Period, unless terminated earlier in accordance with Article 28.

18.2 O&M Plan

(a) At least 60 (sixty) days prior to the Scheduled COD, the Concessionaire shall prepare and submit a detailed O&M Plan for the Project Facilities based on the Proposed Technology and in accordance with the Technical Specifications, EMP, OHS Plan, Applicable Laws, and Applicable Permits. The O&M Plan shall specify the operation procedures and maintenance procedures (separately for each component of the Project Facilities). If there are any errors or deficiencies in the Technical Specifications, the O&M Plan shall take in account, address or rectify such errors or deficiencies.

(b) The Authority and the Independent Engineer shall review and provide comments, if any, on the draft O&M Plan to the Concessionaire, or notify the Concessionaire of their approval of the draft O&M Plan, within 30 (thirty) days from the date of receipt of the draft O&M Plan from the Concessionaire. The Authority may require the Concessionaire to amend or modify the draft O&M Plan if the Authority or the Independent Engineer identify any deficiencies, inaccuracies or shortcomings in the draft O&M Plan. If the Concessionaire receives any comments, suggestions or instructions to modify the draft O&M Plan from the Authority or the Independent Engineer, then the Concessionaire shall modify the draft O&M Plan to correct any shortcomings, inaccuracies or deficiencies identified by the Authority or the Independent Engineer and/or address, in writing, the Authority's and/or the Independent Engineer's comments on the draft O&M Plan and submit the revised O&M Plan to the Authority and the Independent Engineer for their approval. The process set out in this Clause 18.2(b) shall continue until the O&M Plan is approved by the Authority and the Independent Engineer in accordance with this Clause 18.2(b). Provided that, if the Authority or the Independent Engineer fails to approve the O&M Plan at least 10 (ten) days prior to Scheduled COD, then the delay in approval of the O&M Plan shall not prevent the Concessionaire from obtaining the Provisional Certificate or Completion Certificate, as the case may be, and commencing commercial operations. If the Authority or Independent Engineer responds with comments, modifications or suggestions on the draft O&M Plan after the COD, the Concessionaire shall be required to address such modifications in accordance with this Clause 18.2(b). The Concessionaire shall submit 4 (four) hard copies and 1 (one) soft copy on a USB drive of the approved O&M Plan to the Authority.

(c) The Concessionaire shall revise the O&M Plan as and when the Concessionaire thinks it necessary to do so and in such case the provisions of Clause 18.2(b) will apply as is to the approval of the revised plan.

(d) The Concessionaire shall undertake the O&M of the Project Facilities strictly in accordance with the approved O&M Plan (or where the O&M Plan has not been approved prior to the COD, in accordance with the draft O&M Plan submitted to the Authority until the O&M Plan is approved).

The Concessionaire shall not deviate from or make any amendment to the approved O&M Plan without the prior written approval of the Authority.

(e) Notwithstanding any approval of the O&M Plan by the Authority, the Concessionaire shall bear all risk, responsibility and liability for the suitability, accuracy, adequacy and practicality of the O&M Plan. Subject to Clause 18.2(b), the Concessionaire shall not be entitled to any extension of time and/or costs incurred in the preparation of or updating the O&M Plan and complying with the requirements of this Clause 18.2.

18.3 Waste Acceptance and Rejection Plan

(a) At least 60 (sixty) days prior to the Scheduled COD, the Concessionaire shall prepare and submit a Waste Acceptance and Rejection Plan for the Project Facility. The Waste Acceptance and Rejection Plan shall specify the procedures to be followed by the Parties in relation to the delivery, acceptance and rejection of waste delivered by the Authority (or any C&T Contractors on behalf of the Authority) at the Receipt Point, including rejection of inappropriate quality.

(b) The Waste Acceptance and Rejection Plan shall set out the methodology that the Concessionaire proposes to use when inspecting, testing, processing and rejecting waste that is delivered at the Receipt Point.

(c) The Authority and the Independent Engineer shall review and provide comments, if any, on the draft Waste Acceptance and Rejection Plan to the Concessionaire or notify the Concessionaire of their approval of the draft Waste Acceptance and Rejection Plan within 30 (thirty) days from the date of receipt of the draft Waste Acceptance and Rejection Plan from the Concessionaire. The Authority may require the Concessionaire to amend or modify the draft Waste Acceptance and Rejection Plan if the Authority or the Independent Engineer identify any deficiencies, inaccuracies or shortcomings in the draft Waste Acceptance and Rejection Plan. If the Concessionaire receives any comments, suggestions or instructions to modify the draft Waste Acceptance and Rejection Plan from the Authority or the Independent Engineer, then the Concessionaire shall modify the draft Waste Acceptance and Rejection Plan to correct any shortcomings, inaccuracies or deficiencies identified by the Authority or the Independent Engineer and/or address, in writing, the Authority's and/or the Independent Engineer's comments on the draft Waste Acceptance and Rejection Plan and submit the revised Waste Acceptance and Rejection Plan to Authority and the Independent Engineer for their approval. The process set out in this Clause 18.3(c) shall continue until the Waste Acceptance and Rejection Plan is approved by the Authority and the Independent Engineer in accordance with this Clause 18.3(c). Provided that, if the Authority or the Independent Engineer fails to approve the Waste Acceptance and Rejection Plan at least 10 (ten) days prior to the Scheduled COD, then the delay in approval of the Waste Acceptance and Rejection Plan shall not prevent the Concessionaire from obtaining the Provisional Certificate or Completion Certificate, as the case may be, and commencing commercial operations in accordance with Clause 17.1. Provided further that, if the Authority or Independent Engineer responds with comments, modifications or suggestions on the draft Waste Acceptance and Rejection Plan after the COD, the Concessionaire shall be required to address such modifications in accordance with this Clause 18.3(c). The Concessionaire shall submit 4 (four) hard copies and 1 (one) soft copy on a USB drive of the approved Waste Acceptance and Rejection Plan to the Authority.

(d) The Concessionaire shall revise the Waste Acceptance and Rejection Plan as and when the Concessionaire thinks it necessary to do so and in such case the provisions of Clause 18.3(c) will apply as is to the approval of the revised plan.

(e) The Authority (or any C&T Contractors on behalf of the Authority) shall deliver waste to the Concessionaire at the Receipt Point strictly in accordance with the approved Waste Acceptance and Rejection Plan (or where the Waste Acceptance and Rejection Plan has not been approved prior to the COD, in accordance with the draft Waste Acceptance and Rejection Plan submitted to the Authority until the Waste Acceptance and Rejection Plan is approved). The Concessionaire shall also ensure that any acceptance and/or rejection of waste that is delivered at the Receipt Point, is done strictly in accordance with the approved Waste Acceptance and Rejection Plan (or where the Waste Acceptance and Rejection Plan has not been approved prior to the COD, in accordance with the draft Waste Acceptance and Rejection Plan submitted to the Authority until the Waste Acceptance and Rejection Plan is approved).

(f) Notwithstanding any approval of the Waste Acceptance and Rejection Plan by the Authority, the Concessionaire shall bear all risk, responsibility and liability for the suitability, accuracy, adequacy and practicality of the Waste Acceptance and Rejection Plan. Subject to Clause 18.3(c), the Concessionaire shall not be entitled to any extension of time and/or costs incurred in the preparation of or updating the Waste Acceptance and Rejection Plan and complying with the requirements of this Clause 18.3.

18.4 Concessionaire's rights and obligations during the O&M Period

(a) The Concessionaire shall operate and maintain the Project Facilities in a manner that:

(i) results in the Project Facilities achieving the KPIs;

(ii) is compliant with the O&M Standards, Applicable Law, and the terms of Applicable Permits;

(iii) ensures the Project Facilities are capable of handling Acceptable Waste for 100% of the Design Capacity and processing Acceptable Waste up to its Design Capacity on a daily basis;

(iv) is safe and reliable, subject to normal wear and tear of the Project Facilities;

(v) ensures safe and reliable disposal of the Residual Inert Matter in the SLF;

(vi) ensures that there is no damage to or deterioration of the environment resulting from the operation of the Project Facilities;

(vii) ensures that there is zero liquid discharge from the operations of the Project Facilities including leachate runoff from the processing of Acceptable Waste mixing with and polluting any surface water, ground water, stream, pond, or other water body/source;

(viii) ensures that there is no leakage from the operations of the Project Facilities which could endanger the environment, persons or property at or about the Site;

(ix) ensures that the Project Facilities comply with all emission control norms specified under Applicable Law, failing which the Concessionaire shall be liable to pay any penalties and/or fines levied by any Government Authority under Applicable Law;

(x) ensures safe and proper handling of any Prohibited Waste delivered at the Site;

(xi) is in compliance with the terms of the PPA;

(xii) maintains the safety and security of personnel, material and property at the Site, in accordance with the approved EMP, OHS Plan, Applicable Laws, and Applicable Permits;

(xiii) is in compliance with the technology license agreement(s) executed by the Concessionaire for the technology, processes, know-how and systems used or incorporated into the Project Facilities; and

(xiv) ensures that all waste materials and hazardous substances are stored and/or disposed in accordance with the EMP, OHS Plan, Applicable Laws, and Applicable Permits.

(b) During the O&M Period, the Concessionaire shall:

(i) ensure that it reasonably considers and acts upon the comments/suggestions made by the Authority and the Independent Engineer during any meetings of the Concessionaire with its Subcontractors;

(ii) provide the Authority and the Independent Engineer with reasonable access to the Site during office hours to monitor and inspect the Project Facilities;

(iii) ensure that all equipment, machinery, tools and other resources required to undertake the O&M of the Project Facilities are arranged for and take all reasonable measures to ensure that the transportation of any of the Concessionaire's or the Subcontractors' personnel or equipment, to or from the Site, does not unreasonably hinder or cause excess interference with local traffic in the vicinity of the Site;

(iv) install meters required for measuring the total number of units of electricity generated delivered by the Project Facility at the Interconnection Point and ensure that the meters installed are calibrated once every year during the O&M Period in accordance with Applicable Law, Good Industry Practices and the Technical Specifications and bear all costs for installation, testing, calibration, maintenance, renewal and repair of meters installed; and

(v) develop and implement a safety and surveillance programme for the Project Facilities and adopt appropriate measures and safeguards for the security of the environment, life, and property at the Site.

18.5 Delivery of Acceptable Waste

a) From the COD and until the expiry of the Concession Period or early termination of this Agreement, the Authority shall, or shall cause its C&T Contractors to, deliver Acceptable Waste to the

Concessionaire for processing at the Project Facility, in accordance with the Acceptable Waste Delivery Schedule notified by the Authority to the Concessionaire.

b) The Authority shall supply to the Concessionaire, during each year of the O&M Period, not less than 328,000 (three hundred twenty-eight thousand) tonnes of Acceptable Waste (the "Annual Guaranteed Acceptable Waste Quantity"), being the quantity derived from 900 (nine hundred) tonnes per day calculated on the basis of 365 (three hundred sixty-five) days. Provided that, in the event of any Scheduled Maintenance undertaken in accordance with this Agreement, the Annual Guaranteed Acceptable Waste Quantity for the relevant year shall be reduced on a pro rata basis corresponding to the number of days of such Scheduled Maintenance.

c) If, during any year of the O&M Period, the total Acceptable Waste delivered by the Authority is less than the Annual Guaranteed Acceptable Waste Quantity, the Authority shall be liable to pay liquidated damages to the Concessionaire in accordance with Clause 18.7. Such liquidated damages shall be calculated and payable on an annual basis.

d) The Concessionaire shall receive and accept all quantities of Acceptable Waste delivered by the Authority at the Receipt Point during the O&M Period; provided, however, that the Concessionaire shall not be obligated to receive or process quantities of Acceptable Waste in excess of 120% (one hundred and twenty percent) of the Design Capacity on any day.

e) The Authority shall ensure that the waste delivered to the Concessionaire at the Receipt Point on any day of the O&M Period does not include Prohibited Waste.

18.6 Weighment, Inspection, Acceptance, and Rejection of Waste

a) Weighment and Recording

The Concessionaire shall provide and maintain calibrated weighbridges at the Site in accordance with the Technical Specifications. All waste delivered by or on behalf of the Authority shall be weighed upon entry into the Site and again upon exit of the empty vehicle. The difference between the gross weight and the tare weight shall constitute the net weight of waste delivered by such vehicle.

At the time of each delivery, the Concessionaire shall record the following particulars, to the extent applicable, in a format approved by the Authority as part of the O&M Plan and enter such information into an electronic database maintained at the Site:

(i) date of entry of the vehicle into the Site;
(ii) time of entry;
(iii) registration number of the vehicle;
(iv) gross weight of the vehicle at entry;
(v) tare weight of the vehicle at exit;
(vi) net weight of waste received; and
(vii) zone/ward from which the waste has been collected and delivered to the Concessionaire.
(viii) such other operational details as may reasonably be required under the O&M Plan.

The electronic database shall form the basis for determining the quantity of waste delivered and shall be accessible to the Authority and the Independent Engineer for monitoring and verification. If the weighbridges are temporarily unavailable, the Concessionaire shall make reasonable alternate arrangements for weighing in a manner acceptable to the Authority and the Independent Engineer.

b) Inspection as Part of Pre-processing

All inspection of waste shall be undertaken as part of the pre-processing facilities of the Project Facility, including sorting and segregation activities. The Concessionaire shall examine the delivered waste to identify any Prohibited Waste.

c) Rejection Threshold and Segregation

If the Prohibited Waste identified during pre-processing does not exceed 2% (two per cent) of the Total Waste Delivered on a given day, such Prohibited Waste shall be segregated and the entire Total Waste Delivered for that day shall be treated as Acceptable Waste for the purposes of this Agreement. If the Prohibited Waste exceeds 2% (two per cent) of the Total Waste Delivered on a given day, the Concessionaire may reject only such quantity of waste that cannot be reasonably segregated and utilised in the Project Facility. Any rejection shall be subject to review and confirmation by the Independent Engineer.

d) Removal of Rejected Waste

All rejected waste and Prohibited Waste confirmed by the Independent Engineer shall be removed by the Authority (or its contractors) from the Site within 48 (Forty Eight) hours of receipt of notice from the Concessionaire. All costs associated with such removal shall be borne by the Authority. If the Authority fails to remove such rejected waste within the aforesaid period, the Concessionaire may take appropriate measures for handling or disposal in accordance with Applicable Laws, at the risk and cost of the Authority.

e) Calculation of Acceptable Waste Delivered

The quantity of waste, if any, confirmed by the Independent Engineer as rejected in accordance with this Clause 18.6 (c) shall be deducted from the aggregate net weight of waste recorded at the weighbridges for the relevant day. The balance quantity, after such deduction, shall constitute the Acceptable Waste delivered for that day (the "**Daily Acceptable Waste Quantity**")

18.7 Guaranteed Waste Liquidated Damages

a) No liquidated damages for shortfall in supply of Acceptable Waste shall apply during the first 12 (twelve) months from COD.

b) From the second year of the O&M Period onwards, if during any year the total Acceptable Waste delivered is less than the Annual Guaranteed Acceptable Waste Quantity, the Authority shall be liable to pay liquidated damages to the Concessionaire in accordance with this Clause 18.7.

c) The quantity by which the Acceptable Waste delivered during the relevant year is less than the Annual Guaranteed Acceptable Waste Quantity shall constitute the **Shortfall Quantity**.

The liquidated damages payable by the Authority (the "**Guaranteed Waste Liquidated Damages**") shall be calculated as:

Guaranteed Waste Liquidated Damages = Shortfall Quantity × 0.30 × Average Per Ton Gross Revenue

Where:

Shortfall Quantity = Annual Guaranteed Acceptable Waste Quantity minus the total Acceptable Waste Delivered during the relevant year;

Average Per Ton Gross Revenue = Gross Revenue earned during the immediately preceding 12 (twelve) months divided by the total quantity (in tons) of Acceptable Waste Delivered during such 12-month period.

d) The Guaranteed Waste Liquidated Damages shall be calculated annually. Within 30 (thirty) days following the end of the relevant year, the Concessionaire shall submit an invoice to the Authority and the Independent Engineer setting out the calculation of the Shortfall Quantity and the Guaranteed Waste Liquidated Damages, together with supporting revenue details. The Independent Engineer shall review and approve the calculation or require reasonable corrections. Upon approval by the Independent Engineer, the Authority shall make payment within 15 (fifteen) days of such approval.

18.8 Sampling Plan and Testing of Residual Inert Matter

(a) At least 60 (sixty) days prior to the Scheduled COD, the Concessionaire shall prepare and submit a draft Sampling Plan for the testing of the Residual Inert Matter generated from the Project Facility, which shall be in accordance with the Technical Specifications, EMP, OHS Plan, Applicable Laws, and Applicable Permits. The Sampling Plan shall specify the periodicity of testing, number of samples to be drawn and other procedures to be followed by the Parties in relation to the sampling and testing of the Residual Inert Matter.

(b) The Authority and the Independent Engineer shall review and provide comments, if any, on the draft Sampling Plan to the Concessionaire or notify the Concessionaire of their approval of the draft Sampling Plan within 30 (thirty) days from the date of receipt of the draft Sampling Plan from the Concessionaire. The Authority may require the Concessionaire to amend or modify the draft Sampling Plan if the Authority or the Independent Engineer identify any deficiencies, inaccuracies or shortcomings in the draft Sampling Plan. If the Concessionaire receives any comments, suggestions or instructions to modify the draft Sampling Plan from the Authority or the Independent Engineer, then the Concessionaire shall modify the draft Sampling Plan to correct any shortcomings, inaccuracies or deficiencies identified by the Authority or the Independent Engineer and/or address, in writing, the Authority's and/or the Independent Engineer's comments on the draft Sampling Plan and submit the revised Sampling Plan to the Authority and the Independent Engineer for their approval. The process set out in this Clause 18.8(b) shall continue until the Sampling Plan is approved by the Authority and the Independent Engineer in accordance with this Clause 18.8(b). Provided that, if the Authority or the Independent Engineer fail to approve the Sampling Plan at least 10 (ten) days prior to Scheduled COD, then the delay in approval of the Sampling Plan shall not

prevent the Concessionaire from obtaining the Provisional Certificate or Completion Certificate, as the case may be, and commencing commercial operations. Provided further that, if the Authority or Independent Engineer responds with comments, modifications or suggestions on the draft Sampling Plan after the COD, the Concessionaire shall be required to address such modifications in accordance with this Clause 18.8(b). The Concessionaire shall submit 4 hard copies and 1 soft copy on a USB drive of the approved Sampling Plan to the Authority.

(c) The Concessionaire shall revise the Sampling Plan as and when the Concessionaire thinks it necessary to do so and in such case the provisions of Clause 18.8(b) will apply as is to the approval of the revised plan.

(d) The Concessionaire shall, before disposing any Residual Inert Matter, test the Residual Inert Matter for unburned combustible matter and such other characteristics. The Concessionaire shall ensure that it conducts any testing of the Residual Inert Matter strictly in accordance with the Sampling Plan.

(e) The Concessionaire shall record the results of the tests conducted on samples Residual Inert Matter in the format to be approved by the Authority and the Independent Engineer as part of the Sampling Plan, which shall be certified by the Independent Engineer.

(f) Subject to Clause 18.8(b), the Concessionaire shall not be entitled to any additional costs or time for preparing the Sampling Plan or for testing samples of the Residual Inert Matter (whether on or off Site), prior to its disposal at the SLF.

18.9 Delivery of Residual Inert Matter

(a) The Concessionaire shall handle, manage, transport (within the Site) and dispose of all Residual Inert Matter entirely within the Scientific Landfill (SLF), strictly in accordance with Applicable Laws, the Technical Specifications, the Waste Acceptance and Rejection Plan, and Good Industry Practice.

(b) The Concessionaire shall ensure that all handling, movement and placement of Residual Inert Matter within the Scientific Landfill (SLF) is carried out safely, without causing spillage, leakage, public nuisance, odour, vector nuisance, or any risk to the environment, life or property.

(c) The Concessionaire shall ensure that the Scientific Landfill (SLF) is operated, maintained and managed at all times in a manner that enables safe and continuous disposal of Residual Inert Matter, including maintaining adequate cell capacity, daily cover, compaction, and compliance with all environmental and operational requirements.

(d) The Concessionaire shall maintain accurate daily records of the quantities of Residual Inert Matter generated, handled and disposed of within the Scientific Landfill (SLF), in the format approved by the Authority, and such records shall be certified by the Independent Engineer.

(e) The Concessionaire shall ensure that no Residual Inert Matter leaves the Site, except where expressly permitted under this Agreement or required under Applicable Laws.

(f) The Authority shall ensure that the Scientific Landfill (SLF), being part of the Project Facilities, remains available throughout the Concession Period for the safe disposal of Residual Inert Matter, subject to the Concessionaire complying with its obligations under this Agreement.

18.10 Sale of Electricity and Recyclable Materials

(a) Sale of Electricity

(i) The Concessionaire shall sell the electricity generated from the Project Facilities to TNPDCL in accordance with the PPA, Applicable Laws, Applicable Permits and Good Industry Practices, at the Applicable Tariff.

(ii) Deleted.

(iii) If, for reasons not attributable to the Concessionaire, TNPDCL either suspends offtake of power under the PPA or fails to offtake the entire quantum of electricity generated from the Project Facilities in accordance with the PPA, the Concessionaire shall have the right to sell the quantities of power not taken by TNPDCL to any third party (including on the power exchange). For the period of such suspension or reduced offtake, the Authority shall compensate the Concessionaire for the difference between the average tariff realised by the Concessionaire for the preceding 3 (three) months and the actual tariff (if any) received by the Concessionaire during the period of suspension or reduced offtake, as the case may be. If such suspension or reduced offtake continues for more than 15 (fifteen) consecutive days and the Concessionaire is unable to sell such power to third parties despite its best efforts, the suspension or reduction in offtake, as the case may be, will be treated as a Direct Political Force Majeure Event in accordance with Clause 26.1(b)(iii).

(iv) If TNPDCL is in breach of its payment obligations under the PPA for a continuous period of 3 (three) months, the Concessionaire shall have the right to suspend delivery of power subject to the terms of the PPA. Upon such suspension, the Concessionaire shall have the right to supply power generated from the Project Facilities to third parties (including a power exchange). If the payment default continues for more than 15 (fifteen) consecutive days and the Concessionaire is unable to sell such power to third parties despite its best efforts, TNPDCL's default under the PPA will be treated as a Direct Political Force Majeure Event in accordance with Clause 26.1(b)(iii).

(b) Sale of Recyclable Materials

(i) The Concessionaire shall be free to sell or otherwise dispose of any recyclable materials it can recover from the Acceptable Waste delivered to it at the Receipt Point, at such price and to such person as it deems fit and the proceeds of such sale shall be retained by the Concessionaire.

(ii) The Concessionaire shall maintain records and submit reports to the Authority of the revenue collected from the sale of recyclable materials. The Independent Engineer shall have the right to, at any time during the O&M Period, inspect the records maintained by the Concessionaire in order to verify the proceeds from the sale of recyclable materials.

18.11 Utilities

(a) The Concessionaire shall maintain at its cost all utilities necessary for undertaking the O&M of the Project Facilities, including all power connections, lighting facilities, telephone connections, internet connections, etc. at the Site, provided that the Authority shall ensure that:

(i) any physical infrastructure required to enable the supply of electricity and water for the operation of the Project Facilities is made available at the Battery Limit of the Site; and

(ii) any physical infrastructure, including power evacuation infrastructure of appropriate capacity, necessary for evacuation and sale of electricity generated by the Project Facilities is made available at the Battery Limit of the Site.

(b) The Authority shall be responsible for arranging for the supply of at least [•] MLD of secondary treated water for use in the operation of the Project Facility during the O&M Period.

(c) Notwithstanding anything contained in this Clause 18.11, if the Authority fails to supply adequate quantities of secondary treated water to the Concessionaire for use in the operation of the Project Facility, the Concessionaire shall be responsible for arranging an alternate source of water in order to ensure the continuous operations of the Project Facility and the Concessionaire shall be entitled to claim any additional costs in such cases from the Authority.

18.12 Design Capacity Utilization

(a) During each day of the O&M Period, the Concessionaire shall ensure that the Project Facility can accept and process Acceptable Waste up to its Design Capacity.

(b) The Concessionaire shall notify the Authority (with a copy to the Independent Engineer) as soon as it becomes aware that the quantity of Acceptable Waste received at the Receipt Point is more than the quantities of Acceptable Waste that the Concessionaire is required to accept in accordance with Clause 18.5(d).

(c) If the quantity of Acceptable Waste received at the Receipt Point is more than the quantities of Acceptable Waste that the Concessionaire is required to accept in accordance with Clause 18.5(d), as a result of which the Concessionaire is unable to accept the Acceptable Waste at the Project Facility, then such a situation shall be treated as a Forced Unavailability for which the Concessionaire shall not be liable, subject to the Concessionaire having notified the Authority and the Independent Engineer in accordance with Clause 18.12(b) above. In such cases, the Authority shall (or shall cause the C&T Contractors to) remove any excess waste from the Site within 48 (Forty Eight) hours of receiving a notice from the Concessionaire. The Authority has the right to require the Independent Engineer to verify the capacity utilization of the Project Facility at any time during the O&M Period.

18.13 Maintenance and Repair of the Project Facility

(a) During the O&M Period, the Concessionaire shall operate and maintain the Project Facilities and repair any damage to the Project Facilities either by itself, or through an approved Subcontractor, such that:

(i) the Project Facilities shall be operated and maintained in accordance with the O&M Plan, Scheduled Maintenance Programme, Applicable Laws, Applicable Permits, Good Industry Practice, the recommendations of the technology providers and the maintenance standards provided by the original equipment manufacturers;

(ii) the Project Facilities and all equipment, components and parts are in good working condition (subject only to wear and tear and Force Majeure);

(iii) the Project Facilities are capable of achieving their useful economic life in accordance with the Designs and Drawings;

(iv) any equipment, components or parts of the Project Facilities, including the Weighbridges, combustion chambers, transmission infrastructure, electricity meters, etc., that are damaged or worn out or, in the Concessionaire's judgement, no longer practicable to repair as a result of normal wear and tear shall be replaced by the Concessionaire at its cost;

(v) the Project Facilities shall be subject to Scheduled Maintenance in accordance with the Scheduled Maintenance Programme; and

(vi) the Project Facilities shall be capable of meeting the KPIs (the O&M Standards).

(b) For the first year of the O&M Period, the Concessionaire shall, at least 1 (one) month before the Scheduled COD, submit to the Authority its scheduled maintenance programme for the Project Facility, specifying the Scheduled Maintenance periods for the Project Facility and the impact of such Scheduled Maintenance periods on the Availability of the Project Facility (Scheduled Maintenance Programme). For every subsequent year of the O&M Period, the Concessionaire shall submit the Scheduled Maintenance Programme, at least 1 (one) month prior to the beginning of the relevant year. The Scheduled Maintenance Programme for the first year will cover the period from the COD until the end of the calendar year in which the COD occurs. The Scheduled Maintenance Programme shall be subject to prior approval of the Authority, which approval shall be granted only upon receipt of concurrence from TNPDCL.

(c) Within 15 (fifteen) days of receipt of the Scheduled Maintenance Programme, the Authority shall notify the Concessionaire of its approval of such schedule.

(d) If the Authority does not accept any one or more of the requested Scheduled Maintenance periods or its impact on the availability of the Project Facility to accept and process the Acceptable Waste, the Authority shall advise the Concessionaire within 15 (fifteen) days of the receipt of the Scheduled Maintenance Programme on when any Scheduled Maintenance can be rescheduled or how its impact on the availability of the Project Facility may be minimised. The rescheduled time shall be as close as reasonably practicable to the requested time and shall be of equal duration as the requested period. If the Authority fails to object to any Scheduled Maintenance within the specified time period or fails to advise the Concessionaire of a substitute time, the Concessionaire may schedule the Scheduled Maintenance for such duration and at such time as initially requested. Notwithstanding the finalization of the Scheduled Maintenance Programme pursuant to this Clause 18.13, the Concessionaire may request a rescheduling of any Scheduled Maintenance upon 60

(sixty) days' prior written notice to the Authority. The Authority shall respond to such request within 10 (ten) days and shall not unreasonably withhold its permission for such re-scheduling.

(e) Within 5 (five) days of any re-scheduling of a Scheduled Maintenance in accordance with Clause 18.13(d) above, the Concessionaire shall provide to the Authority, the amended Scheduled Maintenance Programme, which shall then be the "Scheduled Maintenance Programme".

(f) If at any time during the O&M Period, the Project Facility is damaged by a Minor Casualty, the Concessionaire shall, with reasonable diligence, proceed to process the claim with insurance providers and repair, replace, and restore the damaged portion of the Project Facility to the same condition that it was in before the occurrence of such Minor Casualty. To the extent available, insurance proceeds shall be applied to such repair, replacement or restoration.

(g) If at any time during the O&M Period, the Project Facility is damaged by a Total Casualty, then this Agreement shall be terminable at the option of the Concessionaire. If the Concessionaire elects to terminate the Agreement, then the consequences set out at Clause 26.7 will follow. If, however, the Concessionaire elects not to terminate the Agreement, then the Concessionaire shall repair, replace and restore the damaged Project Facility to the same condition that it was in before the occurrence of such Total Casualty. To the extent available, insurance proceeds shall be applied to such repair, replacement or restoration.

18.14 O&M Personnel

(a) The Concessionaire shall engage (either directly or through an approved Subcontractor) adequate number of suitably skilled and qualified personnel to undertake the O&M of the Project Facilities in accordance with the requirements set out in this Article 18.

(b) The Concessionaire shall be solely responsible for discharging all obligations in connection with the employment of the O&M personnel, including the payment of wages, salaries, Taxes, and retrenchment compensation and providing all amenities and benefits required under applicable labour laws.

(c) Subject to compliance with the Applicable Laws, the Concessionaire shall have full freedom to determine its internal human resources (HR) policies, including, the wages, benefits and salary structure of its employees, the conditions of service, the shifts of work, its hire and fire policy (whether for misconduct or other cause), and payment of severance or retrenchment compensation.

(d) The Authority is not and shall not be treated as the "principal employer" of or be deemed to have any contractual or other relationship with the O&M personnel. The Concessionaire shall hold harmless and indemnify the Authority against all losses, claims, costs and damages that the Authority may suffer due to the Concessionaire's or any of its Subcontractor's failure to comply with applicable labour laws.

18.15 Subcontracting

(a) In accordance with the Subcontractor management plan prepared by the Concessionaire and approved by Authority under Clause 14.5(a), the Concessionaire may enter into Subcontracts to perform any of its O&M obligations, provided that a Subcontract of a value above 25% (twenty-five per cent) of the Total Project Cost] will be executed by the Concessionaire only with the prior approval of Authority.

(b) The provisions of Clause 14.5 shall apply to all Subcontracts executed by the Concessionaire for any O&M aspects of its Development Requirements.

ARTICLE 19. SAFETY REQUIREMENTS

19.1 Safety Requirements

The Concessionaire shall develop, implement and administer a surveillance and safety programme for providing a safe environment on or about the Project Facilities, and shall comply with the safety requirements set out in this Article 19 and Schedule H (the Safety Requirements).

19.2 Guiding Principles

(a) The Safety Requirements aim at minimising threat of injuries, loss of human life and damage to property resulting from accidents on, or in relation to the construction, operation and maintenance of the Project Facilities, irrespective of the person(s) at fault.

(b) The Safety Requirements shall apply to all phases of construction, operation and maintenance of the Project Facilities with emphasis on identification of factors associated with accidents, consideration of the same and implementation of appropriate remedial measures.

19.3 Obligations of the Concessionaire

(a) The Concessionaire shall abide by the following to ensure safety of Project Facilities, human life and property:

(i) instructions issued by the Authority;
(ii) Applicable Laws, and Applicable Permits;
(iii) provisions of this Agreement;
(iv) relevant standards/guidelines contained in internationally accepted codes; and
(v) Good Industry Practice.

(b) The Concessionaire shall impart safety training to its employees and shall at all times be responsible for observance of safety procedures by the Concessionaire Related Parties.

(c) The Concessionaire shall be responsible for undertaking all the measures under its control to ensure the safety and security of the Project Facilities.

(d) The Concessionaire agrees that the Authority shall be entitled to inspect the Project Facilities to verify adherence to Safety Requirements and the Concessionaire shall be obliged to facilitate such inspection and implement the corrective measures identified in such inspection.

19.4 Expenditure on Safety Requirements

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

ARTICLE 20. MONITORING OF OPERATION AND MAINTENANCE

20.1 Monitoring and Reporting

(a) Environmental Monitoring

(i) The Concessionaire shall operate the Project Facilities and process the Acceptable Waste at the Project Facility strictly in accordance with the O&M Plan, EMP, the Waste Acceptance and Rejection Plan, OHS Plan, SWM Rules, other Applicable Laws, and Applicable Permits and in a manner that causes no damage to the environment, including any air pollution, odours, pests, insects, litter, soil or ground water contamination.

(ii) The Concessionaire shall ensure that there is zero liquid discharge caused due to the O&M of the Project Facility. If an incident occurs at the Site, as result of which there is any liquid discharge on the Site or Adjoining Property, the Concessionaire shall ensure proper collection, clean-up and disposal of any such liquid discharge in accordance with the EMP and O&M Plan.

(iii) The Concessionaire shall carry out continuous environmental monitoring of the Project Facility in accordance with the EMP, O&M Plan, and Applicable Laws. The monitoring schedule and parameters will be set out in the EMP.

(iv) For the purposes of the continuous environmental monitoring of the Project Facility, the Concessionaire shall install and maintain an online monitoring system as part of the Project Facilities, in accordance with the Technical Specifications, and Applicable Laws to monitor compliance with the KPIs.

(b) Metering

The Concessionaire shall:

(i) install meters required for measuring the total number of units of energy delivered by the Project Facility at the Interconnection Point;

(ii) ensure that the meters installed are calibrated once every year during the O&M Period in accordance with the PPA, Applicable Laws, Good Industry Practices and the Technical Specifications; and

(iii) bear all costs for installation, testing, calibration, maintenance, renewal and repair of meters installed.

(c) Records and Reporting Requirements

The Concessionaire shall deliver to the Authority, with a copy to the Independent Engineer, the following within the specified timelines:

(i) no later than 7 (seven) days after the close of each month, a monthly report stating in reasonable detail the condition of the Project Facilities including its compliance or otherwise with the O&M Plan, O&M Standards, EMP and the OHS Plan and identify and state in reasonable detail the

defects and deficiencies that require rectification, and shall give such other relevant information as may be required by the Independent Engineer;

(ii) reports relating to any activity, incident or circumstance that threatens or may threaten public health, safety, the environment or the safety and security of the Site or the Project Facilities or any Adjoining Property, and any action taken to mitigate the effect of such incident as soon as reasonably practicable but no later than 12 (twelve) hours after the occurrence of such event or circumstance;

(iii) reports on any critical breakdowns or failures in the Project Facilities, including any of the Weighbridges, within 12 (twelve) hours of such occurrence;

(iv) reports on accidents or other incidents in relation to the O&M personnel or any third party, including any non-compliance with the EMP or the OHS Plan, along with the actions taken to minimise recurrence, within 72 (seventy-two) hours of such occurrence;

(v) daily weight sheets prepared in the format approved by the Authority as part of the O&M Plan/ Waste Acceptance and Rejection Plan, recording the details specified in Clause 18.6(b) at the end of each day;

(vi) daily report on the quantum of electricity in kWh produced from the Project Facility and scheduled for delivery to TNPDCL in accordance with the PPA, at the end of each day;

(vii) monthly report compiling the data collected from the environmental monitoring system, on or before the 7th (seventh) day of the following month;

(viii) monthly report on compliance with the KPIs, details of sale of recyclable materials, and details of any Emergency during the relevant month, on or before the 7th (seventh) day of the following month. The monthly progress report must be certified by the Independent Engineer before it is submitted to the Authority;

(ix) copies of any reports, notices or responses submitted for compliance/non-compliance with Applicable Laws, the terms of this Agreement or Applicable Permits, within 2 (two) days of receipt of such notice from or submission of replies to the relevant Government Authority; and

(x) reports on any material litigation, to which the Concessionaire is a party, and any adverse orders or judgments passed by any Government Authority that affects or is likely to affect the performance of the O&M services, as soon as reasonably possible after the occurrence of any such event.

20.2 Inspection

The Independent Engineer shall inspect the Project Facilities at least once a month. It shall make a report of such inspection (the O&M Inspection Report) stating in reasonable detail the defects or deficiencies, if any, with particular reference to the O&M Plan, O&M Standards, KPIs, EMP and the OHS Plan, and send a copy thereof to the Authority and the Concessionaire within 7 (seven) days of such inspection.

20.3 O&M Tests

For determining that the Project Facilities conforms to the O&M Plan and the O&M Standards, the Independent Engineer shall require the Concessionaire to carry out, or cause to be carried out, tests specified by it. The Concessionaire shall, with due diligence, carry out or cause to be carried out all such tests in accordance with the instructions of the Independent Engineer and furnish the results of such tests to the Independent Engineer. The costs incurred on the O&M tests shall be borne solely by the Concessionaire.

20.4 Remedial Measures

(a) The Concessionaire shall repair or rectify the defects or deficiencies, if any, set out in the O&M Inspection Report or in the test results referred to in Clause 20.3 and furnish a report to the Independent Engineer and the Authority within 15 (fifteen) days of receiving the O&M Inspection Report or the test results, as the case may be.

(b) The Independent Engineer shall require the Concessionaire to carry out or cause to be carried out tests, at its own cost, to determine if such remedial measures have brought the Project Facilities into compliance with the O&M Plan and O&M Standards and the procedure set forth in this Clause 20.4 shall be repeated until the Project Facilities conforms to the O&M Plan and O&M Standards.

(c) If after the COD, the Concessionaire ceases to operate the Project Facility for a period of 96 consecutive hours other than due to a Forced Unavailability, Scheduled Maintenance, or a suspension pursuant to Clause 27.1 or Clause 27.2, which is not attributable to the Concessionaire, without the prior written consent of the Authority, then the Authority shall be entitled to step-in and undertake the O&M of the Project Facility until the Concessionaire demonstrates to the satisfaction of the Authority that it can and will resume normal operation and maintenance of the Project Facility. The exercise of the Authority's rights under this Clause 20.4 shall be at the cost, risk and expense of the Concessionaire. The Concessionaire shall not be entitled to receive any payments for the duration that the Authority steps-in to operate and maintain the Project Facility, provided that, any revenue earned from the O&M of the Project Facility shall be to the account of the Concessionaire (subject to payment of all Costs incurred by the Authority in undertaking the O&M of the Project Facility).

ARTICLE 21. KEY PERFORMANCE INDICATORS

21.1 Key Performance Indicators

(a) Availability Guarantee

(i) The Concessionaire shall ensure that the Availability of the Project Facilities for each month during the O&M Period shall be 90% (ninety percent) (the **Availability Guarantee**). The '**Availability**' of the Project Facilities will be determined as a ratio of the number of hours in a month during which the Project Facilities are available to accept and process Acceptable Waste up to its Design Capacity, to the total number of hours in such month excluding any downtime for Scheduled Maintenance, and the term '**Available**' shall be construed accordingly.

(ii) In computing the Availability of the Project Facilities, the Concessionaire agrees that the Project Facilities will be deemed to be Available at all times, other than during the period of:

(A) an unscheduled outage affecting the Project Facilities;

(B) suspension of the O&M services for the Project Facilities, for reasons attributable to the Concessionaire (in accordance with Clause 27.1 and 27.2);

(C) a suspension in power supply under the PPA, for reasons attributable to the Concessionaire; or

(D) an Emergency affecting the Project Facilities, attributable to the Concessionaire,

during which the Project Facilities will be deemed to be not Available.

(iii) Notwithstanding anything contained in this Agreement, the Project Facilities will be deemed to be Available in case of the following:

(A) a Forced Unavailability; or

(B) an Emergency affecting the Project Facilities, which is not attributable to the Concessionaire.

(iv) If the Concessionaire is unable to achieve the Availability Guarantee in any month during the O&M Period, then the Concessionaire shall be liable to pay Availability Liquidated Damages calculated in accordance with the formula set out in Schedule B (Annexure F). Provided that, the Concessionaire shall not be liable to pay any Availability Liquidated Damages during the Trial Operations period.

(v) The Availability Liquidated Damages payable by the Concessionaire for its failure to achieve the Availability Guarantee, if any, shall accrue on a monthly basis during the O&M Period and will be payable by the Concessionaire within 7 (seven) days from the end of the month in which the Concessionaire has failed to achieve the Availability Guarantee.

(b) Throughput Guarantee

(i) The Concessionaire shall ensure that it accepts all quantities of Acceptable Waste delivered by the Authority at the Receipt Point, subject to Clause 18.5(d). On any day during the O&M Period, if the Concessionaire refuses to accept quantities of Acceptable Waste equivalent to Design Capacity (the **Throughput Guarantee**), then the Concessionaire shall be liable to pay Throughput Liquidated Damages calculated in accordance with Schedule B (Annexure F).

(ii) The Concessionaire shall be exempt from achieving the Throughput Guarantee in case of the following:

(A) a Forced Unavailability;

(B) an Emergency affecting the Project Facilities, which is not attributable to the Concessionaire; or

(C) any act or omission of the Authority or the Offtaker or any of their nominated contractors as a result of which the Concessionaire is unable to operate the Project Facility in accordance with the terms of this Agreement.

(iii) The Throughput Liquidated Damages payable by the Concessionaire for its failure to meet the Throughput Guarantee, if any, shall accrue on a monthly basis during the O&M Period and will be payable by the Concessionaire within 7 (seven) days from the end of the month in which the Concessionaire has failed to achieve the Throughput Guarantee.

(c) Liquid Discharge Guarantee

The Concessionaire shall ensure that the Project Facility is operated as a zero liquid discharge facility throughout the O&M Period (**Liquid Discharge Guarantee**). For every incident of liquid discharge from the Project Facility, the Concessionaire shall be liable to pay the Discharge Liquidated Damages calculated in accordance with Schedule B (Annexure F). The Discharge Liquidated Damages shall be calculated, and payable by the Concessionaire, for each month of the O&M Period, if applicable and shall be paid within 7 (seven) days from the end of such month. Provided that, if any statutory penalties are levied on the Concessionaire on account of any liquid discharge from the Project Facility, then such statutory penalties shall be deducted from the Discharge Liquidated Damages payable by the Concessionaire under this Agreement.

(d) Emission Guarantee

The Concessionaire shall ensure that the emissions from the operation of the Project Facility shall not exceed the limits specified in Schedule B (Annexures F & G) (**Emission Guarantee**). If the emissions from the operation of the Project Facility exceed the limits specified in Schedule B (Annexures F & G), then the Concessionaire will be given demerit points in accordance with Schedule B (Annexures F & G). If the number of demerit points exceed 75 (seventy five) in any year of the O&M Period, then the Concessionaire shall be liable to pay the Emission Liquidated Damages calculated in accordance with Schedule B (Annexures F & G). The Emission Liquidated Damages shall be calculated, and payable by the Concessionaire, for each month of the O&M Period, if applicable and shall be paid within 7 (seven) days from the end of such month. Provided that, if any statutory penalties are levied on the Concessionaire on account of emissions from the operation of the Project Facility, then such statutory

penalties shall be deducted from the Emission Liquidated Damages payable by the Concessionaire under this Agreement.

(e) Residual Inert Matter Guarantees

(i) Quality of Residual Inert Matter

The Concessionaire shall ensure that the total combustible matter in the Residual Inert Matter generated as a result of processing the Acceptable Waste in any month at the Project Facility shall not exceed 5% (five per cent) of the weight of the total Residual Inert Matter. If the total combustible matter in the Residual Inert Matter exceeds 5% (five per cent) of the weight of the total Residual Inert Matter generated in such month, the Concessionaire shall pay the Residual Inert Matter Liquidated Damages calculated in accordance with Schedule B (Annexure F).

(ii) Quantity of Residual Inert Matter

The Concessionaire shall ensure that the Residual Inert Matter generated as a result of processing the Acceptable Waste in any month shall not exceed 10% (ten per cent) of the weight of Acceptable Waste accepted by the Concessionaire in such month. The guarantee described above with respect to the quantity of the Residual Inert Matter is referred to as the Residual Inert Matter Guarantee. The Concessionaire shall be liable to pay Residual Inert Matter Liquidated Damages, calculated in accordance with Schedule B (Annexure F), for any month in which this 10% limit is exceeded. Such Liquidated Damages shall be calculated and payable by the Concessionaire for each month of the O&M Period, if applicable, and shall be paid within 7 (seven) days from the end of such month.

(f) SLF Compaction Guarantee

The Concessionaire shall ensure that all Residual Inert Matter disposed within the Scientific Landfill (SLF) achieves a minimum compaction density of 1.0 tonnes per cubic metre (t/m^3), measured and certified by the Independent Engineer on a monthly basis. If the achieved compaction density in any month is below 1.0 t/m^3, the Concessionaire shall be liable to pay SLF Compaction Liquidated Damages in accordance with Schedule B (Annexure F).

(g) SLF Capping Guarantee

The Concessionaire shall ensure that all areas of the Scientific Landfill (SLF) in which Residual Inert Matter has been placed and which are filled are covered with cover material in accordance with the following requirements:

(i) Daily Cover:

Each filled area of the SLF shall be provided with a layer of cover material having a thickness of not less than 10 (ten) centimetres, which shall constitute the daily cover applicable to such filled area.

(ii) Intermediate Cover:

Where any filled surface of the SLF remains inactive, that is, no further Residual Inert Matter is placed on such surface, for a continuous period exceeding 30 (thirty) days, such surface shall be provided with a layer of cover material having a thickness of not less than 30 (thirty) centimetres, which shall constitute the intermediate cover applicable to such surface.

(iii) Monsoon Capping

Prior to the commencement of each monsoon season, the Concessionaire shall place an intermediate protective cover of compacted soil having a thickness of not less than 40 (forty) centimetres and not more than 65 (sixty-five) centimetres over the landfill areas requiring protection, with appropriate grading to minimise infiltration. Proper drainage arrangements shall be constructed and maintained to divert surface run-off away from the active cell of the SLF.

(iv) Final Cell Capping

Upon completion of landfill operations in any cell of the SLF, a final cover system shall be installed to minimise infiltration and erosion, comprising:

(a) a barrier soil layer of not less than 60 (sixty) centimetres of clay or amended soil having a permeability coefficient not exceeding 1 x 10^{-7} cm/sec;

(b) a drainage layer of not less than 15 (fifteen) centimetres placed above the barrier soil layer; and

(c) a vegetative layer of not less than 45 (forty-five) centimetres placed above the drainage layer to support natural plant growth and minimise erosion.

Compliance with the requirements for daily cover, intermediate cover, monsoon capping and final cell capping shall be measured and certified by the Independent Engineer on a monthly basis. In the event that the thickness or specifications of any such cover are found to be non-compliant with the requirements set out above, the Concessionaire shall be liable to pay SLF Capping Liquidated Damages in accordance with Schedule B (Annexure F).

(h) The Parties acknowledge that the Liquidated Damages are a genuine pre-estimation of and reasonable compensation for the environmental damage that may be caused and losses that the Authority may suffer due to the Concessionaire's failure to comply with the KPIs and not as penalty. The payment of Liquidated Damages will not absolve the Concessionaire from any other liability under Applicable Law, including any tortious liability, for causing any environmental pollution or health hazard due to its failure to comply with the KPIs and/or Applicable Laws.

(i) Within 7 (seven) days from the end of each quarter, the Concessionaire shall be required to provide a report on compliance of the Project Facility with the KPIs (prepared in accordance with Clause 20.1(c)(viii) above), which should indicate the periods during which the Project Facility did not meet the KPIs and the reasons for such failure. The Independent Engineer shall be required to certify each such report before it is provided to Authority. Such certified report on compliance with KPIs shall be referred to as the KPI Adherence Report.

21.2 Liquidated Damages, Limits, and KPI-Based Event of Default

(a) Scope and Effect of O&M Liquidated Damages

In respect of any failure to achieve the Key Performance Indicators, the Authority may encash or deduct Liquidated Damages from the O&M Security or the Performance Security, whichever is applicable at the time of such failure, pursuant to Clause 21.1. Such deduction shall be treated solely as a commercial consequence and shall not excuse the Concessionaire from complying with the Key Performance Indicators or Applicable Law, nor shall it constitute a waiver or cure of any failure to meet the Key Performance Indicators.

(b) Measurement of O&M Liquidated Damages

The Authority shall continue to measure and quantify the full amount of Liquidated Damages applicable to each Key Performance Indicator for every month, without regard to any limit on deduction from the O&M Security. The full quantified amount shall be used for determining whether an Event of Default has occurred under sub-clause (d).

(c) Deduction Limits from O&M Security

For the purpose of deducting Liquidated Damages from the O&M Security:

(i) Monthly deductions shall not exceed twenty per cent (20%) of the O&M Security, applied on a facility-wise basis where applicable.

(ii) The aggregate deductions during the O&M Period, in any continuous period of 5 (five) years, shall not exceed 100% (one hundred percent) of the O&M Security.

These limits are solely for deduction purposes and do not restrict or prevent the Authority from declaring a Concessionaire Event of Default under sub-clauses (d) or (e).

(d) LD-Based Event of Default

The Concessionaire shall be in Event of Default if, as a result of KPI underperformance, and using the full quantified Liquidated Damages:

(i) LDs equal or exceed thirty five per cent (35%) of the O&M Security in any single month; or

(ii) LDs equal or exceed twenty five per cent (25%) of the O&M Security on three separate occasions, each calculated on a monthly basis, within any continuous period of twenty-four (24) months.

(e) Persistent KPI Breach

A failure to meet any Key Performance Indicator threshold that:

(i) continues for thirty (30) consecutive days without cure; or

(ii) accumulates to ninety (90) days within any continuous twenty-four (24) month period,

shall constitute a Material KPI Breach. The Authority shall issue a notice specifying the nature of the breach. The Concessionaire shall cure the breach within thirty (30) days from receipt of such notice. Failure to cure a Material KPI Breach within the cure period shall constitute a Concessionaire Event of Default, irrespective of any LDs encashed or deducted from the O&M Security.

(f) Exhaustion of O&M Security

The exhaustion of the O&M Security or reaching any deduction limit under sub-clause (c) shall not limit, restrict, or delay the Authority's right to declare a Concessionaire Event of Default under sub-clauses (d) or (e).

ARTICLE 22. CONCESSIONAIRE PAYMENTS

22.1 Payments to the Concessionaire

(a) In consideration of the works and services required to be performed by the Concessionaire for designing, financing, constructing, operating and maintaining the Project Facilities in accordance with this Agreement, the Authority agrees to pay to the Concessionaire, by way of cash support, an amount equal to INR 125 (one hundred twenty five) Crore, subject to, and in accordance with, the provisions of this Article 22.

(b) The Concessionaire shall be deemed to have satisfied itself regarding the adequacy, accuracy and sufficiency of the Grant. No adjustments shall be made to the Grant payable to the Concessionaire. The Grant shall be disbursed by the Authority in accordance with the provisions of Clause 22.3.

22.2 Grant Payments

(a) Upon the completion of the Project Milestones, the Authority shall credit the corresponding portion of the Grant to the Escrow Account in accordance with Clause 22.3(c)(iii) below. The Grant shall be applied by the Concessionaire to meet the Total Project Cost.

(b) Deleted.

(c) Grant Disbursal

(i) Subject to this Clause 22.3(c), the Grant will be paid by the Authority to the Concessionaire on completion of the Project Milestones as follows:

The Concessionaire shall:

Project Milestone	VGF Disbursement Amount (each being 25% of the Grant)	Condition for Release (with Definitions)
1st (first) Project Milestone	INR [●]	**Completion of 100% procurement of all Waste-to-Energy (WtE) equipment and machinery required for the Project.** Completion of procurement means that all major and auxiliary plant equipment, including boilers, turbines, generators, flue-gas treatment systems, waste-handling equipment and auxiliary components, have been fully procured and delivered at the Project Site, supported by purchase orders, invoices, delivery challans, and physical verification.

2nd (second) Project Milestone	INR [●]	Completion of construction and commissioning of the Waste-to-Energy Plant. This means completion of all civil, mechanical, electrical and instrumentation works; installation and testing of all systems/subsystems; completion of commissioning trials (including waste-feeding trials, boiler light-up, turbine roll-out, grid synchronisation and emission-compliance testing); and certification that the plant is commissioned.
3rd (third) Project Milestone	INR [●]	Achieving COD and successful operation for six (6) months after COD. Successful operations for six months means sustained compliance with throughput performance, adherence to emission norms, achievement of performance standards, and operational reliability without major unplanned outages beyond permissible limits.
4th (fourth) Project Milestone	INR [●]	Successful operation for one (1) year after COD. Successful operation for one year means ongoing compliance with throughput requirements, emission limits, availability standards, operating reliability standards and environmental performance norms, without major outages beyond allowable thresholds.

Provided however that all of the above Project Milestones shall be reviewed and recommended by the Independent Engineer and shall be approved and certified by the Authority in accordance with Article 16.

(ii) Within 7 (seven) days of issue of the Milestone Completion Certificate for a Project Milestone, the Concessionaire shall submit an Invoice to the Authority for the amount of the Grant linked to such Project Milestone. Any Invoice raised by the Concessionaire for the Grant shall be accompanied by a copy of the relevant Milestone Completion Certificate issued by the Authority.

(iii) Within 30 (thirty) days of receipt of an Invoice from the Concessionaire pursuant to Clause 22.3(c)(ii) above, the Authority shall verify and certify the amounts due and payable to the Concessionaire, and either:

(A) approve the Invoice and issue a certificate to the Escrow Bank (with a copy to the Concessionaire), conveying its approval for the release of the amount specified in the Invoice, less any necessary deductions or adjustments in

accordance with this Agreement and/or Applicable Laws (including for payments to be made by the Concessionaire under applicable labour laws and Liquidated Damages, if any); or

(B) issue a notice to the Concessionaire disputing the Invoice and directing the Concessionaire to issue a revised Invoice, after rectifying the errors or discrepancies identified by the Authority. If the Authority disputes only part of the Invoice, the Authority shall issue a certificate to the Escrow Bank (with a copy to the Concessionaire), conveying its approval for the release of the undisputed amount specified in the Invoice less any necessary deductions or adjustments in accordance with this Agreement and/or Applicable Laws.

(iv) The Concessionaire shall submit a revised Invoice to the Authority after rectifying the errors or discrepancies identified by the Authority and this process will be repeated until the Authority approves the Invoice.

(v) Any dispute between the Parties in relation to a disputed Invoice will be settled in accordance with Article 34.

(vi) A certificate issued by the Authority in accordance with Clause 22.3(c)(iii)(A) shall be referred to as a Payment Certificate.

(vii) If, within 30 (thirty) days from the date of receipt of an Invoice, the Authority does not dispute an Invoice, then the Invoice shall be deemed to have been accepted by the Authority, and the Concessionaire shall have the right to issue instructions to the Escrow Bank (with a copy to the Authority) to release the amounts specified in the Invoice, upon the expiry of the 30 (thirty) day period.

(viii) Immediately upon receipt of a Payment Certificate from the Authority in accordance with Clause 22.3(c)(iii) or upon receipt of instructions from the Concessionaire in accordance with Clause 22.3(c)(vii), the Escrow Bank shall release the amount specified in the Payment Certificate, or, if no Payment Certificate has been issued, then the amount specified in the relevant Invoice, in accordance with the Escrow Agreement.

(ix) Notwithstanding anything to the contrary in this Agreement, the Authority shall have no obligation to issue a Payment Certificate unless:

(A) the Performance Security or the O&M Security, as the case may, remains valid and in effect at the time;

(B) the insurances to be obtained by the Concessionaire in accordance with Article 25 are valid and in effect;

(C) the Applicable Permits for design, construction and completion of the Project Facilities are in full force and effect, unless the withdrawal or cancellation of any Applicable Permit is not attributable to the Concessionaire's failure to comply with Applicable Laws;

(D) the Concessionaire has complied with the EMP and OHS Plan in undertaking the design, construction and O&M of the Project Facilities; and

(E) there is no subsisting Concessionaire Event of Default.

22.3 Deleted

22.4 Deleted

22.5 Deleted

22.6 Deleted

22.7 Taxes and Royalties

(i) The Grant payable is inclusive of all Taxes.

(ii) The Authority may deduct from the Grant, any other amounts due to the Concessionaire, any income tax or withholding tax that is required to be deducted at source.

(iii) The Concessionaire shall be responsible for payment of all applicable Taxes, including all procedural compliances related to the payment of Taxes pursuant to this Agreement, and shall be solely responsible for any proceedings initiated by any Government Authority in respect of any non-payment or short-payment of Taxes.

(iv) The Concessionaire shall be responsible for payment of all applicable royalties on any fine and coarse aggregate, core sand, fine sand, grit and any other minerals extracted and/or used by the Concessionaire or any Subcontractor for the construction of the Project Facilities, and shall furnish proof of payment of such royalties to the Authority along with the invoices for the Concessionaire Payments.

(v) Upon a request from the Concessionaire, the Authority will provide all relevant certificates and information to enable the Concessionaire to obtain any Tax exemptions available in relation to the Project. It is clarified that the Authority shall not be responsible in any manner for ensuring that any applicable Tax exemptions are available to the Concessionaire.

(vi) The Concessionaire shall indemnify the Authority from and against any cost or liability that may arise due to the Concessionaire's failure to pay all applicable Taxes in connection with the Project.

(vii) Any Taxes payable in relation to the Site shall be borne by the Authority.

22.8 Applicable Tariff

(a) The Applicable Tariff means the tariff quoted by the Selected Bidder in its Bid and accepted by the Authority as part of the Bid Process, as approved by the Tamil Nadu Electricity Regulatory Commission (TNERC), and as applicable to the sale of electricity from the Project under this Agreement and the Power Purchase Agreement.

(b) For the first Financial Year, the Applicable Tariff ("T_1") shall be apportioned into:

(i) a fixed component equal to 60% of T_1 ("TF_1"); and

(ii) a variable component equal to 40% of T_1 ("TV_1").

(c) For each subsequent Financial Year, the Payable Tariff ("T_i") shall be the sum of:

(i) the payable fixed tariff for such Financial Year ("TF_i"); and

(ii) the payable variable tariff for such Financial Year ("TV_i").

(d) Adjustment of Fixed Component

(i) For the second Financial Year: $TF_2 = TF_1 \times (1 - (2\% \times D/365))$.

(ii) For each Financial Year *i* from the third Financial Year onwards: $TF_i = TF_{i-1} \times (1 - 2\%)$.

(e) Indexation of Variable Component (WPI-Linked)

(i) For the second Financial Year: $TV_2 = TV_1 \times [1 + ((WPI_1 - WPI_0) / WPI_0) \times (D/365)]$.

(ii) For each Financial Year *i* from the third Financial Year onwards: $TV_i = TV_{i-1} \times [1 + ((WPI_{i-1} - WPI_{i-2}) / WPI_{i-2})]$.

(f) For each Financial Year, the Payable Tariff shall be: $T_i = TF_i + TV_i$.

(g) For the purposes of this Clause:

(i) D means the number of days commencing on and from the Commercial Operation Date up to and including the immediately following 31 March; and

(ii) the relevant WPI values shall be the Wholesale Price Index (All Commodities) published by the GOI for the corresponding Financial Year. Indexation shall take effect from the first day of each Financial Year.

(h) The tariff calculation methodology set out in this Clause shall apply for the entire term of the PPA and shall be used for determining the Payable Tariff for all billing, invoicing and settlement under the PPA.

(i) Any incentives, subsidies, rebates or fiscal benefits (excluding Viability Gap Funding) made available by the Central Government or the State Government and applicable to the Project shall be dealt with in the manner set out below:

(a) Where such benefits result in a reduction in the cost of generation or otherwise confer a financial benefit on the Project, the Concessionaire shall promptly approach TNERC for revision of the Applicable Tariff under the PPA to appropriately reflect such benefit.

(b) Upon approval of such tariff revision by TNERC, the benefit shall accrue to the Authority, and the Concessionaire shall, within 30 (thirty) days of such approval, remit to the Authority the amounts representing such benefit.

(c) In the event TNERC does not approve such tariff revision, the Concessionaire shall ensure that the benefit is passed on to TNPDCL in a manner consistent with the provisions of the PPA.

(j) In the event of any inconsistency or discrepancy between the provisions of this Clause 22.8 and the provisions of the Power Purchase Agreement, the provisions of the Power Purchase Agreement shall prevail to the extent of such inconsistency or discrepancy.

(k) **Illustration of Tariff Computation (Years 1–5)**:

(All figures illustrative only.)

(i) Assumptions (for Illustration)

- Quoted / Applicable Tariff (T1) = **₹8.50 / kWh**
- Fixed share in Year 1 = **60%** of T1 → **TF1 = 0.60 × 8.50 = ₹5.10 / kWh**
- Variable share in Year 1 = **40%** of T1 → **TV1 = 0.40 × 8.50 = ₹3.40 / kWh**
- Commercial Operation Date (COD) = **1 October**
- Days from COD to 31 March (D) = **182 days**
- WPI values (illustrative): **WPI0 = 150, WPI1 = 156, WPI2 = 162, WPI3 = 170, WPI4 = 176**
- Rounding: **nearest paise** (2 decimals)

(ii) Formulas

- TF2 = TF1 × [1 − (2% × D/365)]
- TFi = TF(i−1) × (1 − 2%) for i ≥ 3
- TV2 = TV1 × [1 + ((WPI1 − WPI0) / WPI0) × (D/365)]
- TVi = TV(i−1) × [1 + ((WPI(i−1) − WPI(i−2)) / WPI(i−2))] for i ≥ 3
- Ti = TFi + Tvi

(iii) Year-by-Year Calculation

Year	Fixed Formula (calculation)	TF (₹/kWh)	Variable Formula (calculation)	TV (₹/kWh)	Total Ti = TF + TV (₹/kWh)
1	Base year	5.10	Base year	3.40	8.50
2	TF2 = 5.10 × [1 − (2% × 182/365)] = 5.10 × [1 − 0.0099726] = 5.10 × 0.9900274	5.05	TV2 = 3.40 × [1 + (6/150 × 182/365)] = 3.40 × [1 + 0.04 × 0.4986301] = 3.40 × 1.0199452	3.47	8.52

3	TF3 = 5.05 × (1 − 2%) = 5.05 × 0.98	4.95	TV3 = 3.47 × [1 + ((162−156)/156)] = 3.47 × (1 + 0.0384615)	3.60	8.55
4	TF4 = 4.95 × 0.98	4.85	TV4 = 3.60 × [1 + ((170−162)/162)] = 3.60 × (1 + 0.0493827)	3.78	8.63
5	TF5 = 4.85 × 0.98	4.75	TV5 = 3.78 × [1 + ((176−170)/170)] = 3.78 × (1 + 0.0352941)	3.91	8.66

22.9 Sale of Electricity and Payment of Tariff

(a) Subject to Applicable Laws and the provisions of this Agreement, the Concessionaire shall have the exclusive right, during the Concession Period, to generate, sell and supply electricity produced at the Project Facility to TNPDCL in accordance with the PPA to be entered into between the Concessionaire and TNPDCL.

(b) The sale of electricity by the Concessionaire and the payment of tariff therefor shall be governed by the Applicable Tariff determined in accordance with Clause 22.8 and as approved by TNERC, and the terms and conditions set out in the PPA. The Concessionaire shall be entitled to receive all tariff payments directly from TNPDCL in accordance with the PPA, and no such payments shall be made by, or be the responsibility of, the Authority.

(c) The Authority shall provide reasonable assistance, as may be required under Applicable Law, to facilitate the execution of the PPA and the grant of necessary approvals, permissions and consents relating to grid connectivity, evacuation infrastructure and the sale of electricity from the Project Facility. Provided, however, that the Authority shall not be liable for any delay in execution of the PPA, or for any failure, delay, curtailment or back-down in scheduling, offtake or payment of electricity by TNPDCL, except to the extent such delay or failure is directly attributable to an Authority Event of Default.

(d) Any non-availability of the grid, curtailment, back-down instructions, grid failure, or failure of TNPDCL to schedule, offtake or pay for electricity, which is not attributable to the Concessionaire, shall be treated as Forced Unavailability for the purposes of this Agreement and shall not be taken into account for the computation of Availability, performance shortfall, Liquidated Damages, determination of any Concessionaire Event of Default, or termination thresholds.

(e) The Concessionaire shall be responsible, at its own cost, for compliance with all requirements relating to internal power consumption, auxiliary power, metering, protection systems, grid connectivity and dispatch, in accordance with Applicable Laws, regulations issued by TNERC and the provisions of the PPA.

(f) Nothing contained in this Agreement shall be construed as:

(i) a guarantee by the Authority of the Applicable Tariff, the quantum of electricity to be scheduled or offtaken by TNPDCL, or the timely payment of tariff by TNPDCL; or

(ii) creating any payment obligation on the Authority in respect of the sale of electricity by the Concessionaire, save and except as expressly provided in this Agreement for an Authority Event of Default.

ARTICLE 23. ACCOUNTS AND AUDIT

23.1 Audited Accounts

(a) The Concessionaire shall maintain books of accounts recording all its receipts (including receipt of Applicable Tariff under the PPA and other revenues derived/collected by it from or on account of the Project Facilities and/or its use), income, expenditure, payments, assets and liabilities, in accordance with this Agreement, Good Industry Practice, Applicable Laws and Applicable Permits.

(b) The Concessionaire shall provide 2 (two) copies of its balance sheet, cash flow statement and profit and loss account, along with a report thereon by its Statutory Auditors, within 180 (one hundred and eighty) days of the close of the Accounting Year to which they pertain and such audited accounts, save and except where expressly provided to the contrary, shall form the basis of payments by the Parties under this Agreement, to the extent required. The Authority shall have the right to inspect the records of the Concessionaire during office hours and require copies of relevant extracts of books of accounts, duly certified by the Statutory Auditors, to be provided to the Authority for verification of basis of payments, and in the event of any discrepancy or error being found, the same shall be rectified and such rectified account shall form the basis of payments by the Parties under this Agreement.

(c) The Concessionaire shall, within 45 (forty five) days of the close of each quarter of an Accounting Year, furnish to the Authority its unaudited financial results in respect of the preceding quarter, in the manner and form prescribed by the Securities and Exchange Board of India for publication of quarterly results by the companies listed on a stock exchange.

23.2 Appointment of Auditors

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

(b) The Concessionaire may terminate the appointment of its Statutory Auditors after a notice of 45 (forty-five) days to the Authority, subject to the replacement Statutory Auditors being appointed from the Panel of Chartered Accountants.

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

23.3 Certification of claims by Statutory Auditors

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

ARTICLE 24. ESCROW ACCOUNT

24.1 Opening of Escrow Account

Prior to the Appointed Date, the Concessionaire, the Authority and the Escrow Bank shall enter into the Escrow Agreement, substantially in the format set out in Schedule K, and the Concessionaire shall open the Escrow Account with the Escrow Bank in accordance with the Escrow Agreement. The Escrow Account shall be operational until the expiry of the Concession Period. The Escrow Agreement shall set out the terms of appointment of the Escrow Bank and the Authority's obligation to deposit the Grant payments in accordance with this Agreement.

24.2 Deleted

24.3 Deposits into the Escrow Account

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

(i) all funds constituting the Financial Package disbursed by Senior Lenders in terms of the Financing Documents;

(ii) all revenues from the sale of electricity and recyclable materials by the Concessionaire;

(iii) proceeds of any rentals, deposits, capital receipts or insurance claims; and

(iv) all payments by the Authority, after deduction of any outstanding payments,

provided that, the Senior Lenders may make a direct disbursement to the EPC contractor in accordance with the express provisions contained in the Financing Documents.

24.4 Withdrawals during the Concession Period

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

(i) all taxes due and payable by the Concessionaire for and in respect of the Project;

(ii) all payments relating to construction of the Project, subject to and in accordance with the conditions, if any, set forth in the Financing Documents;

(iii) the O&M Expenses, subject to the ceiling, if any, set forth in the Financing Agreements;

(iv) the O&M Expenses and other costs and expenses incurred by the Authority in accordance with the provisions of this Agreement, and certified by the Authority as due and payable to it;

(v) any amounts due and payable to the Authority;

(vi) monthly proportionate provision of Debt Service due in an Accounting Year;

(vii) all payments and damages certified by the Authority as due and payable to it by the Concessionaire;

(viii) monthly proportionate provision of debt service payments due in an Accounting Year in respect of Subordinated Debt;

(ix) any reserve requirements set forth in the Financing Documents;

(x) balance, if any, in accordance with the instructions of the Concessionaire.

(b) The Concessionaire shall not in any manner modify the order of payment specified in Clause 24.4 above, except with the prior written approval of the Authority.

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

24.5 Withdrawals upon expiry of the Concession Period or Termination

(a) Notwithstanding anything to the contrary contained in this Agreement, all amounts standing to the credit of the Escrow Account shall, upon expiry of the Concession Period or termination of this Agreement, be appropriated in the following order:

(i) all taxes due and payable by the Concessionaire for and in respect of the Project;

(ii) percentage of Debt Due excluding Subordinated Debt if required to be as per the terms of this Agreement;

(iii) outstanding payments due to the Authority;

(iv) all payments and damages certified by the Authority as due and payable to it by the Concessionaire;

(v) retention and payments relating to the liability for defects and deficiencies;

(vi) outstanding Debt Service including the balance of Debt Due;

(vii) outstanding Subordinated Debt;

(viii) incurred or accrued O&M Expenses;

(ix) any other payments required to be made under this Agreement;

(x) balance, if any, in accordance with the instructions of the Concessionaire.

(xi) Provided that no appropriations shall be made under Clause 24.5(a)(x) until a Vesting Certificate has been issued by the Authority in accordance with Clause 30.5.

(b) The provisions of this Clause 24.5 and the instructions contained in the Escrow Agreement shall remain in full force and effect until the obligations set forth in Clause 24.5(a) have been fully discharged.

ARTICLE 25. INSURANCE

25.1 The Concessionaire shall obtain and maintain the policies of insurance set out in this Article 25 in the minimum coverage amounts and during the specified periods for the Project Facilities. In addition, the Concessionaire shall obtain any additional coverage required by Applicable Laws and/or deemed necessary by the Concessionaire, the Senior Lenders or the Authority in accordance with this Article 25.

25.2 During the Construction Period, the Concessionaire shall obtain and maintain such insurances for such maximum sums as may be required under the Financing Documents and Applicable Laws, and such insurances as may be necessary or prudent in accordance with Good Industry Practices.

25.3 During the O&M Period, the Concessionaire shall obtain and maintain insurance policies including but not limited to the following:

(a) loss, damage or destruction of the Project Facility, at replacement value;

(b) comprehensive third party liability insurance including injury to or death of personnel of the Authority or others caused by the Project;

(c) the Concessionaire's general liability arising out of the Project;

(d) liability to third parties for goods or property damage;

(e) workmen's compensation insurance; and

(f) any other insurance that may be necessary to protect the Project Facilities, the Concessionaire and its employees, including for all Force Majeure Events that are insurable at commercially reasonable premiums and not otherwise covered in items (a) to (e) above.

25.4 The level of insurance to be maintained by the Concessionaire shall be determined in accordance with the Financing Documents. The level of insurance to be maintained by the Concessionaire after repayment of the Senior Lenders' dues in full shall be determined on the same principles as applicable for determining the level of insurance prior to such repayment of the Senior Lenders' dues, in accordance with the Financing Documents.

25.5 The Concessionaire shall, within 30 (thirty) days of the Appointed Date, provide a notice to the Authority, setting out information in respect of the insurances that it proposes to obtain and maintain. Within 15 (fifteen) days of receipt of such notice, the Authority may require the Concessionaire to obtain and maintain such other insurances as it may deem necessary, and in the event of any difference or disagreement relating to any such insurance, the provisions of Article 34 shall apply.

25.6 The Concessionaire shall purchase insurance from reputable Indian and/or international companies licensed to operate in India, at competitive terms, and shall maintain the insurances on terms consistent with Good Industry Practices. Within 15 (fifteen) days of obtaining any Insurance Cover, the Concessionaire shall furnish to the Authority, notarised true copies of the certificate(s) of insurance, copies of insurance policies and premia payment receipts in respect of such insurance.

25.7 Each insurance policy shall contain the following endorsements:

(a) the Authority shall be additional insured under all policies maintained by the Concessionaire in relation to the Site and the Project, against loss or damage;

(b) the insurers shall waive all rights of subrogation against the Authority;

(c) the insurance policy may not be cancelled or materially changed by the insurer without giving 45 (forty-five) days' prior written notice, except in the case of non-payment, in which case it will be 10 (ten) days' prior written notice, to the Authority; and

(d) the Authority shall not be responsible for payment of any insurance premium.

(e) Any changes in the insurances which impact the Site or the Project Facilities will need the prior written consent of the Authority, which consent shall not be unreasonably withheld.

(f) The Concessionaire shall apply proceeds from all insurance claims, except life and injury, for any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation of the Project Facilities, and the balance remaining, if any, shall be applied in accordance with the provisions contained in this behalf in the Financing Documents.

(g) If the Concessionaire fails to procure or maintain any insurance required pursuant to this Article 25 which is required to be obtained for the Site or the Project, the Authority shall have the right to procure and maintain such insurance in accordance with the requirements of this Article 25 and charge the full cost thereof to the Concessionaire.

ARTICLE 26. FORCE MAJEURE

26.1 Force Majeure Events

(a) A Force Majeure Event means any act, event or circumstance or a combination of acts, events or circumstances or the consequence(s) thereof occurring after the date of this Agreement, which is/are:

(i) beyond the reasonable control of the Affected Party;

(ii) such that the Affected Party is unable to overcome or prevent despite exercise of due care and diligence;

(iii) which does/ do not result from the negligence of such Affected Party or the failure of such Affected Party to perform its obligations hereunder; and

(iv) such that it/they has/have a Material Adverse Effect.

(b) A Force Majeure Event means the following events and circumstances to the extent that they satisfy the conditions set out in Clause 26.1(a):

(i) Non-Political Force Majeure Events

(A) acts of God including storm, tempest, cyclone, hurricane, tsunami, flood, whirlwind, lightning, earthquake, washout, landslide, soil erosion, volcanic eruption, or extreme adverse weather or environmental conditions or actions of the elements;

(B) fire or explosion caused by reasons not attributable to the Concessionaire or any Concessionaire Related Parties;

(C) chemical or radioactive contamination or ionising radiation;

(D) epidemic, pandemic, plague or quarantine;

(E) the discovery of geological conditions, toxic contamination or archaeological remains on the Site that could not reasonably have been expected to be discovered through a site inspection; and

(F) strikes or boycotts (other than those involving the Concessionaire, its Subcontractors or its employees) interrupting supplies or services for a continuous period of 7 (seven) days and an aggregate period exceeding 14 (fourteen) days and not being an Indirect Political Force Majeure Event;

(G) accidents of navigation, air crash, shipwreck, train wreck or other similar failures of transportation of equipment and/or material necessary for construction or O&M of the Project Facilities;

(H) any failure or delay by a Subcontractor but only to the extent caused by another Non-Political Force Majeure Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Subcontractor.

Non-Political Force Majeure Event shall not include the following conditions, except to the extent resulting from a Non-Political Force Majeure Event:

(A) heavy rainfall;

(B) unavailability, late delivery or changes in cost of plant, machinery, equipment, materials or spare parts required for undertaking the Project;

(C) a delay in the performance of any Subcontractor;

(D) non-performance resulting from normal wear and tear; or

(E) non-performance caused by the non-performing Party's (I) negligent or intentional acts, errors or omissions, (II) failure to comply with the Applicable Laws or Applicable Permits, or (III) breach of, or default under, this Agreement, as the case may be.

(ii) Indirect Political Force Majeure Events

(A) hostilities (whether declared as war or not), riot, civil disturbance, revolution, rebellion, insurrection, act of terrorism, in each case involving the State Government or occurring in Tamil Nadu;

(B) invasion, armed conflict, coup d'etat, act of foreign enemy, blockade, embargo, revolution, insurgency, nuclear blast/explosion, politically motivated sabotage, religious strife or civil commotion, in each case involving the State Government or occurring in Tamil Nadu;

(C) strikes, lockout, boycotts or other industrial disputes which are not directly attributable to the actions of the Affected Party;

(D) any protests by rag pickers who are meant to be relocated and resettled by the Authority;

(E) any protests/agitation by members of the public against development of the Project Facilities at the Site;

(F) any orders or injunctions issued by the relevant State Government Authority which require the Concessionaire to suspend the construction or O&M of the Project Facilities provided that, such orders are not attributable to the Concessionaire's breach or violation of any Applicable Laws or Applicable Permits; and

(G) delay or failure by relevant State Government Authorities in renewing or granting any Applicable Permit, despite the Concessionaire having applied for such Applicable Permit expeditiously and complied with the requirements of Applicable Laws in making such application or the unlawful revocation of any Applicable Permit.

(H) failure of the Authority to permit the Concessionaire to continue perform its obligations under this Agreement, with or without modifications, in the event of stoppage of any works after discovery of any geological or archaeological finds or for any other reason;

(I) any failure or delay of any Subcontractor but only to the extent caused by another Indirect Political Force Majeure Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Subcontractor;

(J) the imposition, by any State Government Authorities, of any lockdowns, curfews or mandatory quarantine rules arising out of the occurrence of any Non-Political Force Majeure Event or otherwise, which prevents the construction and/or O&M of the Project Facilities for an aggregate period exceeding 7 (seven) days in an Accounting Year;

(K) suspension of the construction or O&M of a Project Facility pursuant to an Emergency not attributable to the Concessionaire under, and in accordance with, Clause 27.1(b)(ii)(B) and Clause 27.2(b)(ii)(B); and

(L) any event or circumstances of a nature analogous to any of the foregoing.

(iii) Direct Political Force Majeure Events

(A) occurrence of a Change in Law, to the extent that its consequences cannot be dealt with under and in accordance with the provisions of Article 32 and its effect, in financial terms, exceeds the sum specified in Clause 32.1;

(B) compulsory acquisition in national interest or expropriation of the Site and/or the Project Facilities by any State Government Authority;

(C) any order, notification or judgement issued or passed by any State Government Authority, which declares the construction and/or operation of the Project Facilities on the Site to be unlawful or opposed to public health and sanitation or as being a threat to the environment and/or ecologically sensitive areas/zones near the Site (including bird sanctuaries, wildlife sanctuaries, etc.) and accordingly requires the Authority to cease the construction and/or operation of the Project Facilities at the Site, unless such judgement is, in any manner, attributable to the Concessionaire;

(D) any failure or delay of any Subcontractor but only to the extent caused by another Direct Political Force Majeure Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Subcontractor;

(E) failure by TNPDCL to offtake and/or pay for the electricity generated by the Project Facilities for reasons not attributable to the Concessionaire, in accordance with Clause 18.10(a)(ii), (iii) and (iv);

(F) termination of the PPA due to TNPDCL default; and

(G) any event or circumstance of a nature analogous to any of the foregoing.

(c) Without prejudice to the provisions of Clauses 26.1(a) or 26.1(b) above,

(i) any act, event or circumstance which primarily affects any of the Concessionaire Related Parties associated with the Project shall constitute a Force Majeure Event if and to the extent that it is of a kind or character that, if it had directly affected the Concessionaire, it would have come within the definition of Force Majeure Event under this Clause 26.1; and

(ii) any act, event or circumstance which primarily affects any of Authority Related Parties shall constitute a Force Majeure Event if and to the extent that it is of a kind or character that, if it had directly affected Authority, it would have come within the definition of Force Majeure Event under this Clause 26.1.

(d) If the Parties are unable to agree in good faith on the occurrence or existence of a Force Majeure Event, such dispute shall be finally settled in accordance with the dispute resolution procedure set out in Article 34, provided however that the burden of proof as to the occurrence or existence of such Force Majeure Event shall be upon the Affected Party.

26.2 Notice of Force Majeure Events

(a) The Affected Party shall give notice to the other Party in writing of the occurrence of any Force Majeure Event (the FM Notice), as soon as the same arises or as soon as reasonably practicable and in any event within 3 (three) days after the Affected Party knew of its occurrence. The FM Notice shall set out:

(i) the nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Article 26 with evidence in support thereof;

(ii) the estimated duration and the effect or probable effect which such Force Majeure Event is having or will have on the Affected Party's performance of its obligations under this Agreement; and

(iii) the measures which the Affected Party is taking or proposes to take for alleviating the impact of such Force Majeure Event.

(b) If, following the issue of the FM Notice, the Affected Party receives or becomes aware of any further information relating to the Force Majeure Event, it shall submit such further information to the other Party as soon as reasonably practicable.

(c) Any party claiming to have been affected by a Force Majeure Event shall not be entitled to any relief unless it has complied with all the provisions of this Clause 26.2.

26.3 Excuse of Performance

The Affected Party, to the extent rendered unable to perform its obligations or part of the obligation thereof under this Agreement as a consequence of the Force Majeure Event, shall be excused from performance of the affected obligations, provided that the period shall not exceed 180 (one hundred and eighty) days for a Non-Political Force Majeure Event, 120 (one hundred and twenty) days for an Indirect Political Force Majeure Event and 90 (ninety) days for a Direct Political Force Majeure Event from the date of issuance of the FM Notice.

26.4 No Liability for Other Losses

Save and except as expressly provided in this Agreement, no Party shall be liable in any manner whatsoever to the other Parties in respect of any loss relating to or arising out of the occurrence or existence of any Force Majeure Event or the exercise by it of any right pursuant to this Article 26.

26.5 Resumption of Performance

The Affected Party shall in consultation with the other Parties, make all reasonable efforts to limit or mitigate the effects of a Force Majeure Event on the performance of its obligations under this Agreement. The Affected Party shall also make efforts to resume performance of its obligations under this Agreement as soon as possible and upon resumption, shall notify the other Parties of the same in writing. The other Parties shall afford all reasonable assistance to the Affected Party in this regard.

26.6 Allocation of costs during a Force Majeure Event

(a) Upon occurrence of a Force Majeure Event prior to the Appointed Date, the Parties shall bear their respective costs and no Party shall be required to pay any costs to the other Parties.

(b) Upon occurrence of a Force Majeure Event post the Appointed Date, the costs incurred and attributable to such Force Majeure Event and directly relating to the Project (Force Majeure Costs) shall be allocated as follows:

(i) upon the occurrence of a Non-Political Force Majeure Event, the Parties shall bear their respective Force Majeure Costs and no Party shall be required to pay any costs to any other Party;

(ii) upon the occurrence of an Indirect Political Event, all Force Majeure Costs up to the Insurance Cover will be borne by the Concessionaire and to the extent Force Majeure Costs exceed the Insurance Cover, one half of such excess amount shall be reimbursed by the Authority;

(iii) upon occurrence of a Direct Political Force Majeure Event, all Force Majeure Costs attributable to such Direct Political Force Majeure Event shall be reimbursed by the Authority to the Concessionaire.

For the purposes of this Clause 26.6, 'Force Majeure Costs' mean interest payments on debt, O&M Expenses, and any increase in the cost of construction works and O&M directly attributable to the Force Majeure Event and for determining such costs, information contained in the Financial Package may be relied upon to the extent that such information is relevant. Force Majeure Costs shall not include any debt repayment obligations or loss of profits or income. Provided however, Force Majeure Costs attributable to a Direct Political Force Majeure Event shall, in addition to the above, also include interest on the Equity which shall be equal to the interest payable on debt, as specified in the Financial Package/ Financing Documents.

26.7 Termination due to Force Majeure Event

(a) Termination due to a Non-Political Force Majeure Event

If a Non-Political Force Majeure Event continues for a period of 180 (one hundred and eighty) days after the notification of a Non-Political Force Majeure Event or any extended period agreed in pursuance of Clause 26.3, any Party shall, after the expiry of the period of 180 (one hundred and eighty) days or any other mutually extended period, be entitled to forthwith terminate this Agreement in its sole discretion by issuing a notice to that effect to the other Parties.

Notwithstanding anything contained in this Clause 26.7(a):

(i) if the Project Facility is affected by a Total Casualty, then the Concessionaire may terminate this Agreement without having to wait for the expiry of the 180 (one hundred and eighty) days' period stipulated for a Non-Political Force Majeure Event;

(ii) if the Project Facility is affected by a Minor Casualty, then the Concessionaire shall be required to repair and restore the Project Facility to the same condition as previously existed and the Concessionaire shall not be entitled to terminate this Agreement on the grounds of a continuing Non-Political Force Majeure Event.

(b) Termination due to an Indirect Political Force Majeure Event

If an Indirect Political Force Majeure Event continues for a period of 120 (one hundred and twenty) days after the notification of an Indirect Political Force Majeure Event or any extended period agreed in pursuance of Clause 26.3, any Party shall, after the expiry of the period of 120 (one hundred and twenty) days or any other mutually extended period, be entitled to forthwith terminate this Agreement in its sole discretion by issuing a notice to that effect to the other Parties.

(c) Termination due to a Direct Political Force Majeure Event

If a Direct Political Force Majeure Event continues for a period of 90 (ninety) days after the notification of a Direct Political Force Majeure Event or any extended period agreed in pursuance of Clause 26.3, any Party shall, after the expiry of the period of 90 (ninety) days or any other mutually extended period, be entitled to forthwith terminate this Agreement in its sole discretion by issuing a notice to that effect to the other Parties.

(d) All the other consequences of termination that are set out at Article 28 shall apply in case of termination of this Agreement due to a Force Majeure Event.

26.8 Effect of Force Majeure Event on the Concession Period

(a) Upon the occurrence of any Force Majeure Event prior to the Appointed Date, the period set forth in Clause 4.5 for fulfilment of Conditions Precedent and for achieving the Appointed Date shall be extended by a period equal to the duration of the Force Majeure Event.

(b) Upon the occurrence of any Force Majeure Event after the Appointed Date, the Concession Period shall be extended by a period equal to the duration of such Force Majeure Event.

ARTICLE 27. SUSPENSION OF THE CONCESSIONAIRE'S RIGHTS

27.1 Suspension by the Concessionaire

(a) Suspension of construction or O&M of the Project Facilities

(i) At any time during the Concession Period, the Concessionaire may suspend, whether partially or wholly, the construction or O&M of any Project Facility, in case of an Emergency.

(ii) The Concessionaire acknowledges that suspension of the construction of any Project Facility pursuant to Clause 27.1(a)(i) shall not entitle the Concessionaire to an extension of time, if such event is attributable to the Concessionaire, provided that any suspension of construction of the Project Facilities pursuant to Clause 27.1(a)(i) for reasons not attributable to the Concessionaire shall be treated as a Delay Event.

(iii) Upon the occurrence of an Emergency, the Concessionaire shall as soon as reasonably possible, and in no event later than 3 (three) days after such occurrence, notify the Authority of such occurrence.

(iv) If, upon notification, the Authority does not concur with the Concessionaire on the nature of such occurrence, then the Concessionaire shall be required to immediately re-commence the construction or O&M of the relevant Project Facility, as the case may be. Upon re-commencement of the construction or O&M services, the Concessionaire may initiate a Dispute regarding its claim for the occurrence of such an event or circumstance, and such Dispute shall be finally settled in accordance with the dispute resolution procedure set out in Article 34, provided however that the burden of proof as to the occurrence or existence of such an event shall be upon the Concessionaire.

(b) Mitigation, Resumption and Termination

(i) The Concessionaire shall make best endeavours to:

(A) mitigate the effects (including incremental costs and delays) of the events or circumstances resulting in suspension pursuant to Clause 27.1(a)(i) above. Notwithstanding anything to the contrary contained in this Agreement, if the Authority, in its sole assessment, is not satisfied with the steps being taken by the Concessionaire to mitigate the effects of the Emergency, the Authority shall have the right to step-in to this Agreement and undertake necessary measures to mitigate the effect of the Emergency at the cost and risk of the Concessionaire and the Concessionaire shall not be entitled to receive any payments for the duration that the Authority steps-in to operate and maintain the Project Facility, provided that any revenue earned from the O&M of the Project Facility shall be to the account of the Concessionaire (subject to payment of all Costs incurred by the Authority in undertaking the O&M of the Project Facility); and

(B) within 24 (twenty-four) hours of the ceasing of any of the events or circumstances resulting in suspension pursuant to Clause 27.1(a)(i) or such longer period as may be approved by the Authority, mobilize the personnel employed by it or its Subcontractor in order to resume the construction or O&M services of the relevant Project Facility as soon as reasonably practicable, and once the works or services have resumed, notify the Authority of the resumption of the works or services.

(ii) Without prejudice to Clause 27.1(b)(i):

(A) if suspension of the construction or O&M of a Project Facility pursuant to Clause 27.1(a)(i) continues for a consecutive period of 90 (ninety) days or a cumulative period of 180 (one hundred and eighty) days over the Concession Period, and such event is attributable to the Concessionaire, then such suspension shall amount to a Concessionaire Event of Default in accordance with Clause 28.1; and

(B) if suspension of the construction or O&M of a Project Facility pursuant to Clause 27.1(a)(i) continues for a consecutive period of 90 (ninety) days or a cumulative period of 180 (one hundred and eighty) days over the Concession Period, and such event is not attributable to the Concessionaire, then such event will be treated as an Indirect Political Force Majeure Event and the consequences set out in Article 26 shall apply.

27.2 Suspension by Authority

(a) Suspension of construction and/or O&M of the Project Facilities

(i) At any time during the Concession Period, the Authority may suspend, whether partially or wholly, the construction or O&M of a Project Facility, in any of the following events or circumstances:

(A) upon the occurrence of an Emergency; or

(B) if the Concessionaire fails to comply with Applicable Laws, Applicable Permits, the Construction Plan, the Project Execution Plan, the DPR, the EMP, OHS Plan, the O&M Plan, the Waste Acceptance and Rejection Plan or otherwise fails to perform its obligations in accordance with this Agreement (including the Technical Specifications).

(ii) The Concessionaire acknowledges that suspension of the construction of the Project Facilities shall not entitle the Concessionaire to an extension of time if such event is attributable to the Concessionaire, provided that any suspension of construction of the Project Facilities pursuant to Clause 27.2(a)(i) for reasons not attributable to the Concessionaire shall be treated as a Delay Event.

(b) Mitigation, Resumption and Termination

(i) The Concessionaire shall make best endeavours to:

(A) mitigate the effects (including incremental costs and delays) of the events or circumstances resulting in suspension pursuant to Clause 27.2(a) above. Notwithstanding anything to the contrary contained in this Agreement, if the Authority, in its sole assessment, is not satisfied with the steps being taken by the Concessionaire to mitigate the effects of the Emergency, the Authority shall have the right to step-in to this Agreement and undertake necessary measures to mitigate the effect of the Emergency at the cost and risk of the Concessionaire and the Concessionaire shall not be entitled to receive any payments for the duration that the Authority steps-in to operate and maintain the Project Facility, provided that any revenue earned from the O&M of the Project Facility shall be to the account of the Concessionaire (subject to payment of all Costs incurred by the Authority in undertaking the O&M of the Project Facility); and

(B) within 24 (twenty-four) hours of the ceasing of any of the events or circumstances resulting in suspension pursuant to Clause 27.2(a) or such longer period as may be agreed between the Parties, mobilize the personnel employed by it or its Subcontractor in order to resume the construction or O&M services of the relevant Project Facility as soon as reasonably practicable, and once the works or services have resumed, notify the Authority of the resumption of the works or services.

(ii) Without prejudice to Clause 27.2(b)(i):

(A) if suspension of the construction or O&M of the relevant Project Facility pursuant to Clause 27.2(a)(i)(A) continues for a consecutive period of 90 (ninety) days or a cumulative period of 180 (one hundred and eighty) days over the Concession Period and the Emergency is attributable to the Concessionaire, or a suspension pursuant to Clause 27.2(a)(i)(B) continues for a consecutive period of 90 (ninety) days or a cumulative period of 180 (one hundred and eighty) days over the Concession Period, then such suspension shall amount to a Concessionaire Event of Default in accordance with Clause 28.1; and

(B) if suspension of the construction or O&M of the relevant Project Facility pursuant to Clause 27.2(a)(i)(A) continues for a consecutive period of 90 (ninety) days or a cumulative period of 180 (one hundred and eighty) days over the Concession Period, and the Emergency is not attributable to the Concessionaire, then such event will be treated as an Indirect Political Force Majeure Event and the consequences set out in Article 28 shall apply.

ARTICLE 28. EVENTS OF DEFAULT

28.1 Concessionaire Events of Default

A Concessionaire Event of Default means any of the following events arising out of any acts or omissions of the Concessionaire and which have not occurred solely as a consequence of an Authority Event of Default or any Force Majeure Event, and where the Concessionaire has failed to remedy the default within the cure period set forth below, or where no cure period is specified, then within a cure period of 60 (sixty) days:

(a) The Concessionaire fails to complete the works for a Project Milestone within 6 (six) months of the Scheduled Project Milestone Completion Date.

(b) The Concessionaire fails to achieve the COD within 6 (six) months of the Scheduled COD, other than on account of a Delay Event.

(c) The Concessionaire fails to pay the Delay Liquidated Damages within the timelines specified in this Agreement.

(d) The Concessionaire fails to achieve the Key Performance Indicators set out in Clause 21, and as a result, an Event of Default arises in accordance with Clause 21.2(d).

(e) Suspension of construction or O&M pursuant to Clause 27.1(a)(i) or Clause 27.2(a)(i)(A) to the extent the Emergency is attributable to the Concessionaire) or a suspension pursuant to Clause 27.2(a)(i)(B), for a continuous period of 90 (ninety) days or a cumulative period of 180 (one hundred and eighty) days over the Concession Period.

(f) A breach by the Concessionaire of its obligations under this Agreement which has a Material Adverse Effect on the ability of the Concessionaire to construct and/or operate and maintain the Project Facilities and such breach, if capable of being remedied, is not remedied within 30 (thirty) days of a written notice from the Authority.

(g) Any representation or warranty made by the Concessionaire under this Agreement being false or misleading in any material respect.

(h) Failure of the Concessionaire to submit and maintain a valid Performance Security in accordance with Clause 9.1 or a valid O&M Security in accordance with Clause 9.3.

(i) Breach by the Concessionaire of its obligations under Clauses 12.3 (Security Creation), 10 (Project Site) or 35.12 (Assignment).

(j) Breach of the Concessionaire's obligations under Clause 5.10 (Change in Ownership).

(k) Failure to obtain, renew or maintain any Applicable Permit.

(l) Failure to comply with any Applicable Law.

(m) Failure to obtain and maintain Insurance Cover in accordance with Clause 25.2.

(n) Failure to comply with the EMP or OHS Plan in accordance with Clause 14.4(f).

(o) The Concessionaire being admitted into corporate insolvency resolution, liquidation, winding up, inability to pay debts, appointment of a receiver, administrator or any restructuring affecting its ability to fulfil obligations under this Agreement.

(p) A breach or event of default under the Financing Documents or the Escrow Agreement, or termination of such documents for reasons attributable to the Concessionaire.

(q) Abandonment of the construction or operation of the Project Facilities without prior written consent of the Authority.

(r) Termination of the PPA due to a Concessionaire default.

(s) Breach of the Concessionaire's obligations under any of the Project Agreements that has or may have a Material Adverse Effect.

(t) Any substitution or replacement of the Technology Partner occurring for the third time or at any time thereafter during the Concession Period shall constitute a Concessionaire Event of Default, irrespective of any technical equivalence of the proposed replacement entity;

28.2 Termination Notice upon occurrence of a Concessionaire Event of Default

(a) Upon the occurrence of a Concessionaire Event of Default, the Authority may initiate termination by delivering a Termination Notice specifying reasonable details of the grounds.

(b) If within 15 (fifteen) days of the Termination Notice the Concessionaire remedies the Event of Default or the Authority is satisfied with the steps taken, the Authority shall withdraw the Termination Notice.

(c) If the Event of Default is not remedied within 15 (fifteen) days, the Authority shall issue notice to the Senior Lenders to exercise substitution rights.

(d) If within 30 (thirty) days of the notice under Clause 28.2(c), the Senior Lenders notify their intent to substitute the Concessionaire: (i) the Authority shall withdraw the Termination Notice; and (ii) the process under the Substitution Agreement shall apply. Provided that the Senior Lenders may instead cure the default within 60 (sixty) days, upon which the Termination Notice shall be withdrawn.

(e) If the Senior Lenders do not notify intent to substitute within 30 (thirty) days, the Authority shall terminate the Agreement and Clause 28.5 shall apply.

(f) During the subsistence of a Concessionaire Event of Default, the Parties shall continue to perform such of their obligations as are capable of being performed.

(g) If a default under Clause 28.1(r) occurs (PPA termination due to Concessionaire default), the Concessionaire may identify alternate offtakers within 60 (sixty) days; if successful, no Termination Notice shall be issued.

28.3 Authority Events of Default

An Authority Event of Default means any of the following, unless caused by a Concessionaire Event of Default or a Force Majeure Event, and not remedied within the specified cure period (or 60 (sixty) days where unspecified):

(a) A breach by the Authority with a Material Adverse Effect, not remedied within 30 (thirty) days of notice.

(b) Breach of obligations under Clause 6.1(f) or Clause 6.1(g) relating to rights in the Site.

(c) Failure to pay undisputed amounts within 60 (sixty) days, not recovered through the Escrow Account.

(d) Breach of Clause 35.12(b) (Assignment).

(e) Suspension of construction or O&M in breach of Clause 27.2.

(f) Failure to fulfil the Annual Guaranteed Acceptable Waste Quantity for 3 (three) consecutive years, or for any 6 (six) years within any continuous period of 10 (ten) years during the O&M Period.

(g) Any representation or warranty made by the Authority being false or misleading in any material respect.

28.4 Termination Notice upon occurrence of an Authority Event of Default

(a) Upon occurrence of an Authority Event of Default, the Concessionaire may deliver a Termination Notice specifying reasonable details.

(b) If the Authority remedies the default within 15 (fifteen) days, the Concessionaire shall withdraw the Termination Notice.

(c) If not remedied within 15 (fifteen) days, the Concessionaire shall terminate the Agreement and Clause 28.5 shall apply.

(d) During subsistence of an Authority Event of Default, both Parties shall continue to perform obligations capable of performance.

28.5 Consequences of termination after the Appointed Date

Upon termination (including due to Force Majeure):

(a) Concessionaire shall cease all construction or O&M.

(b) Trial Operations shall cease.

(c) Concessionaire shall safeguard and protect Project Facilities and materials.

(d) (d) Authority shall return the Performance Security or O&M Security within 30 (thirty) days in accordance with Article 9. However, only in the case of Concessionaire Event of Default, the Performance Security and/or O&M Security shall be forfeited.

(e) Concessionaire shall hand over the Site and Project Facilities (on an as-is-where-is basis in case of Force Majeure termination).

(f) Authority may succeed to the Concessionaire's interests in Project Agreements, being liable only for obligations accruing after such election. Amounts expended by the Authority in curing defaults shall be deducted from Termination Compensation.

28.6 Accrued Rights and Liabilities

(a) Termination shall not prejudice accrued rights, including rights to claim damages or Termination Compensation.

(b) Nothing in Articles 27 or 28 prevents a Party from seeking injunctive relief or specific performance.

ARTICLE 29. TERMINATION COMPENSATION

29.1 General

The Parties acknowledge that no termination payment shall be payable by either Party in the event of termination of this Agreement prior to the Appointed Date, other than as provided under Clause 4.6. This Article 29 sets out all payments to be made upon termination of this Agreement after the Appointed Date.

29.2 Termination Compensation

(a) Authority Event of Default post Appointed Date

If the Agreement is terminated after the Appointed Date on account of an Authority Event of Default, the Authority shall pay to the Concessionaire the aggregate of:

(i) any accrued and undisputed amounts payable to the Concessionaire under the Agreement towards the Grant for Project Milestones completed and certified;

(ii) Debt Due as on the date of the Termination Notice;

(iii) 120% of Adjusted Equity;

LESS

(iv) any other amounts due and payable by the Concessionaire under this Agreement (including Liquidated Damages and any amount payable under Clause 30.2).

(b) Concessionaire Event of Default post COD

If the Agreement is terminated after the COD on account of a Concessionaire Event of Default, the Authority shall pay to the Concessionaire the aggregate of:

(i) any accrued and undisputed amounts payable to the Concessionaire under the Agreement towards the Grant for Project Milestones completed and certified;

(ii) 80% (eighty per cent) of Debt Due as on the date of the Termination Notice less Insurance Cover, provided that if any insurance claims forming part of the Insurance Cover are not admitted and paid, then 75% (seventy five per cent) of such unpaid claims shall be included in the computation of Debt Due;

LESS

(iii) any other amounts due and payable by the Concessionaire under this Agreement (including Liquidated Damages and any amount payable under Clause 30.2).

29.3 Termination Compensation for Termination due to a Force Majeure Event

(a) Non-Political Force Majeure Event

If the Agreement is terminated after the Appointed Date as a result of a Non-Political Force Majeure Event, the Authority shall pay to the Concessionaire the aggregate of:

(i) any accrued and undisputed amounts payable to the Concessionaire under the Agreement towards the Grant for Project Milestones completed and certified;

(ii) 80% (eighty per cent) of Debt Due as on the date of the Termination Notice less Insurance Cover, provided that if any insurance claims forming part of the Insurance Cover are not admitted and paid, then 75% (seventy five per cent) of such unpaid claims shall be included in the computation of Debt Due;

LESS

(iii) any amounts due and payable by the Concessionaire under this Agreement (including Liquidated Damages and any amount payable under Clause 30.2).

(b) Indirect Political or Direct Political Force Majeure Event

If the Agreement is terminated as a result of an Indirect Political Force Majeure Event or a Direct Political Force Majeure Event, the Authority shall pay to the Concessionaire the aggregate of:

(i) any accrued and undisputed amounts payable to the Concessionaire under the Agreement towards the Grant for Project Milestones completed and certified;

(ii) Debt Due as on the date of the Termination Notice;

(iii) 120% of Adjusted Equity;

LESS

(iv) any other amounts due and payable by the Concessionaire under this Agreement (including Liquidated Damages and any amount payable under Clause 30.2).

29.4 Timelines for Payment

All Termination Compensation payable by the Authority to the Concessionaire shall be paid within 120 (one hundred twenty) days of handover of the Site and the Project Facilities to the Authority in accordance with Article 30.

29.5 Full and Final Settlement

Notwithstanding anything to the contrary elsewhere in this Agreement, any Termination Compensation determined pursuant to this Article 29 shall, once paid, constitute full and final settlement of any claim, demand or proceedings of the Concessionaire against the Authority in relation to the termination of this Agreement.

The Concessionaire shall thereafter be excluded from all other rights and remedies in respect of such termination.

29.6 Survival

The provisions of this Article 29 shall survive the termination of this Agreement.

ARTICLE 30. DIVESTMENT OF RIGHTS AND INTEREST

30.1 Transfer of the Site and the Project Facilities

Upon the expiry or early termination of this Agreement, the Concessionaire shall hand over the Site and the Project Facilities to the Authority, or any other entity nominated by the Authority, in accordance with this Article 30.

30.2 Inspection of the Site and the Project Facilities

(a) No later than 30 (thirty) days from the end of the 5th and 10th year from COD, or 30 (thirty) days from the date of termination of the Agreement (as applicable), the Authority shall, or shall cause the Independent Engineer to, carry out a survey of the Site and the Project Facilities to assess whether they have been maintained by the Concessionaire in accordance with this Agreement and are in working condition consistent with the design life stipulated in the Technical Specifications.

(b) The Authority shall notify the Concessionaire at least 7 (seven) days prior to the date on which it proposes to carry out the survey.

(c) If the survey shows that the Concessionaire has not complied, or is not complying, with its obligations under this Agreement, the Authority shall notify the Concessionaire of the rectification and/ or maintenance work required to restore the Site and the Project Facilities to the Hand-back Conditions.

(d) The Concessionaire shall carry out all required rectification and/or maintenance works within 30 (thirty) days of receipt of the Authority's notice under Clause 30.2(c), at its own cost and risk. Upon completion, the Concessionaire shall request the Authority to conduct a final survey. The Authority shall conduct the final survey within 7 (seven) days of such request. If the Authority is satisfied with the results of the final survey, it shall notify the Concessionaire within 7 (seven) days that the Site and the Project Facilities meet the Hand-back Conditions. If the Authority is not satisfied, it shall (or shall cause the Independent Engineer to) estimate the cost required to restore the Site and the Project Facilities to the Hand-back Conditions, and recover such cost from the Concessionaire, including by deducting such cost from the Performance Security, O&M Security, or Termination Compensation, as applicable.

30.3 Hand-back Requirements

Upon expiry or early termination of this Agreement, the Concessionaire shall:

(a) Hand over to the Authority (or its nominee) the Site and the Project Facilities, free of any consideration, except for Termination Compensation payable under Article 29.

(b) Transfer to the Authority (or its nominee) all rights, title and interest in the assets comprising the Project Facilities, execute all necessary deeds and documents, and complete all related legal and procedural formalities.

(c) Hand over all documents relating to the Site and the Project Facilities, including Designs and Drawings, “as-built” drawings, “as-built” project records, O&M Plan, operating logs, manuals, reports, plans and records.

(d) Assign the licence and related rights to use the Proposed Technology for the sole purpose of operating and maintaining the Project Facilities to the Authority at no additional cost.

(e) Transfer (or cause to be transferred) to the Authority or its nominee any Subcontract that the Authority or its nominee elects to take over, and terminate all other Subcontracts.

(f) Transfer to the Authority or its nominee all Concessionaire Applicable Permits which the Authority or its nominee may require and which are capable of legal transfer.

(g) Remove from the Site all employees, workmen, and assets, equipment and materials not required to be taken over by the Authority or its nominee.

30.4 Survival

The provisions of this Article 30 shall survive termination of this Agreement.

30.5 Vesting Certificate

The divestment of all rights, title and interest in the Project Facilities shall be deemed complete on the date all Hand-back Requirements under Clause 30.3 have been fulfilled. The Authority shall, without unreasonable delay, issue a certificate substantially in the form set out in Schedule J (the Vesting Certificate). The Vesting Certificate shall constitute evidence of: divestment by the Concessionaire of all rights, title and interest in the Project Facilities; and vesting of the same in the Authority. It is expressly clarified that any defect or deficiency in the Hand-back Requirements shall not restrict the Authority from exercising any rights in relation to the Project Facilities on the basis that the Concessionaire has complied with all Hand-back Requirements.

ARTICLE 31. CHANGE OF SCOPE

31.1 Change of Scope

(a) The Authority may, notwithstanding anything to the contrary contained in this Agreement, require the provision of additional works and services which are not included in the Development Requirements as contemplated by this Agreement (the "**Change of Scope**"). Any such Change of Scope shall be made in accordance with the provisions of this Article 31 and the costs thereof shall be expended by the Concessionaire and reimbursed to it by the Authority in accordance with Clause 31.3.

(b) If the Concessionaire determines at any time that a Change of Scope is necessary for providing safer and improved services, it shall by notice in writing require the Authority to consider such Change of Scope. The Authority shall, within 15 (fifteen) days of receipt of such notice, either accept such Change of Scope with modifications, if any, and initiate proceedings therefor in accordance with this Article 31 or inform the Concessionaire in writing of its reasons for not accepting such Change of Scope.

(c) Any works or services which are provided under and in accordance with this Article 31 shall form part of the Project Facility and the provisions of this Agreement shall apply mutatis mutandis to such works or services.

31.2 Procedure for Change of Scope

(a) In the event of the Authority determining that a Change of Scope is necessary, it shall issue to the Concessionaire a notice specifying in reasonable detail the works and services contemplated thereunder (the "**Change of Scope Notice**").

(b) Upon receipt of a Change of Scope Notice, the Concessionaire shall, with due diligence, provide to the Authority such information as is necessary, together with preliminary Documentation in support of:

(i) the impact, if any, which the Change of Scope is likely to have on the construction timelines if the works or services are required to be carried out during the Construction Period; and

(ii) the options for implementing the proposed Change of Scope and the effect, if any, each such option would have on the costs and time thereof, including a detailed breakdown by work classifications specifying the material and labour costs calculated in accordance with the schedule of rates applicable to the works assigned by the Authority to its contractors, along with the proposed premium/ discount on such rates; provided that the cost incurred by the Concessionaire in providing such information shall be reimbursed by the Authority to the extent such cost is certified by the Independent Engineer as reasonable.

(c) Upon receipt of information set forth in Clause 31.2(b), if the Authority decides to proceed with the Change of Scope, it shall convey its preferred option to the Concessionaire, and the Parties shall, with assistance of the Independent Engineer, thereupon make good faith efforts to agree upon the time and costs for implementation thereof. Upon reaching an agreement, the Authority shall issue an order (the "**Change of Scope Order**") requiring the Concessionaire to proceed with the performance thereof. In the event that the Parties are unable to agree, the Authority may, by issuing a Change of Scope Order, require the Concessionaire to proceed with the performance thereof pending resolution of the Dispute, or carry out the works in accordance with Clause 31.5.

(d) The provisions of this Agreement, insofar as they relate to construction works and tests, shall apply mutatis mutandis to the works undertaken by the Concessionaire under this Article 31.

31.3 Payment for Change of Scope

Within 7 (seven) days of issuing a Change of Scope Order, the Authority shall make an advance payment to the Concessionaire in a sum equal to 20% (twenty per cent) of the cost of Change of Scope as agreed hereunder, and in the event of a Dispute, 20% (twenty per cent) of the cost assessed by the Independent Engineer. The Concessionaire shall, after commencement of work, present to the Authority bills for payment in respect of the works in progress or completed works, as the case may be, supported by such Documentation as is reasonably sufficient for the Authority to determine the accuracy thereof. Within 30 (thirty) days of receipt of such bills, the Authority shall disburse to the Concessionaire such amounts as are certified by the Independent Engineer as reasonable and after making a proportionate deduction for the advance payment made hereunder, and in the event of any Dispute, final adjustments thereto shall be made under and in accordance with the Dispute Resolution Procedure.

31.4 Restrictions on certain works

(a) Notwithstanding anything to the contrary contained in this Article 31, but subject to the provisions of Clause 31.4(b), the Authority shall not require the Concessionaire to undertake any works or services if such works or services are likely to delay completion of the Project Facility by the Scheduled COD; provided that in the event that the Authority considers such works or services to be essential, it may issue a Change of Scope Order, subject to the condition that the works forming part of or affected by such Order shall not be reckoned for purposes of determining completion of the Project Facility and issuing the Provisional Certificate.

(b) Notwithstanding anything to the contrary contained in this Article 31, the Concessionaire shall be entitled to nullify any Change of Scope Order if it causes the cumulative costs relating to all the Change of Scope Orders to exceed 10% (ten per cent) of the Total Project Cost in any continuous period of 3 (three) years immediately preceding the date of such Change of Scope Order or if such cumulative costs exceed 25% (twenty five per cent) of the Total Project Cost at any time during the Concession Period.

31.5 Power of the Authority to undertake works

(a) Notwithstanding anything to the contrary contained in Clauses 31.1(a), 31.2 and 31.3, the Authority may, after giving notice to the Concessionaire and considering its reply thereto, award any works or services contemplated under Clause 31.1(a) to any person on the basis of open competitive bidding; provided that the Concessionaire shall have the option of matching the first ranked bid in terms of the selection criteria, subject to payment of 2% (two per cent) of the bid amount to the Authority, and thereupon securing the award of such works or services. For the avoidance of doubt, it is agreed that the Concessionaire shall be entitled to exercise such option only if it has participated in the bidding process and its bid does not exceed the first ranked bid by more than 10% (ten per cent) thereof. It is also agreed that the Concessionaire shall provide access, assistance and cooperation to the person who undertakes the works or services hereunder. For the avoidance of doubt, the Authority acknowledges and agrees that it shall not undertake any works or services under this Clause 31.5(a) if such works or services cause a Material Adverse Effect on the Concessionaire.

(b) The works undertaken in accordance with this Clause 31.5 shall conform to the Technical Specifications and shall be carried out in a manner that minimises the disruption in operation of the Project Facility. The provisions of this Agreement, insofar as they relate to construction works and Tests, shall apply mutatis mutandis to the works carried out under this Clause 31.5.

31.6 Reduction in Scope of the Project

(a) If the Concessionaire shall have failed to complete any construction works on account of Force Majeure or for reasons attributable to the Authority, the Authority may, in its discretion, require the Concessionaire to pay 80% (eighty per cent) of the sum saved therefrom, and upon such payment to the Authority, the obligations of the Concessionaire in respect of such works shall be deemed to have been fulfilled. For the avoidance of doubt, it is agreed that in the event such reduction in Development Requirements causes or will cause a reduction in net after-tax return of the Concessionaire, the Parties shall meet, as soon as reasonably practical, and agree on a full or partial waiver of the aforesaid payment of 80% (eighty per cent) so as to place the Concessionaire in the same financial position as it would have enjoyed had there been no reduction in Development Requirements. It is further agreed that the liability of the Authority under this Clause 31.6 shall not extend beyond waiver of the aforesaid 80% (eighty per cent).

(b) For determining the obligations of the Concessionaire under this Clause 31.6, the provisions of Clauses 31.1, 31.2 and 31.4 shall apply mutatis mutandis, and upon issue of Change of Scope Order by the Authority hereunder, the Concessionaire shall pay forthwith the sum specified therein.

ARTICLE 32. CHANGE IN LAW

32.1 Change in Law

(a) Change in Law shall have the meaning assigned to it under the Power Purchase Agreement.

(b) Any financial impact arising out of Change in Law shall be determined and dealt with strictly in accordance with the provisions of the Power Purchase Agreement, as amended, modified, revised, replaced or supplemented from time to time, and the applicable orders of the Tamil Nadu Electricity Regulatory Commission issued under the Electricity Act, 2003, as amended, modified, revised, replaced or supplemented from time to time.

(c) Except as expressly permitted under the Power Purchase Agreement, the Applicable Tariff shall not be reopened.

ARTICLE 33. INDEMNITY

33.1 Indemnity

(a) Subject to Clause 33.1(b) below, the Concessionaire shall be responsible for, release, hold harmless and indemnify the Authority and the Authority Related Parties on demand from and against all suits, actions, claims, demands, losses, damages, fines, penalties, costs or expenses (including legal fees), or liability for:

(i) death or personal injury of any person;

(ii) loss of or damage to property;

(iii) non-compliance by the Concessionaire or its Subcontractor(s) with Applicable Laws or Applicable Permits (including environmental laws, environmental consents and labour welfare laws);

(iv) non-compliance by the Concessionaire or its Subcontractor(s) with the EMP or OHS Plan;

(v) any damage caused to the environment by the Concessionaire;

(vi) failure of the Concessionaire to pay applicable Taxes in connection with the Project;

(vii) third-party losses or claims; and

(viii) any claims and/or fines or penalties imposed by any Government Authority in relation to the Site or the Project Facilities,

which arise out of, or in consequence of, the performance or non-performance of the Concessionaire's obligations under this Agreement.

(b) The Concessionaire shall not be required to indemnify the Authority for any injury, loss, damage, cost or expense caused by the negligence or Wilful Misconduct of the Authority or the Authority Related Parties, or by a breach by the Authority of its obligations under this Agreement.

(c) The Authority shall have the right, but not the obligation, to contest, defend and litigate any third-party claim, action, suit or proceeding for which it is entitled to be indemnified under this Agreement. The reasonable costs and expenses (including legal fees) incurred shall be subject to the Concessionaire's indemnification obligations. If the Concessionaire acknowledges in writing its indemnity obligations to the full extent under this Agreement, it may elect to assume and control the defence of such claim at its own cost through counsel of its choice, provided it gives prompt notice of such election and reimburses the Authority for any costs incurred prior to such assumption. A Party shall not settle or compromise any such claim without the prior written consent of the other Party, which shall not be unreasonably withheld or delayed. The Authority may appoint its own counsel to participate in the defence; however, such costs shall be borne by the Authority.

(d) The Authority shall be responsible for, release, hold harmless and indemnify the Concessionaire and the Concessionaire Related Parties on demand from and against all suits, actions, claims, demands, losses, damages, fines, penalties, costs or expenses (including legal fees) or any liability incurred or suffered by the Concessionaire under Applicable Laws, torts, strict liability, absolute liability or polluter-pays principle, arising from:

(i) environmental pollution, contamination or health hazard at or below the Site existing prior to handover of the Site, provided that such contamination: (i) is not identified in the Site Contamination Report, and (ii) is not attributable to any act or omission of the Concessionaire; or

(ii) environmental pollution, contamination or health hazard caused by delivery of any Prohibited Waste to the Site after handover to the Concessionaire.

(e) The Authority shall not bring or cause to be brought any claim or proceeding against the Concessionaire in relation to pre-existing contamination or findings identified in the Site Contamination Report.

(f) The provisions of this Article 33 shall survive the termination of this Agreement.

ARTICLE 34. DISPUTE RESOLUTION

34.1 Dispute Resolution

(a) Any dispute, difference or controversy of whatever nature howsoever arising under, out of or in relation to this Agreement (including its interpretation, performance, termination or validity) between the Parties, and notified in writing by either Party to the other (the "**Dispute**"), shall be resolved in accordance with the provisions of this Article 34.

(b) The Parties agree to use their best efforts to resolve all Disputes promptly, equitably and in good faith.

34.2 Resolution by Conciliation

(a) In the first instance, the Parties shall attempt to resolve the Dispute amicably through conciliation. Either Party may issue a written notice to the other Party requesting conciliation.

(b) Upon receipt of such notice, the Dispute shall be referred for resolution to:

(b) the Chairman of the Concessionaire; and
(c) the Secretary / Principal Secretary / Additional Chief Secretary, Municipal Administration and Water Supply Department, Government of Tamil Nadu,

who shall meet within 15 (fifteen) days of such reference and endeavour to resolve the Dispute in good faith.

(c) If the Dispute is not resolved within 30 (thirty) days of such reference, or within such extended period as may be mutually agreed in writing, the Dispute shall be dealt with in accordance with Clause 34.3.

34.3 Adjudication by TNERC

(a) Any Dispute falling within the jurisdiction of the Tamil Nadu Electricity Regulatory Commission (TNERC) under the Electricity Act, 2003 or Applicable Laws shall be referred to TNERC for adjudication in accordance with Applicable Laws.

(b) The Parties agree that Disputes capable of adjudication by TNERC shall be referred exclusively to TNERC and shall not be referred to arbitration unless TNERC declines jurisdiction.

34.4 Arbitration (By Mutual Consent)

(a) In respect of Disputes that are not within the jurisdiction of TNERC, or which TNERC declines to adjudicate, the Parties may, by mutual written consent, refer such Dispute to arbitration.

(b) The arbitration shall be conducted by a tribunal of 3 (three) arbitrators, of whom:

(i) one shall be appointed by the Authority;

(ii) one shall be appointed by the Concessionaire; and

(iii) the third shall be appointed jointly by the two arbitrators so appointed.

If a Party fails to appoint an arbitrator within 30 (thirty) days of agreement to arbitrate, or if the two appointed arbitrators fail to agree upon the third arbitrator within 30 (thirty) days of their appointment, the appointment shall be made in accordance with the Arbitration and Conciliation Act, 1996.

(c) The venue of arbitration shall be the Nani Palkhivala Arbitration Centre, Chennai. The arbitration shall be conducted in accordance with the Arbitration and Conciliation Act, 1996 and the rules prescribed by the said Centre. The language of the arbitration shall be English.

(d) The arbitral award shall be final and binding on the Parties and enforceable in accordance with its terms. The arbitral tribunal shall provide written reasons for its award.

(e) This Agreement and the rights and obligations of the Parties shall remain in full force and effect pending resolution of the Dispute.

34.5 Judicial Proceedings

If a Dispute:

(a) is not resolved through conciliation under Clause 34.2;

(b) is not within the jurisdiction of TNERC or TNERC declines jurisdiction; and

(c) is not referred to arbitration by mutual consent under Clause 34.4,

either Party may initiate proceedings before courts of competent jurisdiction in the State of Tamil Nadu, and the courts in Tamil Nadu shall have exclusive jurisdiction in respect of such Dispute.

34.6 Survival

The provisions of this Article 34 shall survive the termination or expiry of this Agreement.

ARTICLE 35. MISCELLANEOUS

35.1 Survival

(a) Any cause or action which may have occurred in favour of any Party or any right which is vested in any Party under this Agreement as a result of any act, omission, deed, matter or thing done or omitted to be done by any Party before the expiry of the Concession Period or by efflux of time or otherwise in accordance with this Agreement, shall survive the expiry of the Agreement.

(b) The provisions of this Agreement, to the fullest extent necessary to give effect thereto, survive the Concession Period or the termination of this Agreement and the obligations of Parties to be performed or discharged following the termination of this Agreement, shall accordingly be performed or discharged by the Parties.

35.2 Entire Agreement

The Parties hereto acknowledge, confirm and undertake that this Agreement and the RFP constitutes the entire understanding between the Parties regarding the development of the Project and supersedes all previous written or oral representations and/or arrangements regarding the Project.

35.3 Non-exhaustive Remedies

(a) Save and except as provided in this Agreement, the remedies available to the Concessionaire under this Agreement are not exhaustive and the Concessionaire and third parties shall be entitled to all other rights and remedies and to take all actions in law and in equity in addition to the remedies provided for herein.

(b) Save and except as provided in this Agreement, the exercise of any rights by any Party under this Agreement shall not preclude such Party from availing of any other rights or remedies that may be available to it under this Agreement or any other agreement in relation to the Project. All remedies available to the Parties shall be cumulative and the exercise or failure thereof of one or more remedies by any Party shall not limit or preclude the exercise of or constitute a waiver of any other remedies by such Party.

35.4 Notices

(a) Any notice or request in reference to this Agreement shall be written in English language and shall be sent by email, registered post, courier or facsimile and shall be directed to the other Party at the address mentioned below:

Authority :
Attention: [•]
Address: [•]Tel: [•]
Fax: [•]
Email: [•]

Concessionaire:

Attention: [•]
Address: [•]
Tel: [•]
Fax: [•]
Email: [•]

(b) Any notice or demand served by registered post or courier shall be deemed to be duly served 48 (forty eight) hours after posting and a notice or demand sent by facsimile shall be deemed to have been served at the time of its transmission and in proving service of the same it will be sufficient to prove, in the case of a letter, that such letter was sent by registered post or courier, addressed and placed in the post and in the case of a facsimile transmission, that such facsimile was duly transmitted to a current facsimile number of the addressee at the address referred above.

(c) Any Party may change the above address by prior written notice to the other Parties.

35.5 Governing Law and Jurisdiction

This Agreement shall be governed by the laws of India and shall be subject to the exclusive jurisdiction of the courts at [•].

35.6 Counterparts

This Agreement may be executed in 2 (two) counterparts, each of which, when executed and delivered, will be an original, and the 2 (two) counterparts together shall constitute one and the same instrument.

35.7 Language

(a) The formal text of this Agreement and other agreements in relation to the Project shall be in the English language.

(b) All notices and communications between the Parties under this Agreement shall be in English and all arbitration proceedings undertaken pursuant to this Agreement shall be conducted in English.

35.8 Confidentiality

(a) No recipient Party shall, without the prior written consent of the disclosing Party, at any time divulge or disclose or suffer or permit its representatives to divulge or disclose to any person or use for any purpose unconnected with the Project any Confidential Information during the Concession Period and for a period of 5 (five) years after the expiry or termination of this Agreement, except to its representatives officers, directors, advisors, employers, agents and Associates (including Authority Related Parties and the Concessionaire Related Parties) who have a legitimate need to know the Confidential Information in order to perform their duties relating to the Agreement.

(b) This Clause 35.8 shall not apply to Confidential Information, which:

(i) at the time of disclosure or thereafter has become part of public knowledge or literature without a breach of this Agreement;

(ii) is already in the possession of the Party receiving such Confidential Information before it was received from any other Party and which was not obtained under any obligation of confidentiality from the Party which disclosed such information;

(iii) was obtained from a third party (other than one disclosing it on behalf of a Party) who was free to divulge the same and who was not under any obligation of confidentiality in relation to such Confidential Information to the Party, which disclosed the information;

(iv) is disclosed by the Concessionaire to the Senior Lenders, any actual or bona fide potential shareholders, investors or bankers (and their professional advisers) of the Concessionaire;

(v) is required to be disclosed pursuant to any legal and mandatory requirement of any court, legislative or administrative body or any Government Authority, or the rules of any applicable stock exchange;

(vi) is disclosed by the Concessionaire to its Associates or the permitted assignees and transferees;

(vii) is disclosed by the Concessionaire to any Subcontractor of the Concessionaire;

(viii) is disclosed to actual or prospective insurers, re-insurers and insurance brokers;

(ix) is disclosed to any professional advisors or consultants of any Persons to whom a Party is entitled to disclose Confidential Information under this Clause 35.8(b);

(x) is disclosed to any Person in connection with the dispute resolution provisions under this Agreement;

(xi) is independently developed by the receiving Party without reliance on the Confidential Information disclosed by the disclosing Party; or

(xii) is disclosed to any Government Authority or any other body in any relevant jurisdiction in connection with the obtaining or renewal of any Applicable Permit required for the Project. Provided that the Party making a disclosure of Confidential Information pursuant to (iv) and (vi) to (ix) (inclusive) above shall ensure that any Person to whom it makes such disclosure undertakes to hold such Confidential Information subject to the same confidentiality obligations as those set out in Clause 35.8(a) above.

(c) A Party making a disclosure of Confidential Information pursuant to Clause 35.8(a) shall,

(i) at the time of making such disclosure, inform its representatives and Associates of their obligation of confidentiality pursuant to this Agreement and ensure their compliance; and

(ii) be liable for any breach of such obligations by such representatives and Associates.

(d) In the event that a Party is required or requested to make a disclosure of Confidential Information referred to in Clause 35.8(b)(v) above, such Party shall prior to such disclosure (to the extent permissible by Applicable Law) use its best efforts to promptly notify the disclosing Party or its Associate so that appropriate protection order and/or other action can be taken if possible. In the absence of such a protection order restricting disclosure, the Party required to make such disclosure may disclose only that portion of the Confidential Information which it is legally required to disclose and shall use reasonable efforts to obtain assurances that confidential treatment will be accorded to the Confidential Information.

(e) The recipient party agrees that it, its Associates and representatives shall, upon request by the disclosing Party promptly:

(i) return, and use all reasonable endeavours to procure that any third party to whom the recipient party has disclosed the Confidential Information pursuant to this Agreement shall return, all the Confidential Information that is in tangible form (including, without limitation, Confidential Information contained on compact discs or other electronic storage media or devices) furnished, together with any copies or extracts; and

(ii) destroy, and use all reasonable endeavours to procure that any third party to whom the recipient party has disclosed the Confidential Information pursuant to this Agreement shall destroy, all analysis, compilations, studies or other documents which have been prepared and which reflect or refer to any Confidential Information, provided that the recipient party shall be entitled to retain such Confidential Information which forms part of the permanent records of the recipient party or its Associates and which was prepared for the purposes of the review or decision-making process of the recipient party or such Affiliate and/or which the recipient party or its Associates is required to retain by Applicable Law if it continues to keep such Confidential Information confidential in accordance with this Agreement.

35.9 Amendments

(a) Any provision of this Agreement may be amended, supplemented or modified only by an agreement in writing signed by the Parties.

(b) A Party may at any time request the other to enter into discussions to review the operation of any part of this Agreement and, but without commitment by the other Parties, to determine whether it should be amended by mutual agreement provided that, unless there is such mutual agreement, the provisions of this Agreement (as then most recently, if at all, amended) shall continue to apply whatever the outcome of any such discussions or review and whether or not any such discussions or review take place.

35.10 Waivers and Consents

(a) Unless otherwise specified, any provision or breach of any provision of this Agreement may be waived before or after it occurs only if evidenced by an agreement in writing signed by the Parties.

(b) Any consent under or pursuant to any provision of this Agreement must also be in writing and given prior to the event, action or omission for which it is sought.

(c) Any such waiver or consent may be given subject to any conditions thought fit by the Party giving it and shall be effective only in the instance and for the purpose for which it is given.

35.11 Severability

(a) If any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any Applicable Law, the legality, validity or enforceability of the remaining provisions will not, in any way, be affected or impaired.

(b) The Parties shall negotiate in good faith with a view to agreeing one or more provisions which may be substituted for any such invalid, illegal or unenforceable provision and which produce as nearly as is practicable in all the circumstances the appropriate balance of the commercial interests of the Parties.

35.12 Assignment

(a) Except as expressly permitted in this Agreement, the Concessionaire shall not be entitled to divest, transfer, assign or novate all or substantially all of its rights, interests, benefits and obligations under this Agreement, without the prior written consent of the Authority.

(b) The rights and obligations of the Authority under this Agreement shall not be assigned, novated or otherwise transferred (whether by virtue of any Applicable Law or otherwise) to any Person other than a public body or a government company or a statutory corporation that:

(i) is a single entity;

(ii) acquires the whole of the Agreement;

(iii) has the legal capacity, power and authority to become a party to and to perform the obligations of the Authority under this Agreement, as the case may be; and

(iv) has sufficient financial standing or financial resources to perform the obligations of the Authority under this Agreement.

35.13 No Agency or Partnership

Nothing contained or implied in this Agreement shall constitute or be deemed to constitute a partnership or agency between the Parties and no Party shall have any authority to bind, commit or make any representations on behalf of any other Party.

35.14 Costs and Expenses

(a) Each Party shall be responsible for paying its own costs and expenses incurred in connection with the negotiation, preparation and execution of this Agreement, the Substitution Agreement and the Escrow Agreement.

(b) The Concessionaire shall bear the applicable stamp duty and registration fee (if applicable) in respect of this Agreement, the Substitution Agreement and the Escrow Agreement.

35.15 Reservation of Rights

No forbearance, indulgence, relaxation or inaction by the Concessionaire at any time to require performance of any of the provisions of this Agreement shall in any way affect, diminish or prejudice the right of the Authority to require performance of that provision, and no delay in exercising or omission to exercise any right, power or remedy accruing to the Authority upon any default or otherwise under this Agreement shall impair any such right, power or remedy or shall be construed to be a waiver thereof or any acquiescence in such default, nor shall the action or inaction of the Authority in respect of any default or any acquiescence by it in any default, affect or impair any right, power or remedy of the Authority in respect of any other default.

35.16 Third Parties

This Agreement and all rights hereunder are intended for the sole benefit of the Parties and, to the extent expressly provided, for the benefit of the Authority Related Parties, the Concessionaire Related Parties and the Senior Lenders, and shall not imply or create any rights on the part of, or obligations to, any other Person.

35.17 Waiver of sovereign immunity

The Authority unconditionally and irrevocably:

(a) agree that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;

(b) agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Authority with respect to its assets; and

(c) consent to the enforcement of any judgment or award against them in any such proceedings.

In witness whereof the Parties hereto have signed this Agreement on this _____day of _____.

[•] (AUTHORITY)
By:
Name:
Title:

[Insert name of the Concessionaire] (CONCESSIONAIRE)
By:
Name:
Title:

SCHEDULES

SCHEDULE A – THE SITE

1) Site Location and Description

The Solid Waste Management ("SWM") site at Vellaikal is located at coordinates **9°52'27.31"N, 78°05'21.18"E** and comprises a total land parcel of approximately **300 (three hundred) acres** including 110 (one hundred ten) acres for existing dumpsite along with a compound wall. The SWM site houses multiple existing and operational facilities, including:

(a) Two weighbridges (capacity – 40 Tonnes)
(b) Administrative Building
(c) Electrical control room
(d) Pre-processing and windrow facility (capacity – 400 TPD); presently non-functional
(e) Compost shed
(f) Monsoon shed
(g) Waste receipt area
(h) Sewage Treatment Plant (STP)
(i) Capped and legacy waste dump yard

The SWM site is well connected to the city through Attayapuram – Madurai Road, with an access road of approximately **1.7 km**.

Out of the total SWM site area of 300 acres, the Authority shall make available to the Concessionaire a demarcated land parcel admeasuring approximately 41 (forty-one acres), exclusively for the purposes of the Project, comprising:

(a) approximately **15 acres** for development of the Waste-to-Energy (WtE) Plant; and

(b) approximately **26 acres** for development and operation of the Scientific Landfill (SLF) associated with the Project.

For the avoidance of doubt, the balance area of the SWM site shall remain under the control of the Authority and shall continue to be used for existing and other solid waste management facilities.

Figure 1: Arial Image of Proposed Project Site



2) Site Layout

The key layout of the proposed facilities includes:

a) Waste-to-Energy (WtE) Plant

b) Scientific Landfill (SLF)

c) Proposed road connecting the WtE plant to the SLF

d) CBG Plant

Figure 2: Layout Map of Proposed WtE Plant, SLF, and CBG Plant

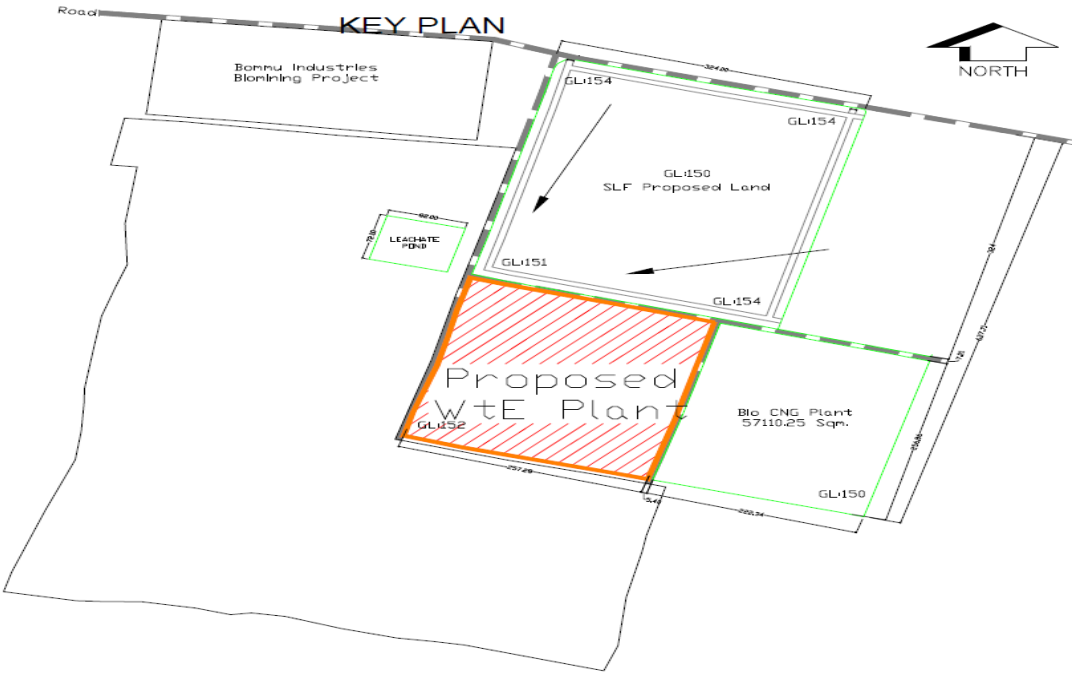
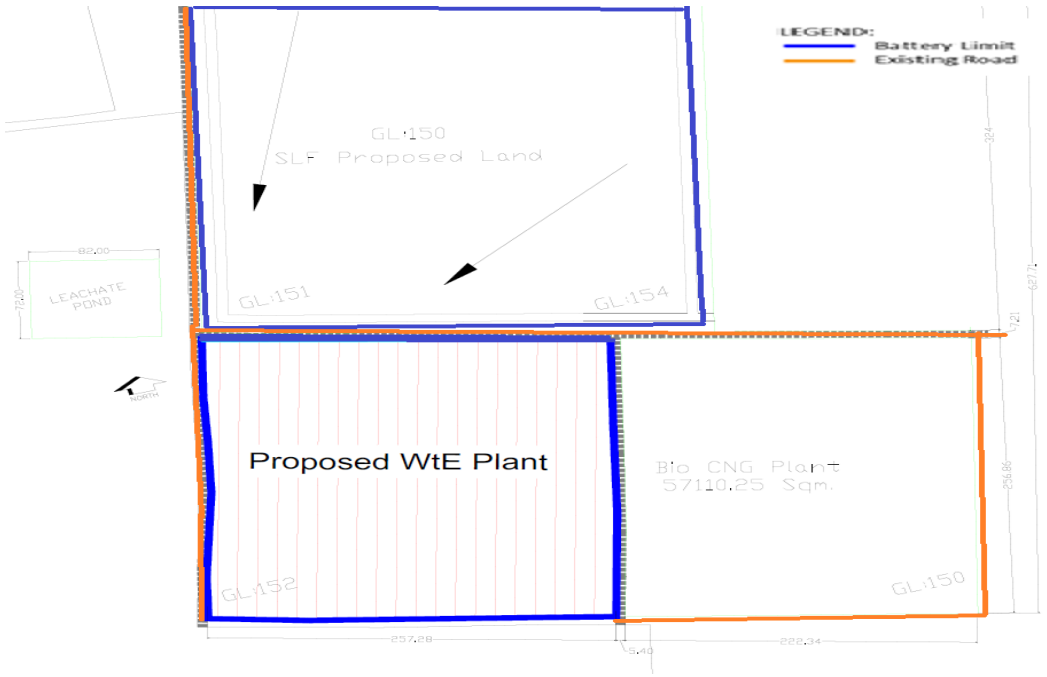


Figure 3: Project Battery Limits and Existing Roads



The project battery limits, existing roads, and internal connectivity have been mapped as part of the site planning. Adequate green belts may be proposed, particularly surrounding the SLF site.

3) Site Suitability and Compliance

In accordance with the **Solid Waste Management Rules, 2016 and 2026**, a site suitability assessment has been conducted. Notable observations include:

a) **Proximity to airports:**

i) Madurai International Airport – 4 km (radial distance)

ii) The Concessionaire shall obtain necessary **No Objection Certificates (NOCs)** from the Airports Authority of India (AAI)

b) **Proximity to habitation:**

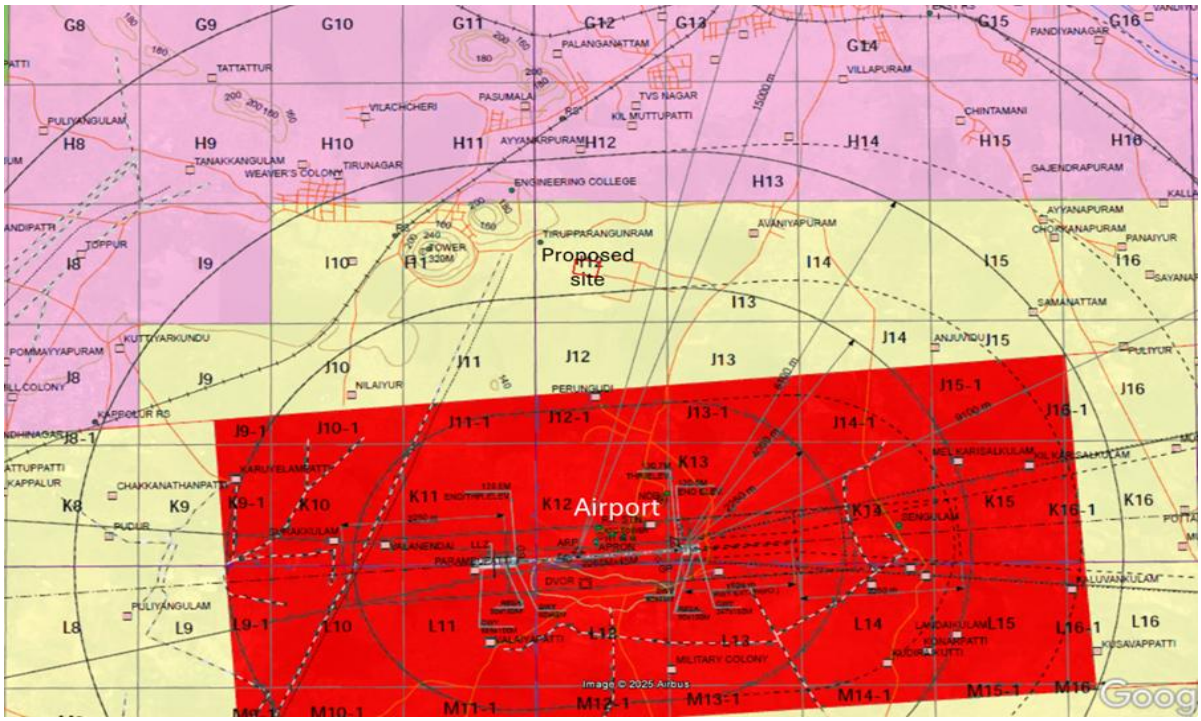
i) Nearest habitation to WtE site – 600 – 700 m

ii) Nearest habitation to SLF site – approximate 600 m

c) **Environmental and social considerations:**

i) Site assessment factored in proximity to regulated zones, critical infrastructure, and eco-sensitive areas.

Figure 4: Colour-Coded Grid of Madurai – AAI – NOCAS



4) Surroundings of the Site

Parameter	Details
Coastal / Wetland / Eco-sensitive Areas	Perumalai Reserved Forest: 25 km; Alagar Kovil Reserve Forest:30km Sirumalai Reserve Forest: 46 Km; Pativeeranpatti Reserve Forest :51 Km Usilampatti Reserve Forest:42.5 Km; Reserve Forest Idukki: 102 km
Rivers	Vaigai River: 6.96 Km
Lakes / Ponds	Kurukkathan pond: 0.65 km; Saravana Poigai Pond: 1.55 km; Sevvanthikulam Lake: 1.65 km; Avaniyapuram Lake: 2.00 km; Thenkarai Pond: 2.20 km; Perungudi Lake: 2.30 km; Harveypatti pond: 2.5 km
Canals	Kambikkudi Canal: 2.00 km; Kiruthumal River Linkage Canal: 8.43 km
Highways	MDR-48 Avaniyapuram-Thirupparankundram Road 0.9 km; NH 38 (Vellore-Thoothukudi Highways): 4.20 km; NH 44 (Srinagar-Kanyakumari Highways): 6.40 km
Railway	Tirupparankundram railway station: 2.70 km; Madurai Junction: 5.5 Km
Habitation	Nearest – Pamban Nagar- 600 m
Earthquake Zone	Zone II (Low Risk)
Flood-prone Area	Low Vulnerability
Water Table	Water table at a depth of 1.80 to 1.90 m
Airports / Airbase	Madurai International Airport– 4 km
Religious Places	Mayana Kaali Temple – 150 m

5) Existing Physical Infrastructure

a) The total area of the site is **300 acres** including dumpsite of 110 acres

b) The proposed site is a green field with no compound wall or barbed wire fencing

c) Operational facilities at dumpsite site include:

i) Bio-mining plant

ii) Adjoining Sewage Treatment Plant (STP)

d) Internal roads of existing dumpsite: **1 km BT roads** for vehicle access

e) Monitoring: **Surveillance cameras at existing dumpsite**

f) Office facilities: Admin building, control room, weighbridges available

g) Other facilities:

i) Streetlights

ii) Water supply

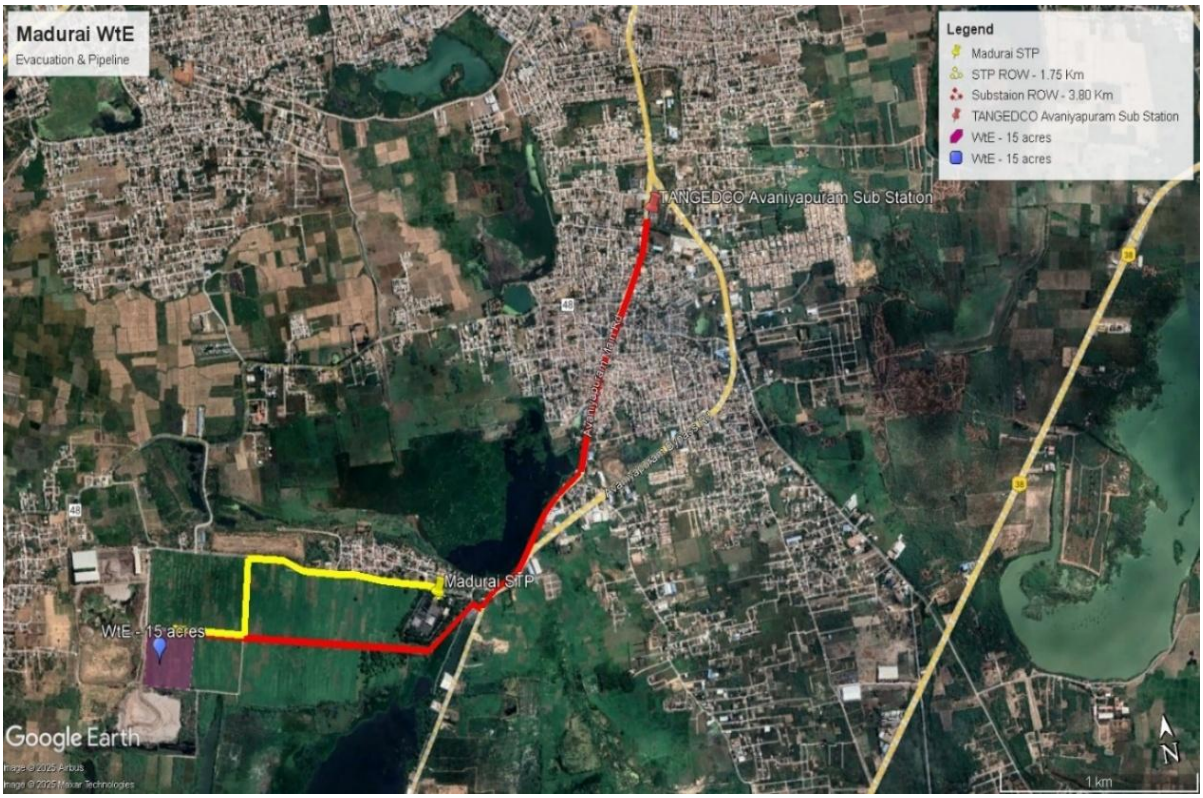
iii) Storm water drains

6) Availability of Water and Power

a) **Water:** Raw water required for operations will be supplied from the existing STP located 1.75 km from the WtE plant. The STP has a total capacity of **125 MLD**.

b) **Power:** The nearest suitable substation for power distribution is **Avaniyapuram Substation**, located approximate 3.8 km from the proposed WtE plant location.

Figure 5: Details of STP and Nearby Substation



SCHEDULE B – DEVELOPMENT REQUIREMENTS

1. GENERAL DEVELOPMENT OBLIGATIONS

1.1 Overall Responsibility

1.1.1 The Concessionaire shall, at its own cost and risk, plan, design, engineer, finance, procure, construct, install, commission, operate, maintain, and transfer the **Project Facilities** strictly in accordance with:

- this Agreement;
- the **Design Capacity** as defined in Clause 1.1.62;
- the **Project Facilities** definition in Clause 1.1.151;
- the Technical Specifications;
- Applicable Laws and Applicable Permits;
- Good Industry Practice; and
- the approved Project Execution Plan (PEP), Detailed Project Report (DPR), Designs and Drawings, Construction Plan, EMP, and OHS Plan.

1.1.2 The Concessionaire shall ensure that the Project Facilities, at the time of commissioning and throughout the O&M period, are capable of achieving the **Key Performance Indicators (KPIs)** set out in Article 21 of the Agreement and Annexure F hereof.

1.1.3 The Concessionaire shall **not commence any construction activities** until the Authority and the Independent Engineer have reviewed and approved the PEP, DPR, Designs and Drawings, and Construction Plan in accordance with Article 14.

1.2 Project Planning & Scheduling

1.2.1 The Concessionaire shall prepare a comprehensive **Project Execution Plan (PEP)** including:

- execution strategy and phasing;
- manpower deployment plan;
- procurement and material supply schedule;
- construction sequencing for all Project Facilities;
- interface management with Authority, IE, contractors, and suppliers;
- EHS standards and compliance procedures;
- micro-schedule for each milestone;
- site mobilisation plan and logistics strategy.

1.2.2 The Concessionaire shall prepare a **Construction Plan** identifying:

- project milestones;

- construction sequencing for each facility;
- QA/QC requirements;
- emergency response procedures;
- site resource deployment;
- equipment mobilisation schedule.

1.2.3 Both the PEP and Construction Plan shall be subject to:

- review and comments by the Independent Engineer;
- approval by the Authority before construction starts.
- updates and resubmissions to the IE/Authority in case of revisions during construction.

1.3 Design & Technical Approvals

1.3.1 The Concessionaire shall prepare **Designs and Drawings** for all Project Facilities, including civil, mechanical, electrical, and I&C works. The submission shall include:

- General arrangement drawings;
- P&IDs and process flow diagrams;
- SLF cell design;
- APC system layouts;
- fire protection and safety layouts;
- utility and internal road layouts.

1.3.2 All Designs and Drawings shall:

- conform to Good Industry Practice;
- comply with Applicable Laws and Applicable Permits;
- include detailed calculations, assumptions, and rationale;
- be reviewed and certified by the Independent Engineer before approval by the Authority.

1.3.3 The Concessionaire shall also submit a **Detailed Project Report (DPR)** including:

- proposed technology for WtE and Pre-processing;
- mass and energy balances;
- equipment specifications and supplier list;
- cost estimates, financing plan, and projected revenue;
- power evacuation design up to the Interconnection Point;
- risk assessment and mitigation measures.

1.4 Authority & Independent Engineer Review

1.4.1 The Concessionaire shall provide the Authority and the Independent Engineer all necessary access, documentation, and clarifications to facilitate review of:

- PEP, DPR, Designs and Drawings;
- Construction Plan;
- EMP, and OHS Plan.

1.4.2 Any comments or instructions issued by the Independent Engineer or Authority shall be addressed by the Concessionaire prior to commencement of construction, without additional cost to the Authority.

1.4.3 During construction, commissioning, and O&M readiness, the Concessionaire shall provide periodic progress reports, technical submissions, and compliance evidence to the Independent Engineer for review and certification before submission to the Authority.

2. DESIGN CAPACITY AND PROJECT FACILITIES REQUIREMENTS

The Concessionaire shall design, engineer, procure, construct, install, integrate, test and commission the Project Facilities as a complete, fully integrated and operational system, capable of processing Municipal Solid Waste and generating power in accordance with the Design Capacity, complying with emission standards set out in Annexure G, and meeting all Key Performance Indicators (KPIs) set out in Annexure F.

2.1 Pre-Processing Facilities – 1,100 TPD

The Concessionaire shall design and construct Pre-Processing Facilities with a minimum installed and operational capacity of 1,100 tonnes per day (TPD) of incoming Municipal Solid Waste, capable of continuous operation under peak load conditions.

The Pre-Processing Facilities shall include, at a minimum:

(a) waste receipt, unloading, tipping floors, storage bunkers and material handling areas;

(b) calibrated weighbridges and waste measurement systems integrated with IT and reporting systems;

(c) mechanical and manual segregation systems, including trommels, screens, ballistic separators, magnetic and non-magnetic separation units;

(d) shredders, size-reduction and homogenisation systems suitable for WtE processing;

(e) removal and handling of recyclables and inert fractions;

(f) drying, blending and RDF preparation systems, where applicable;

(g) enclosed conveyors, transfer towers and chute systems designed to minimise spillage and fugitive emissions;

(h) negative-pressure ventilation systems integrated with odour control and air pollution control systems;

(i) fire detection, fire suppression and explosion protection systems; and

(j) all auxiliary equipment, utilities, controls and safety systems necessary for safe, efficient and continuous operation.

2.2 Power Generation and Distribution Facilities – 900 TPD

The Concessionaire shall design and construct Power Generation and Distribution Facilities capable of thermally processing a minimum of **900 TPD** of pre-processed waste and generating electricity in compliance with Applicable Laws, the PPA and Annexure G.

The Power Generation and Distribution Facilities shall include, at a minimum:

(a) boilers, furnaces, incinerators or other approved thermal treatment units;

(b) steam turbines, generators, condensers and auxiliary systems;

(c) transformers, switchgear, protection and synchronization systems;

(d) electrical balance of plant and auxiliary power systems;

(e) SCADA, telemetry, protection relays and grid-compliant metering systems;

(f) power evacuation infrastructure from the Project Facility **up to the Interconnection Point**; and

(g) systems designed to comply with CEA regulations, Grid Code, TNERC regulations and requirements of TANGEDCO/ TANTRANSCO.

2.3 Ancillary and Environmental Protection Facilities

The Concessionaire shall design and construct all Ancillary and Environmental Protection Facilities required to ensure safe, compliant and environmentally sound operation of the Project Facilities.

Such facilities shall include, at a minimum:

(a) Air Pollution Control (APC) systems, including bag filters, scrubbers, ID/FD fans and stacks;

(b) Continuous Emission Monitoring Systems (CEMS) compliant with Annexure G;

(c) ash and slag handling, storage, utilisation and disposal systems;

(d) effluent treatment, leachate treatment and wastewater reuse systems;

(e) zero-liquid-discharge systems or equivalent arrangements;

(f) odour control systems for waste handling and processing areas;

(g) stormwater drainage, oil traps and runoff management systems;

(h) utilities including compressed air, cooling water, fuel handling and emergency power; and

(i) laboratories, workshops, internal roads, buildings and other supporting infrastructure.

2.4 Completeness, Integration and Interface Responsibility

2.4.1 The Project Facilities shall be delivered as a **fully integrated and operational facility**, capable of achieving the Design Capacity, complying with Annexure G (Emission Standards) and meeting all KPIs set out in Annexure F.

2.4.2 The Project Facilities shall be deemed to include:

(a) all facilities described in Clauses 2.1 to 2.3 above;

(b) all facilities and systems required under the Technical Specifications;

(c) all items shown in the approved Designs and Drawings; and

(d) all additional works, equipment or systems reasonably required for safe, continuous, compliant and efficient operation, whether or not expressly specified.

2.4.3 No omission, ambiguity or inconsistency in this Schedule, the Technical Specifications or the approved Designs and Drawings shall relieve the Concessionaire of its obligation to provide a **complete and functional Project Facility**.

2.4.4 The Concessionaire shall bear sole responsibility for **interface management** between all civil, mechanical, electrical, instrumentation, control, environmental and utility systems forming part of the Project Facilities.

2.4.5 Any additional works, equipment or systems required due to interface mismatches, coordination failures or design deficiencies shall be provided by the Concessionaire **at its own cost**, without entitlement to extension of time or additional compensation.

2.4.6 The Project Facilities shall be deemed incomplete unless they are capable of continuous operation in compliance with:

(a) the KPIs set out in Annexure F; and

(b) the emission limits, monitoring and reporting requirements set out in Annexure G.

2.4.7 Review, comments or approval by the Authority or the Independent Engineer shall not relieve the Concessionaire of responsibility for the completeness, performance or compliance of the Project Facilities.

3. SITE DEVELOPMENT REQUIREMENTS

3.1 Applicability

3.1.1 This Section 3 of Schedule B shall be read in conjunction with **Article 10 (Project Site)** and **Article 11 (Utilities, Associated Roads and Trees)** of this Agreement.

3.2 General Site Development Obligations

3.2.1 Upon handover of vacant and unencumbered possession of the Site in accordance with Clause 10.2(b), the Concessionaire shall, at its own cost and risk (except as otherwise expressly provided in the Agreement), undertake all site development works necessary for the construction, installation, commissioning, operation and maintenance of the Project Facilities.

3.2.2 Site development works shall be limited to activities required to enable and support the Project Facilities and shall be carried out strictly in accordance with:

- the approved DPR, Designs and Drawings and Construction Plan;
- Applicable Laws and Applicable Permits;

- Good Industry Practice; and
- the conditions of the license over the Site granted under Article 10.

3.3 Site Preparation and Formation

3.3.1 The Concessionaire shall undertake site grading, levelling, compaction and formation to the required finished levels for all Project Facilities, internal roads, drains and structures.

3.3.2 The Concessionaire shall ensure that site formation accounts for:

- drainage patterns and stormwater runoff;
- flood protection measures, if any, specified in the approved designs;
- soil bearing capacity and settlement criteria;
- separation of clean runoff and contaminated runoff.

3.4 Internal Roads, Access and Circulation

3.4.1 The Concessionaire shall design, construct and maintain internal roads within the Site adequate for the movement of construction equipment and 40-tonne gross vehicle weight trucks, including turning radii, pavement strength, signage and lighting.

3.4.2 Internal traffic circulation shall be segregated, to the extent practicable, between:

- waste receipt vehicles;
- ash, residue and material evacuation vehicles; and
- operational and administrative traffic.

3.5 Stormwater and Surface Water Management

3.5.1 The Concessionaire shall design and construct a complete stormwater drainage system within the Site to safely convey runoff to designated outfalls, without causing waterlogging, erosion or flooding.

3.5.2 Stormwater systems shall include oil traps, silt traps and separation arrangements where required to prevent contamination.

3.6 Boundary, Security and Access Control

3.6.1 The Concessionaire shall construct and maintain:

- a continuous boundary wall or fencing around the Site;
- controlled entry and exit gates;
- security cabins and access control systems.

3.6.2 The Concessionaire shall provide CCTV surveillance and lighting for operational, safety and security purposes, consistent with the approved designs.

3.7 Green Buffer and Landscaping

3.7.1 The Concessionaire shall develop and maintain a green buffer and landscaping within the Site in accordance with:

- CPCB guidelines;
- conditions of Environmental Clearance and Consent to Establish; and
- the approved EMP.

3.7.2 Landscaping shall not interfere with access, utilities, drainage or operational safety.

3.8 Temporary Facilities and Construction Utilities

3.8.1 The Concessionaire shall establish temporary construction facilities within the Site, including site offices, labour facilities, storage yards and temporary utilities, strictly in accordance with Applicable Laws and the Construction Plan.

3.8.2 All temporary facilities shall be removed and the Site restored upon completion of construction, except where such facilities form part of the approved permanent Project Facilities.

3.9 Integration with Utilities

3.9.1 The Concessionaire shall integrate Site development works with existing and new utilities in accordance with Article 11, ensuring no disruption to existing utilities except as permitted under the Agreement.

3.9.2 Internal utility corridors, trenches and crossings shall be coordinated to avoid re-work, conflicts and unsafe conditions.

3.10 Environmental and Safety Controls at Site

3.10.1 During Site development and construction, the Concessionaire shall implement dust suppression, noise control, traffic management, waste management and safety measures in accordance with the approved EMP and OHS Plan.

3.10.2 Site development activities shall not cause nuisance, contamination or damage to adjoining properties.

3.11 No Independent Rights Created

3.11.1 Nothing in this Section 3 shall be construed as:

- creating any right, title or interest in the Site in favour of the Concessionaire beyond the license granted under Article 10; or
- limiting or modifying the obligations and rights of the Parties under Articles 10 and 11.

4. CIVIL, MECHANICAL, ELECTRICAL & INSTRUMENTATION REQUIREMENTS

4.1 Applicability and Scope

4.1.1 This Section 4 specifies the minimum civil, structural, mechanical, electrical and instrumentation requirements to be complied with by the Concessionaire for development, construction, installation, commissioning, operation and maintenance of the Project Facilities.

4.1.2 This Section shall be read in conjunction with:

- the definition of Project Facilities under Clause 1.1.151;
- the Design Capacity requirements under Section 2 of this Schedule;
- the approved DPR, Designs and Drawings and Construction Plan.

4.2 Civil and Structural Works

4.2.1 The Concessionaire shall design and construct all permanent civil and structural works required for the Project Facilities, including foundations, buildings, structures and paved areas.

4.2.2 Civil and structural works shall include, at a minimum:

- waste reception and pre-processing buildings with negative pressure, ventilation;
- boiler house, turbine hall, BTG block and auxiliary structures;
- air pollution control (APC) system structures and chimney;
- Scientific Landfill (SLF) cells and associated infrastructure;
- water treatment, effluent treatment and leachate treatment facilities;
- administrative building, laboratory, control room, canteen and utility buildings;
- weighbridge complex and gate complexes.

4.2.3 All structures shall be designed for applicable loads, seismic zone, wind loads, temperature effects and durability requirements in accordance with Applicable Laws and Good Industry Practice.

4.3 Mechanical Systems

4.3.1 The Concessionaire shall design, procure, install and commission all mechanical systems required for processing, treatment, power generation and residue handling.

4.3.2 Mechanical systems shall include, at a minimum:

- conveyors, feeders, trommels, shredders, magnetic and non-magnetic separators;
- cranes, grab cranes and material handling equipment;
- boilers, furnaces, incinerators or thermal treatment units;
- economisers, superheaters, soot blowers and auxiliary boiler systems;
- APC equipment including bag filters, scrubbers, ID/FD fans;
- ash, slag and residue handling, storage and evacuation systems;
- fire detection, fire suppression and hydrant systems.

4.4 Electrical Systems

4.4.1 The Concessionaire shall design, install, test and commission the complete electrical system for the Project Facilities.

4.4.2 Electrical systems shall include, at a minimum:

- generators, step-up and auxiliary transformers;
- HT and LT switchgear, panels and protection systems;
- cabling, cable trays, earthing and lightning protection;
- plant lighting, emergency lighting and power distribution;
- power evacuation infrastructure up to the Interconnection Point;
- grid-compliant metering and protection systems.

4.4.3 All electrical systems shall comply with Applicable Grid Code, CEA regulations and requirements of the relevant distribution or transmission utility.

4.5 Instrumentation, Control and Automation

4.5.1 The Concessionaire shall provide an integrated instrumentation and control system for safe, efficient and continuous operation of the Project Facilities.

4.5.2 Instrumentation and control systems shall include, at a minimum:

- DCS and/or PLC-based automation system;
- field instruments, transmitters and analysers;
- central control room with operator consoles and video wall;
- fibre-optic communication backbone and networking;
- data logging, historian and reporting systems.

4.5.3 Continuous monitoring systems required under Applicable Laws, including CEMS, AAQMS and SWAS, shall be integrated with the control system.

4.6 Water, Wastewater and Utility Systems

4.6.1 The Concessionaire shall design and construct all water and wastewater systems required for the Project Facilities.

4.6.2 Such systems shall include:

- raw water storage and treatment facilities;
- demineralisation, RO or equivalent systems;
- effluent treatment plant and leachate treatment systems;
- sewage treatment and reuse systems;
- zero-liquid-discharge or equivalent arrangements, where applicable.

4.7 Integration and Interface Management

4.7.1 The Concessionaire shall ensure full integration and compatibility among civil, mechanical, electrical and instrumentation systems.

4.7.2 Interface risks between different packages, vendors and subsystems shall be solely borne by the Concessionaire.

4.8 Quality Assurance and Testing

4.8.1 The Concessionaire shall implement a QA/QC system covering design, procurement, construction, erection and commissioning.

4.8.2 All systems and equipment shall be tested, commissioned and demonstrated to meet the Design Capacity and KPIs prior to COD.

4.9 Codes, Standards and Good Industry Practice

4.9.1 All works and systems under this Section shall conform to:

- Applicable Laws and Applicable Permits;
- relevant Indian and international codes and standards;
- Good Industry Practice.

4.10 No Limitation

4.10.1 The requirements set out in this Section 4 are minimum requirements and shall not limit the obligation of the Concessionaire to provide any additional works, systems or equipment necessary for full compliance with this Agreement.

5. SCIENTIFIC LANDFILL (SLF) REQUIREMENTS

5.1 Applicability and Scope

5.1.1 This Section 5 sets out the minimum requirements for the planning, design, engineering, construction, operation, closure and post-closure monitoring of the Scientific Landfill (SLF) forming part of the Project Facilities.

5.1.2 This Section shall be read in conjunction with:

- the definition of Project Facilities under Clause 1.1.151;
- the Design Capacity requirements under Section 2 of this Schedule;
- the approved DPR, Designs and Drawings and Construction Plan; and
- Applicable Laws, including the Solid Waste Management Rules, 2016 and 2026.

5.2 SLF Cell Development

5.2.1 The Concessionaire shall design, construct and commission SLF cells in a phased manner, aligned with the projected generation of residual inert matter from the Project Facilities.

5.2.2 Each SLF cell shall, at a minimum, include:

- composite liner system (compacted clay layer and geomembrane);

- leachate collection and removal system;
- gas venting and pressure relief arrangements;
- stormwater run-on and run-off diversion systems; and
- internal access roads and drainage.

5.3 Residual Waste Acceptance

5.3.1 Only residual waste, rejects and inert material generated from the Project Facilities shall be disposed of in the SLF.

5.3.2 The quantity and quality of residual waste disposed of in the SLF shall comply with the applicable **Residual Inert Matter KPIs** set out in **Annexure F**.

5.4 Placement and Compaction

5.4.1 Residual waste shall be placed in controlled layers and compacted in accordance with the approved Designs and Drawings and Good Industry Practice.

5.4.2 The Concessionaire shall deploy adequate equipment and operational controls to ensure slope stability, settlement control and structural integrity of the SLF cells.

5.4.3 Compaction density achieved in each SLF cell shall comply with the **SLF Compaction KPI** specified in **Annexure F**, and records of compaction shall be maintained and made available to the Independent Engineer.

5.5 SLF Capping (KPI-Linked)

5.5.1 The Concessionaire shall provide daily cover, intermediate cover, monsoon cover and final cell capping for all active and inactive SLF areas in strict compliance with:

- Applicable Laws;
- the approved DPR, Designs and Drawings; and
- the **SLF Capping KPI** specified in **Annexure F**.

5.5.2 Capping thickness, placement frequency and materials shall meet or exceed the minimum standards prescribed under Applicable Laws and the SLF Capping KPI.

5.5.3 Compliance capping requirements shall be measured and certified by the Independent Engineer in accordance with the SLF Capping KPI.

5.7 Leachate and Gas Management

5.7.1 Leachate generated from the SLF shall be collected, conveyed and treated through the leachate treatment system forming part of the Project Facilities.

5.7.2 Landfill gas shall be safely vented, collected or otherwise managed in accordance with Applicable Laws and the approved Designs and Drawings.

5.8 Environmental Monitoring

5.8.1 The Concessionaire shall undertake environmental monitoring of the SLF, including:

- groundwater quality;
- leachate quality;
- landfill gas; and
- settlement and slope stability.

5.8.2 Monitoring parameters, frequency and reporting shall be in accordance with Applicable Laws and the approved EMP.

5.9 Closure and Post-Closure Obligations

5.9.1 The Concessionaire shall complete closure and final capping of each SLF cell commissioned during the Concession Period in accordance with Applicable Laws and approved designs.

5.9.2 Post-closure monitoring and maintenance obligations shall be limited to **1 year** from closure of the relevant SLF cell or until expiry of the Concession Period, whichever is later, and shall be limited to monitoring mandated under Applicable Laws.

5.9.3 Upon expiry of the period specified in Clause 5.9.2, all residual post-closure obligations relating to the SLF shall stand transferred to the Authority, and the Concessionaire shall have no further liability in respect thereof.

5.10 Financing Responsibility

5.10.1 The Concessionaire shall be responsible for financing all SLF-related works during the periods specified in this Section.

5.11 Minimum Requirement

5.11.1 The requirements set out in this Section 5 are minimum requirements and shall not limit the Concessionaire's obligation to ensure safe, stable and legally compliant SLF development and operation.

6. ENVIRONMENTAL, SOCIAL, HEALTH & SAFETY (ESHS) REQUIREMENTS

6.1 Applicability and Governing Framework

6.1.1 This Section 6 sets out the minimum Environmental, Social, Health and Safety (ESHS) requirements applicable to the planning, design, construction, commissioning, operation and maintenance of the Project Facilities.

6.1.2 This Section shall be read in conjunction with:

- Article 19 (Safety Requirements);
- Article 20 (Monitoring of Operation and Maintenance);
- the approved EMP and OHS Plan under Clause 14.4; and
- Applicable Laws.

6.1.3 In the event of any inconsistency, the provisions of the Agreement shall prevail over this Schedule.

6.2 Environmental Compliance Requirements

6.2.1 The Concessionaire shall design, construct and operate the Project Facilities to ensure continuous compliance with:

- environmental clearances;
- consents to establish and operate;
- emission, effluent and discharge standards; and
- monitoring requirements under Applicable Laws.

6.2.2 All environmental control systems, including air pollution control systems, effluent treatment systems, leachate treatment systems and odour control systems, shall be integral to the Project Facilities and designed to meet the KPIs set out in Annexure F and emission standards set out in Annexure G.

6.2.3 The Project Facilities shall be designed and operated as a zero liquid discharge facility, consistent with the Liquid Discharge Guarantee under Annexure F.

6.3 Emissions, Monitoring and Instrumentation

6.3.1 The Concessionaire shall install, operate and maintain:

- Continuous Emission Monitoring Systems (CEMS);
- Ambient Air Quality Monitoring Stations (AAQMS); and
- Stack, effluent and process monitoring instrumentation,

in accordance with Applicable Laws and Annexure G (Emission Standards).

6.3.2 All monitoring systems shall be integrated with the plant SCADA/DCS and configured for data storage, reporting and regulatory access as required under Applicable Laws.

6.4 Occupational Health and Safety

6.4.1 The Concessionaire shall design and operate the Project Facilities in a manner that ensures the health and safety of:

- its personnel;
- contractors and subcontractors;
- visitors; and
- any other persons at the Site.

6.4.2 Without limitation, the Concessionaire shall ensure:

- hazard identification and risk assessment at design and operational stages;
- provision and enforcement of PPE;
- confined space, hot work and working-at-height controls;
- fire detection, alarm and suppression systems;

- emergency preparedness and response systems.

6.5 Social Safeguards and Community Interface

6.5.1 The Concessionaire shall implement social mitigation measures identified in the approved EMP, including:

- traffic management;
- noise and odour mitigation;
- public safety controls at Site boundaries; and
- grievance redressal mechanisms.

6.5.2 The Concessionaire shall ensure that Site operations do not create nuisance or hazard to surrounding communities or Adjoining Property.

6.6 Training and Capacity Building

6.6.1 The Concessionaire shall ensure that all personnel engaged in construction and O&M of the Project Facilities receive:

- safety induction training;
- task-specific safety training; and
- periodic refresher training.

6.6.2 Records of training shall be maintained and made available to the Independent Engineer and the Authority upon request.

6.7 Incident Management and Reporting

6.7.1 The Project Facilities shall be designed to minimise the risk of accidents, environmental incidents and emergencies.

6.7.2 The Concessionaire shall establish internal procedures for:

- incident identification;
- immediate response and mitigation;
- investigation and corrective action.

6.7.3 Reporting of incidents shall be governed by Article 20 and shall not be duplicated in this Schedule.

6.8 Costs and Responsibility

6.8.1 All costs associated with compliance with this Section 6 shall be borne by the Concessionaire and shall be deemed included in the scope of Development Requirements.

6.9 Minimum Requirement

6.9.1 The requirements set out in this Section 6 are minimum requirements and shall not limit the Concessionaire's obligation to comply with Applicable Laws or adopt higher standards consistent with Good Industry Practice.

7. COMMISSIONING AND PERFORMANCE DEMONSTRATION REQUIREMENTS

7.1 Scope

- The Concessionaire shall ensure that all Project Facilities are fully installed, integrated, and ready for commissioning.
- This includes mechanical, electrical, I&C, civil, environmental, and auxiliary systems.
- All commissioning activities shall demonstrate compliance with the **Technical Specifications**, **KPIs (Annexure F)**, and **Emission Standards (Annexure G)**.

7.2 Equipment & Systems Preparedness

- All process units, boilers, turbines, generators, conveyors, APC systems, leachate and wastewater systems, SCADA/DCS, and utilities must be operational and ready for verification.
- Required instrumentation and monitoring systems must be installed, calibrated, and functional.
- Safety systems, alarms, fire protection, and emergency shutdown mechanisms must be fully operational.

7.3 Performance Demonstration

- The Concessionaire shall demonstrate that each Project Facility can meet **design capacity, throughput, emissions, and SLF KPIs**.
- Performance monitoring shall be supported by operational data logging, instrumentation, and sampling as required.
- Any defects affecting performance must be rectified by the Concessionaire at its cost.

7.4 Documentation

- The Concessionaire shall maintain all commissioning records, test results, calibration reports, and operational data for review by the Independent Engineer.
- Documentation shall be submitted in a structured format, in accordance with Good Industry Practice.

ANNEXURES TO SCHEDULE B – DEVELOPMENT REQUIREMENTS

Annexure A – Template for Project Execution Plan (PEP)

(Aligned with Clause 14.2(a))

Contents

1. Project Execution Strategy
    - Overall approach to design, procurement, construction, and commissioning.
    - Risk management and mitigation plan.
    - Interface coordination with Authority, contractors, and suppliers.
2. Manpower Deployment
    - Organogram of key personnel and reporting lines.
    - Site staffing plan with roles and responsibilities.
    - Phased deployment aligned with project milestones.
3. Procurement Schedule
    - Major equipment procurement timeline.
    - Lead times for critical items.
    - Vendor selection methodology and approvals.
4. Construction Sequencing
    - Civil, mechanical, electrical, and SLF works sequencing.
    - Dependencies and critical path identification.
    - Temporary works and site facilities.
5. Interface Management
    - Coordination of multi-disciplinary works.
    - Integration with ongoing utilities or adjoining properties.
    - Handling Authority inspections and approvals.
6. EHS & OHS Plan
    - Site-specific safety plan and PPE requirements.
    - Emergency response and evacuation procedures.
    - Compliance with EMP, and OHS guidelines.
7. Micro-schedule
    - Week-by-week activity chart for major works.

- Milestone checkpoints for Authority and Independent Engineer review.

8. Site Mobilisation & Demobilisation Plan
    - Temporary offices, storage, and workforce accommodation.
    - Movement of equipment, vehicles, and materials.
    - Decommissioning and clearance of temporary facilities post-completion.
9. Coordination Framework
    - Communication plan between Concessionaire, Authority, and contractors.
    - Reporting templates for progress, delays, and risks.
    - Mechanism for approval of deviations or changes.

Annexure B – Template for Detailed Project Report (DPR)

(Aligned with Clause 14.2(b))

Contents

1. Project Overview
    - Objective and scope of the Project.
    - Site description, location, and boundaries.
    - Existing conditions, including utilities, roads, buildings, and trees.
2. Technology Selection
    - Proposed WtE and pre-processing technology.
    - Rationale for technology choice (efficiency, reliability, environmental compliance).
    - Alternatives considered and justification for selection.
3. Mass & Energy Balance
    - Daily, monthly, and annual waste throughput projections.
    - Material flow analysis (incoming MSW → processed outputs).
    - Energy generation potential and utilization plan.
4. Equipment & Material List
    - List of all major civil, mechanical, electrical, and I&C equipment.
    - Technical specifications for each item.
    - Supplier/vendor recommendations or preferred suppliers (if any).
5. Process Flow & Diagrams
    - Process flow diagrams (PFDs) for each unit operation.
    - Piping and Instrumentation Diagrams (P&IDs) for WtE, pre-processing, and environmental systems.
    - Control logic diagrams for I&C systems.
6. Design Criteria
    - Design parameters for pre-processing, WtE, power generation, and ancillary systems.
    - SLF cell design parameters (capacity, compaction, leachate, capping, gas vents).
    - Compliance with CPCB, CEA, TNERC, and applicable technical standards.
7. Civil & Structural Designs
    - Site grading and earthworks.

- Structural layouts for buildings, BTG block, chimneys, and auxiliary facilities.
- Stormwater, drainage, and internal roads.

8. Power Evacuation & Electrical Infrastructure
    - Transformers, switchgear, cabling, and connection to the Interconnection Point.
    - SCADA, telemetry, and grid-compliant metering.
    - Auxiliary power and standby generation.
9. Environmental & Social Compliance
    - Integration with EMP, and OHS requirements.
    - Emission control measures, waste handling, leachate and effluent treatment.
    - Noise, odour, and fugitive emissions management.
10. Construction & Commissioning Plan
    - Timeline and sequence of construction activities.
    - Integration with PEP and Construction Plan.
    - Trial operations and tests scheduling.
11. Cost Estimates & Financial Plan
    - Capital cost estimate (broken down by civil, mechanical, electrical, SLF, and environmental works).
    - Operating cost projections for initial 3–5 years.
    - Financing structure and cashflow analysis.
12. Revenue & Evacuation Plan
    - Projected revenue streams (energy sale, recyclables, carbon credits if any).
    - Waste supply and SLF usage assumptions.
    - Power evacuation agreements and grid integration plan.
13. Risk Analysis
    - Site-specific risks (soil, groundwater, utilities).
    - Technology, operational, environmental, and financial risks.
    - Mitigation strategies aligned with Good Industry Practice.

Annexure C – Designs & Drawings Submission

(Aligned with Clause 14.2(c))

General Note: All designs and drawings submitted under this Annexure shall be **reviewed by the Independent Engineer and approved by the Authority** prior to commencement of any construction or installation at the Site.

1 General Arrangement Drawings

- Layouts of the Project Site, including boundaries, roads, buildings, and utilities.
- Placement of all Project Facilities: WtE, Pre-Processing, Power Generation, Ancillary Facilities, and SLF cells.
- Location of weighbridges, gates, and access points.

2 Civil & Structural Drawings

- Foundations, columns, beams, slabs, retaining walls, and roofs for all buildings.
- Structural drawings for BTG block, boiler house, turbine hall, chimneys, APC structures, and ancillary buildings.
- SLF cell liners, leachate collection systems, stormwater drainage, and fencing.
- Road pavements, internal roads, and load-bearing designs for 40-tonne trucks.

3 Mechanical Layouts

- Conveyors, trommels, shredders, magnetic separators, and other pre-processing equipment.
- Boilers, furnaces, superheaters, economisers, soot blowers, and auxiliary systems.
- Ash/slag handling, cranes, grab systems, and material transfer equipment.
- APC systems, including ducts, fans, bag filters, and scrubbers.

4 Electrical Drawings

- Single Line Diagrams (SLDs) for internal and external power distribution.
- Switchgear, transformers, generators, and auxiliary power systems.
- Cabling, earthing, lightning protection, and electrical room layouts.
- Power evacuation infrastructure **up to the Interconnection Point**.

5 Instrumentation & Control Drawings

- DCS/PLC architecture, field instruments, and analyzers.
- CEMS, AAQMS, and SWAS layouts.
- Fibre-optic backbone, control room consoles, and video walls.
- Integration with SCADA, telemetry, and grid-compliant metering.

6 SLF & Environmental Systems

- SLF cell design: liner systems, leachate collection, gas vents, and stormwater management.
- ETP, WTP, and leachate treatment plant layouts.
- Odour control systems, air emission stacks, and APC system layouts.
- Wastewater collection, ZLD/reuse systems, and laboratories.

7 Fire & Safety Systems

- Fire detection, suppression, and alarm layouts for all facilities.
- Access routes for emergency response.
- Evacuation plans and assembly points.

8 Ancillary & Utilities Layouts

- Roads, drainage, landscaping, and green buffer areas.
- Administrative buildings, laboratories, staff housing, and canteen.
- Water supply, sewage systems, and stormwater networks.
- Communication, IT, and security systems layouts.

9 Submission Requirements

- Drawings to be submitted in **hard copy (4 sets)** and **soft copy (1 USB)**.
- Each submission shall include:
    - Cover sheet with version, date, and revision history.
    - Compliance checklist against Technical Specifications, Applicable Laws, and Good Industry Practice.
    - Record of Independent Engineer review comments and Concessionaire responses.
- **Final Approval:** No construction may commence until the Authority provides written approval following review by the Independent Engineer.

Annexure D – Construction Plan

(Aligned with Clause 14.3 of the Agreement)

The Construction Plan provides the operational blueprint for the execution of construction activities on site. It is distinct from the PEP (strategic execution plan) and DPR (technical/financial feasibility) in that it focuses on the day-to-day planning, sequencing, resource management, QA/QC, and monitoring of construction works, ensuring the Project Facilities are built according to approved designs, drawings, and technical specifications.

1. Project Milestones

- Define all major construction milestones (civil, mechanical, electrical, SLF, WtE, ancillary works).
- Include target start and completion dates for each milestone.
- Provide linkages to **Scheduled Project Milestone Completion Dates** in the Agreement.

2. Construction Sequencing

- Step-by-step sequence of activities for each Project Facility component.
- Integration and interface management across multiple disciplines (civil, mechanical, electrical, I&C).
- Sequencing aligned with safety, logistics, and environmental requirements.

3. Resource Deployment

- Labour deployment schedules for all construction phases.
- Equipment and machinery allocation, including mobilization and demobilization plans.
- Material storage, handling, and transport arrangements.

4. QA/QC Plan

- Quality assurance procedures for materials, workmanship, and installations.
- Inspection and testing requirements at predefined stages.
- Documentation of approvals, tests, and certifications.
- Reporting to the Independent Engineer for milestone verification.

5. Health, Safety & Environmental Management

- Implementation of OHS Plan on site.
- PPE requirements and workforce training schedules.
- Safety inspections, hazard identification, and mitigation measures.
- Environmental safeguards: dust, noise, emissions, leachate, stormwater, waste segregation.

6. Emergency Response & Contingency Measures

- Procedures for onsite emergencies (fire, chemical spill, accidents).
- Evacuation and emergency communication protocols.
- Contingency planning for weather, utility failures, or unforeseen site conditions.

7. Progress Monitoring & Reporting

- Daily, weekly, and monthly progress tracking against milestones.
- Resource utilization and productivity reports.
- Issue tracking and resolution procedures.
- Reporting templates for submission to the Independent Engineer and Authority.

Annexure E –EMP & OHS Plan

(Aligned with Clause 14.4 of the Agreement)

This Annexure sets out the environmental, social, health, and safety obligations of the Concessionaire during the construction, commissioning, and operational phases of the Project. It ensures compliance with Applicable Laws, Environmental Permits, CPCB/CPCB guidelines, and Good Industry Practice.

1. Environmental Management Plan (EMP)

- Detailed mitigation measures for identified environmental impacts.
- Dust, odour, noise, vibration, and emission control measures.
- Waste management strategies, including hazardous waste handling.
- Stormwater management, drainage, and erosion control.
- Effluent treatment, leachate management, and SLF environmental safeguards.
- Compliance monitoring protocols and reporting frequency.

2. Occupational Health & Safety (OHS) Plan

- Implementation of safety management system for all workers, visitors, and contractors.
- PPE requirements, training schedules, and safety drills.
- Hazard identification, risk assessment, and control measures.
- Emergency response protocols: fire, chemical spill, accident, medical emergencies.
- Safety inspections, audits, and reporting.
- Contractor management for OHS compliance.

3. Stakeholder Engagement & Grievance Redressal

- Community consultation and communication plan.
- Grievance redressal mechanism for workers, local community, and other stakeholders.
- Public disclosure of environmental and safety reports as required by Applicable Laws.

4. Monitoring & Reporting

- Continuous environmental and safety monitoring: air, water, noise, effluent, leachate, and odour.
- Health and safety reporting to the Authority and Independent Engineer.
- Compliance with EMP, and OHS Plan to be reviewed by Independent Engineer.
- Non-compliance to trigger corrective action plan and reporting to Authority.

Annexure F – Key Performance Indicators (Liquidated Damages, Consolidation, Deduction Mechanism and Illustration)

1. Purpose and Applicability

1.1 This Schedule sets out:

(a) the methodology for computation of Liquidated Damages for failure to achieve the Key Performance Indicators specified in Clause 21.1;

(b) the manner of consolidation and deduction of such Liquidated Damages from the O&M Security; and

(c) an illustrative example for clarity of implementation.

1.2 This Schedule shall apply throughout the O&M Period.

2. General Principles of Liquidated Damages

2.1 Liquidated Damages shall be:

(a) calculated on a monthly basis for each applicable KPI;

(b) consolidated across all applicable KPIs for the relevant month; and

(c) expressed as a percentage of the O&M Security.

2.2 The maximum aggregate deduction from the O&M Security in any calendar month, across all KPIs, shall not exceed 20% (twenty per cent) of the O&M Security (the *Monthly Deduction Cap*).

2.3 Notwithstanding para 2.2 above:

(a) the Authority shall continue to measure, compute, and record the full amount of Liquidated Damages attributable to KPI non-achievement for each month, without applying the Monthly Deduction Cap; and

(b) such full computed amount shall be used for the purposes of performance assessment, cure determination, and Events of Default, including under Clause 21.2 of the Agreement.

3. KPI-wise Liquidated Damages Methodology

KPI No.	Key Performance Indicator	Target / Threshold	Liquidated Damages Calculation Methodology
1	Availability Guarantee	≥ 90% availability	0.5% of the O&M Security per Project Facility for every 1% shortfall below 90%, calculated monthly
2	Throughput Guarantee	Acceptance up to Design Capacity	0.5% of the O&M Security for every 1% monthly shortfall
3	Liquid Discharge Guarantee	Zero liquid discharge	2.0% of the O&M Security for each discharge incident

KPI No.	Key Performance Indicator	Target / Threshold	Liquidated Damages Calculation Methodology
4	Emission Guarantee	Emissions within limits and ≤ 75 demerit points per year	2.0% of the O&M Security for every block of 10 demerit points in excess of 75, allocated proportionately on a monthly basis
5	Residual Inert Matter – Quality	Combustible content ≤ 5% by weight	2.0% of the O&M Security for every 1% excess above 5%
6	Residual Inert Matter – Quantity	≤ 10% by weight	2.0% of the O&M Security for every 1% excess beyond 10%
7	SLF Compaction Guarantee	≥ 1.0 t/m³	2.0% of the O&M Security for every 0.05 t/m³ shortfall
8	SLF Capping Guarantee	Daily cover ≥ 10 cm; Intermediate cover ≥ 30 cm Monsoon Capping >40cm & < 65cm in the first week of August every year Final Cell Capping in accordance with Clause 21.1 (g) (iv)	0.5% of the O&M Security for each day of non-compliance

4. Consolidation and Deduction

4.1 Liquidated Damages computed under Clause 3 for all applicable KPIs in a month shall be aggregated into a single consolidated monthly amount.

4.2 The Authority shall apply the Monthly Deduction Cap while deducting Liquidated Damages from the O&M Security for the relevant month.

4.3 Any portion of the consolidated Liquidated Damages that exceeds the Monthly Deduction Cap shall not be deducted in that month but shall:

(a) be recorded for the relevant month; and

(b) be considered for the purposes of Clause 21.2 and the Events of Default provisions.

5. Linkage to Clause 21.2 (Cure and Default)

5.1 Persistent failure to achieve KPIs shall be assessed in accordance with Clause 21.2, irrespective of the application of the Monthly Deduction Cap.

5.2 For avoidance of doubt, the Monthly Deduction Cap shall limit only the amount recoverable in any month and shall not limit or prejudice:

(a) the Authority's right to determine Events of Default;

(b) the assessment of uncured KPI failures; or

(c) any other rights under this Agreement or Applicable Law.

6. Illustrative Monthly Calculation (All KPIs)

(Illustrative only; not contractual)

Assumptions:

- O&M Security = INR 100.00
- Monthly Deduction Cap = 20% = INR 20.00
- Single Project Facility

6.1 KPI-wise Computation

KPI	Actual Performance	Deviation	LD Calculation	LD (% of O&M Security)	LD (INR)
Availability	82%	8% shortfall	8 × 0.5%	4.0%	4.00
Throughput	92%	8% shortfall	8 × 0.5%	4.0%	4.00
Discharge	1 incident	–	1 × 2.0%	2.0%	2.00
Emissions	95 demerit points	20 excess	2 × 2.0%	4.0%	4.00
Inert Quality	7%	2% excess	2 × 2.0%	4.0%	4.00
Inert Quantity	13%	3% excess	3 × 1.0%	3.0%	3.00
SLF Compaction	0.80 t/m³	0.10 shortfall	2 × 2.0%	4.0%	4.00
SLF Capping	4 days delay	–	4 × 0.5%	2.0%	2.00

6.2 Monthly Consolidation and Cap Application

Particulars	%	INR
Total Liquidated Damages computed for the month	27.0%	27.00
Monthly Deduction Cap (aggregate across all KPIs)	20.0%	20.00
Amount deducted from O&M Security	**20.0%**	**20.00**

Note:

a) This illustration is intended solely to explain the methodology.

b) In the event of any inconsistency, the provisions of the Agreement shall prevail.

ANNEXURE G – EMISSION, ENVIRONMENTAL & SOCIAL STANDARDS

1) Emission Standards

a) The technology shall meet the following operating and emission standards under the **Solid Waste Management Rules, 2016 and 2026** and any amendments/revisions thereto:

Parameter	Emission Limit	Notes / Averaging Period
i) Particulates	50 mg/Nm³	Half-hourly average
ii) HCl	50 mg/Nm³	Half-hourly average
iii) SO_2	200 mg/Nm³	Half-hourly average
iv) CO	100 mg/Nm³	Half-hourly average
v) CO (alternative)	50 mg/Nm³	Daily average
vi) Total Organic Carbon	20 mg/Nm³	Half-hourly average
vii) HF	4 mg/Nm³	Half-hourly average
viii) NOx (as NO_2)	400 mg/Nm³	Half-hourly average
ix) Total dioxins & furans	0.1 ng TEQ/Nm³	6–8 hour sampling
x) Cd, Th & compounds	0.05 mg/Nm³	30 minutes–8 hours
xi) Hg & compounds	0.05 mg/Nm³	30 minutes–8 hours
xii) Sb, As, Pb, Cr, Co, Cu, Mn, Ni, V & compounds	0.5 mg/Nm³	30 minutes–8 hours

b) Notes:

i) All values corrected to 11% Oxygen (dry basis).

ii) Pollution control devices shall be designed/retrofitted to achieve the limits.

iii) Wastes shall not be chemically treated with chlorinated disinfectants; chlorinated plastics shall not be incinerated.

iv) Toxic metal limits in ash shall comply with Hazardous Waste Rules, 2008 and 2026; non-compliant ash shall go to approved HW facility.

v) Only low-sulphur fuels (LDO, LSHS, Diesel, biomass, coal, LNG, CNG, RDF, biogas) may be used.

vi) CO_2 concentration in tail gas shall not exceed 7%.

vii) Twin-chamber incinerators must achieve ≥950°C in secondary combustion with ≥2 seconds gas residence.

viii) TOC in slag/bottom ash ≤3% or LOI ≤5% dry weight.

ix) Odour shall be managed per CPCB guidelines.

2) Emission Compliance & Demerit Points

a) Compliance Requirement:

i) The Concessionaire shall ensure that emissions continuously comply with the standards in Section 1.

b) Demerit Points Assignment Methodology:

i) Each emission parameter has a defined threshold value as per Section 1.

ii) Exceedance Classification:

Level	Exceedance (% above standard)	Demerit Points
1) Minor	≤ 10%	1 point
2) Moderate	>10% & ≤ 25%	3 points
3) Major	>25%	5 points

iii) Points are assigned per parameter per monitoring event.

iv) For parameters with multiple averaging periods, points are assigned separately for each averaging period.

v) Monthly accumulation: Demerit points for all parameters are summed to track performance.

vi) Cumulative annual record: Maintained for review by Authority & Independent Engineer.

c) Monitoring & Reporting:

i) Independent Engineer monitors emissions, calculates demerit points, and reports monthly.

ii) Concessionaire must take corrective action to reduce demerit points.

iii) Demerit points are linked to the Emission Guarantee KPI in Annexure F.

3) Environmental Standards

a) Compliance:

i) The Concessionaire shall comply with all environmental standards for WtE and SLF as per SWM Rules, 2016 and 2026, amendments, and stricter standards in this Agreement.

b) Construction Period:

i) The Concessionaire shall follow instructions from the Authority/Independent Engineer to meet environmental standards.

c) Operation Period:

i) The Concessionaire shall continue compliance per design requirements and applicable standards.

d) Environmental Monitoring Cell (EMC):

i) The Concessionaire shall establish EMC to review the effectiveness of the Environmental Management System (EMS).

ii) Independent Engineer will oversee EMC functions.

e) Monitoring & Corrective Action:

i) EMC shall follow monitoring schedules in the EIA/EMP.

ii) EMC shall meet regularly to review EMP implementation and recommend corrective actions.

f) Reporting:

i) EMC shall coordinate all monitoring programs, submit data to regulatory agencies, and prepare annual environmental audit reports.

g) Laboratory:

i) The Concessionaire shall set up a well-equipped laboratory for air, water, wastewater, noise, groundwater, soil, meteorology, etc.

ii) Laboratory QA/QC procedures shall meet ISO standards.

iii) Concessionaire shall strive for ISO 14001 certification.

4) Social Standards

a) Health:

i) Provide a clinic at the Project Site for primary health services.

b) Training & Community Development:

i) Establish a community and training center for capacity building and skill development.

ii) Offer employment opportunities based on training and skill assessment.

iii) Provide continuous training and awareness programs for laborers.

c) Innovation & Local Engagement:

i) Set up an MSW management and innovation center accessible to locals, students, and stakeholders.

ii) Give priority to nearby population for horticulture, garden maintenance, energy management, and other activities at the Project Facilities.

SCHEDULE C – O&M REQUIREMENTS

(Aligned with Clause 18 of the Agreement)

General

The Concessionaire shall operate and maintain all Project Facilities in accordance with this Schedule, Applicable Laws, Applicable Permits, Good Industry Practice, and the KPIs set out in Annexure F. All O&M activities, inspections, and reports shall be subject to review by the Independent Engineer and approval by the Authority.

1) O&M Objectives

a) Ensure continuous, safe, and reliable operation of all Project Facilities.

b) Maintain all equipment, structures, and utilities in optimum condition to achieve design performance and KPIs.

c) Operate the SLF in compliance with placement, compaction, and daily/intermediate capping requirements.

d) Ensure environmental compliance, including emissions, effluents, leachate, groundwater, and noise standards (Annexure G).

e) Minimise risk to personnel, assets, and the environment.

2) Scope of O&M

The Concessionaire shall manage and maintain the following:

a) **WtE Plant** – boilers, turbines, generators, conveyors, shredders, APC systems.

b) **Pre-Processing Facilities** – trommels, magnetic separators, RDF preparation lines and manual sorting facilities, if any.

c) **Power & Electrical Systems** – transformers, switchgear, SCADA/DCS, evacuation up to Interconnection Point.

d) **SLF Cells** – waste placement, compaction, daily/intermediate capping, leachate management, gas venting.

e) **Ancillary Systems** – leachate treatment, effluent treatment, stormwater management, odour control.

f) **Environmental Monitoring Systems** – CEMS, AAQMS, SWAS, water/groundwater monitoring stations.

g) **Safety & Security Systems** – fire alarms, suppression systems, CCTV, access control.

3) O&M Activities

3.1 Operational Management

a) Daily start-up and shutdown of equipment and plant systems.

b) Waste reception, sorting, pre-processing, thermal treatment, and residue management.

c) Monitor plant throughput, efficiency, and KPI compliance.

3.2 Preventive & Corrective Maintenance

a) Implement preventive maintenance as per OEM manuals and Good Industry Practice.

b) Conduct routine inspection, calibration, and testing of all systems.

c) Undertake corrective maintenance immediately to prevent KPI loss or operational disruption.

3.3 SLF Operations

a) Waste placement and compaction to achieve KPI-specified densities.

b) Apply daily and intermediate covers as per KPI requirements.

c) Maintain operational logs and records of volumes, compaction, and cover.

3.4 Environmental Compliance

a) Continuous monitoring of emissions, effluent, leachate, and groundwater.

b) Operate CEMS, AAQMS, and SWAS for real-time compliance.

c) Implement corrective measures for any exceedances.

d) Coordinate with Environmental Monitoring Cell (EMC) for audit and reporting.

3.5 Utilities & Support Systems

a) Maintain water, compressed air, cooling, power backup, and HVAC systems.

b) Inspect and clean pipelines, drains, and service facilities.

3.6 Health, Safety & Security

a) Conduct daily safety checks and ensure PPE compliance.

b) Carry out periodic fire drills and emergency preparedness exercises.

c) Monitor security of site and access-controlled areas.

4) Inspections & Reporting

a) **Daily Inspections** – Conducted by Concessionaire engineers; logs maintained for review.

b) **Weekly Reports** – Operational performance, maintenance completed, environmental checks.

c) **Monthly Reports** – KPI compliance, SLF operations, demerit points (emissions), safety performance.

d) **Quarterly Reports** – Independent Engineer verification, cumulative KPI tracking, corrective action plans.

e) All reports shall be submitted to the Authority and Independent Engineer in the prescribed format.

5) Inventory & Spares

a) Maintain adequate spare parts and consumables for uninterrupted operation.

b) Ensure timely replacement of critical components to avoid KPI loss.

c) Maintain a record of inventory and usage for review by the Independent Engineer.

6) Labour Management & Safety Compliance

a) Comply with all labour laws, including Minimum Wages Act, Workmen's Compensation Act, Abolition of Contract Labour Act, and SWM Rules 2016, 2026.

b) Only deploy personnel above 18 years of age with proper qualifications and training.

c) Maintain training records and provide regular refresher training.

d) Indemnify Authority against any claims arising from non-compliance with labour laws.

7) Emergency Repairs & Contingency

a) Immediately respond to any defect, breakdown, or hazard affecting personnel, equipment, or environment.

b) Execute emergency repairs per Good Industry Practice.

c) Notify Independent Engineer and Authority of major emergencies within 24 hours.

8) Divestment / Handover

a) Ensure all defects are rectified prior to Transfer Date.

b) Submit O&M records, manuals, and logs.

c) Ensure SLF and other Project Facilities are in compliant operational state for post-closure monitoring.

Annexure A – O&M Plan

(To be submitted by the Concessionaire for approval by the Independent Engineer and Authority)

1. Project Facilities Operations Plan

Facility/Module	Key Equipment	Daily Operational Plan	Preventive Maintenance Plan	Breakdown Maintenance Plan
WtE Plant	Boilers, turbines, generators, conveyors, shredders, APC systems	Start-up/shutdown, throughput monitoring, waste feed schedule	Routine checks, lubrication, calibration	Fault response procedure, downtime limits
Pre-Processing	Trommels, magnetic separators, RDF lines	Waste reception, segregation schedule, RDF preparation	Routine inspection, calibration, minor repairs	Corrective maintenance procedure
Power & Electrical	Transformers, switchgear, SCADA/DCS	Daily power checks, backup systems verification	Preventive maintenance per OEM	Emergency rectification
SLF Cells	Compaction equipment, cover placement systems, leachate collection	Waste placement, compaction, daily/intermediate capping	Routine inspection of liners, drainage, gas vents	Corrective repair of liners, gas collection
Ancillary Systems	Effluent treatment, stormwater, odour control	Daily inspection, monitoring	Routine maintenance, chemical dosing	Corrective action

2. Environmental & Social Management Plan

Parameter	Monitoring Frequency	Responsible Personnel	Corrective Action Plan	Reporting
Emissions	Continuous via CEMS	Plant O&M team	Adjust operations, report exceedances	Monthly KPI report
Air Quality (AAQMS)	Daily	EMC	Mitigation measures as per EMP	Weekly summary
Water & Leachate	Daily/weekly	EMC	Rectification, treatment adjustment	Monthly report
Noise	Weekly	Plant O&M	Modify operations, install barriers	Monthly report

Greenbelt & Landscaping	Weekly	Site Engineer	Replanting, watering, pruning	Quarterly report
Social / Labour Activities	Monthly	HR & Safety Officer	Training and awareness actions	Quarterly report

3. Disaster Management Plan

Event Type	Prevention Measures	Response Procedure	Responsible Team	Reporting
Fire / Explosion	Fire detection, fire suppression	Evacuation, fire control	Safety Officer	Immediate to IE & Authority
Gas / Odour Release	Gas venting, odour scrubbers	Containment, notification	Plant Manager	Immediate to IE & Authority
Flooding / Leachate overflow	Drainage maintenance, storage check	Pumping, containment	Site Engineer	Daily log
Equipment Failure	Preventive maintenance	Corrective maintenance schedule	O&M Team	Weekly report
Emergency Health	First-aid, PPE	Medical assistance	Health Officer	Incident report

4. Month-on-Month Maintenance Schedule

Month	Facility	Planned Activities	Preventive Maintenance	Key KPIs	Remarks
Jan	WtE Plant	Equipment inspection, calibration	Lubrication, filter replacement	Availability, efficiency	
Jan	SLF	Waste placement, daily/intermediate capping	Compactor maintenance	Density, coverage	
Feb	Pre-Processing	Trommel maintenance, RDF calibration	Belt inspection	Throughput	
…	…	…	…	…	…

Note: The Concessionaire shall update this schedule annually in consultation with the Independent Engineer and Authority.

5. SLF Operations Plan

Activity	Daily Task	Weekly Task	Monthly Task	Responsible Personnel	KPI Reference

Waste Placement	Compaction, layer control	Verify compaction density	Update records	Site Engineer	Annexure F
Cover Placement	Daily cover, intermediate cover	Inspection of cover integrity	Log volume	Site Engineer	Annexure F
Leachate Management	Pump operation, level check	Inspect pipelines	Test leachate quality	EMC	Annexure G
Gas Venting	Operate collection vents	Inspect and maintain	Gas monitoring	Plant O&M Team	Annexure G
Machinery Maintenance	Clean, lubricate, minor checks	Repair or replace	Update log	Maintenance Team	Annexure F

6. Reporting & Documentation

- **Daily Logs**: Equipment operation, waste received, SLF activities, incidents.
- **Weekly Reports**: Maintenance activities, environmental monitoring checks.
- **Monthly Reports**: KPI performance, demerit points (emissions), SLF operations, health & safety.
- **Quarterly Reports**: Verified by Independent Engineer, cumulative KPI tracking, corrective action plans.
- **Annual Report**: Consolidated O&M summary, environmental and social compliance, manpower training, maintenance summary.

SCHEDULE D – APPLICABLE PERMITS

1.1. Concessionaire's Obligations

The Concessionaire shall obtain, as required under the Applicable Laws, the following Applicable Permits on or before the Appointed Date, in accordance with Clause 4.1(b) of Article 4 of the Agreement:

(a) The Project Facilities shall comply with various approvals, consents, and clearances required for the Concessionaire to operate the Project on behalf of the Authority.

(b) The Concessionaire shall be responsible for obtaining all consents, permits, licenses, and approvals/clearances, including pending, re-validation, and renewals, as required for the Project.

(c) The Concessionaire shall implement and perform O&M of the Project in accordance with all consents, permits, licenses, and approvals required.

(d) The following table lists approvals, compliances, and clearances at various stages. Apart from the following, the Concessionaire shall obtain any other necessary approvals or clearances required for the Project.

Sr. No.	Project Stage	Compliances / Permits	Remarks	Issuing Authority / Agency
1)	Project Planning Stage	Approval for setting up the Project including Environmental Clearances	Statutory	State & Local Administrative Authority / District Industries Commissioner /TNPCB
2)	Project Planning Stage	Town Planning & Building Plan Approval	-------	Local Administrative Authority
3)	Project Planning Stage	Change of Land Use		Concerned Authority
4)	Pre-Construction	Tariff Approval	Statutory	TNERC
5)	Pre-Construction	Consent to Establish (CTE) under Water Act 1974 & Air Act 1981	Statutory	TNPCB
6)	Pre-Construction	Power Purchase Agreement (PPA) for power purchase		TNPDCL
7)	Pre-Construction	Approval for grid connectivity / power evacuation from WtE Plant	Statutory	TNPDCL
8)	Pre-Construction	Permission for withdrawal of raw water from source	Project Requirement	Authority / IE
9)	Pre-Construction	NOC from Fire Department / Authorities having jurisdiction / Accredited fire agencies	Statutory	Fire Department

Sr. No.	Project Stage	Compliances / Permits	Remarks	Issuing Authority / Agency
10)	Construction	Registration under The Contract Labour (Regulation & Abolition) Act, 1970 as Principal Employer	Statutory	State Labour Department
11)	Pre-Construction	Airport Authority of India (AAI) Clearance / NOC	Statutory	AAI
12)	Pre-Construction	Building Plan Approval from Authority	Statutory	Authority
13)	Pre-Construction / Operational Phase	Consent to Operate (CTO) under Water Act 1974 & Air Act 1981	Statutory	TNPCB
14)	Pre-Construction	Authorization under Solid Waste Management Rules 2016	Statutory	TNPCB
15)	Operational Phase	Goods and Services Tax (GST) Registration	Statutory	GST Department
16)	Operational Phase	Service Tax Registration	Statutory	Income Tax Department
17)	Operational Phase	Registration under Employees Provident Fund Act	Statutory	Provident Fund Commissioner
18)	Operational Phase	Registration under Employees State Insurance Act	Statutory	Relevant Authority
19)	Construction & Operational Phase	Certificate of Pollution Under Control (PUC) for Vehicles and Equipment		State Transport Authority

1.2. Authority Support

The Authority shall, on a best-effort basis and upon request from the Concessionaire, provide recommendation letters to facilitate procurement of the Applicable Permits detailed in Clause 1.1. Notwithstanding the foregoing:

(a) The responsibility for obtaining all Applicable Permits shall remain solely with the Concessionaire;

(b) The Concessionaire shall not hold the Authority responsible for procurement or non-procurement of any of the Applicable Permits.

1.3. Additional Permits

If any additional approvals, consents, or permits are required for the Project from time to time, obtaining the same shall be the sole responsibility of the Concessionaire.

SCHEDULE E – PERFORMANCE SECURITY

To,
The Commissioner,
Madurai Corporation
Arignar, Anna Maligai, Thallakulam
Madurai 625002
WHEREAS:

A. _____(the "Concessionaire") and _____, Madurai Corporation (the "Authority") have entered into a Concession Agreement dated _____ (the "Agreement") whereby the Authority has agreed to the Concessionaire undertaking the project "Selection of Concessionaire for Establishment of Municipal Waste-to-Energy Facility at Vellaikal, Madurai on Cluster Basis for Madurai Corporation & Other Participating ULBs under Design, Build, Finance, Operate and Transfer (DBFOT) Model on PPP Mode", subject to and in accordance with the provisions of the Agreement.

B. The Agreement requires the Concessionaire to furnish a Construction Performance Security to the Authority in a sum of Rs. _____ (Rupees _____ only) (the "Guarantee Amount") as security for due and faithful performance of its obligations, under and in accordance with the Agreement (as defined in the Agreement).

C. We, _____through our Branch at _____ (the "Bank") have agreed to furnish this Bank Guarantee by way of Construction Performance Security.

NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:

1. The Bank hereby unconditionally and irrevocably guarantees and undertakes to pay to the Authority upon occurrence of any failure or default in due and faithful performance of all or any of the Concessionaire's obligations, under and in accordance with the provisions of the Agreement, on its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Concessionaire, such sum or sums up to an aggregate sum of the Guarantee Amount as the Authority shall claim, without the Authority being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.

2. A letter from the Authority, under the hand of an Officer not below the rank of _____ in the Madurai Corporation, that the Concessionaire has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that the Authority shall be the sole judge as to whether the Concessionaire is in default in due and faithful performance of its obligations during the Construction Period under the Agreement and its

decision that the Concessionaire is in default shall be final, and binding on the Bank, notwithstanding any differences between the Authority and the Concessionaire, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Concessionaire for any reason whatsoever.

3. In order to give effect to this Guarantee, the Authority shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the Concessionaire and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.

4. It shall not be necessary, and the Bank hereby waives any necessity, for the Authority to proceed against the Concessionaire before presenting to the Bank its demand under this Guarantee.

5. The Authority shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Agreement or to extend the time or period for the compliance with, fulfilment and/or performance of all or any of the obligations of the Concessionaire contained in the Agreement or to postpone for any time, and from time to time, any of the rights and powers exercisable by the Authority against the Concessionaire, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Agreement and/or the securities available to the Authority, and the Bank shall not be released from its liability and obligation under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the Concessionaire or any other forbearance, indulgence, act or omission on the part of the Authority or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.

6. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Authority in respect of or relating to the Agreement or for the fulfillment, compliance and/or performance of all or any of the obligations of the Concessionaire under the Agreement.

7. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force throughout the Concession Period and unless a demand or claim in writing is made by the Authority on the Bank under this Guarantee, no later than 6 (six) months from the date of expiry of this Guarantee, all rights of the Authority under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.

8. The Performance Security shall be released within 30 (thirty) days upon submission of the O&M Security provided the Concessionaire is not in breach of this Agreement. Upon request made by the Concessionaire for release of the Performance Security along with the particulars required hereunder, duly certified by a statutory auditor of the Concessionaire, the Authority shall release the Performance Security forthwith.

9. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of the Authority in writing and declares and warrants that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.

10. Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred Branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Authority that the envelope was so posted shall be conclusive.

11. This Guarantee shall come into force with immediate effect and shall remain in force until the O&M Security is submitted or until it is released earlier by the Authority pursuant to the provisions of the Agreement.

Signed and sealed this ……. day of ….. 20…… at ……..

SIGNED, SEALED AND DELIVERED
For and on behalf of
the BANK by:

(Signature)
(Name)
(Designation)
(Code Number)
(Address)

NOTES:

- The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.
- The address, telephone number and other details of the Head Office of the Bank as well as of issuing Branch should be mentioned on the covering letter of issuing Branch.

SCHEDULE F – O&M SECURITY

To,
The Commissioner,
Madurai Corporation
Aringar, Anna Malligai, Thallakulam
Madurai 625002
WHEREAS:

D. _____(the "Concessionaire") and _____, Madurai Corporation (the "Authority") have entered into a Concession Agreement dated _____ (the "Agreement") whereby the Authority has agreed to the Concessionaire undertaking the project "Selection of Concessionaire for Establishment of Municipal Waste-to-Energy Facility at Vellaikal, Madurai on Cluster Basis for Corporation & Other Participating ULBs under Design, Build, Finance, Operate and Transfer (DBFOT) Model on PPP Mode", subject to and in accordance with the provisions of the Agreement.

E. The Agreement requires the Concessionaire to furnish a Construction Performance Security to the Authority in a sum of Rs. _____ (Rupees _____ only) (the "Guarantee Amount") as security for due and faithful performance of its obligations, under and in accordance with the Agreement (as defined in the Agreement).

F. We, _____through our Branch at _____ (the "Bank") have agreed to furnish this Bank Guarantee by way of Construction Performance Security.

NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:

1. The Bank hereby unconditionally and irrevocably guarantees and undertakes to pay to the Authority upon occurrence of any failure or default in due and faithful performance of all or any of the Concessionaire's obligations under and in accordance with the provisions of the Agreement, from the COD until the expiry of the Concession Period, on its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Concessionaire, such sum or sums up to an aggregate sum of the Guarantee Amount as the Authority shall claim, without the Authority being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.

2. A letter from the Authority, under the hand of an Officer not below the rank of _____ in the Madurai Corporation, that the Concessionaire has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that the Authority shall be the sole judge as to whether the Concessionaire is in default in due and faithful performance of its obligations during the O&M Period under the Agreement and its decision

shall be final and binding on the Bank, notwithstanding any differences between the Authority and the Concessionaire, or any dispute pending before any court, tribunal, arbitrators, or any other authority.

3. In order to give effect to this Guarantee, the Authority shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the Concessionaire and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.

4. It shall not be necessary, and the Bank hereby waives any necessity, for the Authority to proceed against the Concessionaire before presenting to the Bank its demand under this Guarantee.

5. The Authority shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time the terms and conditions of the Agreement, or to extend the time or period for the compliance with, fulfilment and/or performance of all or any of the obligations of the Concessionaire, or to postpone any of the rights and powers exercisable by the Authority, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Agreement and/or the securities available to the Authority, and the Bank shall not be released from its liability and obligation under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the Concessionaire or any other forbearance, indulgence, act or omission on the part of the Authority.

6. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Authority in respect of or relating to the Agreement.

7. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force throughout the O&M Period. Unless a demand or claim in writing is made by the Authority on the Bank under this Guarantee, no later than 6 (six) months from the date of expiry of this Guarantee, all rights of the Authority under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.

8. If the O&M Security is not renewed by the expiry of the 11th month of the relevant year, the Authority shall be entitled to drawdown the total amount available under this Guarantee and retain such amount as cash security until such time that the Concessionaire submits an extension or replacement of the O&M Security.

9. The Authority shall have the right to draw on the O&M Security and claim up to the amount guaranteed upon the Concessionaire's failure to honour any of its obligations, responsibilities

or commitments after COD till the expiry of the Concession Period, including any Liquidated Damages, amounts payable under indemnities, or any other sums due under the Agreement.

10. No prior notice is required to the Concessionaire for any drawdown under this Guarantee. However, the Authority shall provide a copy of any demand notice issued by the Authority simultaneously to the Bank and the Concessionaire.

11. The Concessionaire shall restore the Security to its full value within 15 (fifteen) days of any partial or full drawdown.

12. Upon expiry of the Concession Period or termination of the Agreement, whichever is earlier, and after setting off any sums payable by the Concessionaire to the Authority, the O&M Security shall be released within 30 (thirty) days.

13. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of the Authority in writing and declares and warrants that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.

14. Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred Branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith.

15. This Guarantee shall come into force with immediate effect and shall remain in force until the expiry of the Concession Period or termination of the Agreement, unless released earlier by the Authority pursuant to the provisions of the Agreement.

Signed and sealed this ……. day of ..... 20…… at ……..

SIGNED, SEALED AND DELIVERED
For and on behalf of
the BANK by:

(Signature)
(Name)
(Designation)
(Code Number)
(Address)

NOTES:

- The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.
- The address, telephone number and other details of the Head Office of the Bank as well as of issuing Branch should be mentioned on the covering letter of issuing Branch.

SCHEDULE G – TECHNICAL SPECIFICATIONS

The Concessionaire shall ensure that all Project Facilities are designed, constructed, and operated in strict accordance with the Technical Specifications set forth herein, in addition to fulfilling the Key Performance Indicators (KPIs) specified under the Agreement. Compliance with these Technical Specifications does not reduce, replace, or alter the Concessionaire's obligations to meet or exceed the KPIs; the Concessionaire shall be accountable for both.

1) General Requirements

1.1 The Concessionaire shall comply with all applicable laws, rules, regulations, notifications, and guidelines of the GOI and the State Government of Tamil Nadu, including municipal regulations and bylaws of Madurai Corporation.

1.2 All Project Facilities shall follow occupational health and safety standards, including PPE requirements, hazard mitigation, and industrial safety regulations.

1.3 All works shall adhere to Good Industry Practices, internationally accepted standards, and guidelines issued by the relevant authorities.

2) Applicable Acts, Rules, Guidelines, and Notifications

S. No	Applicable Law / Guideline	Description / Applicability
a)	SWM Rules 2016 & SWM Rules 2026	Waste handling, segregation, processing, treatment, and disposal standards
b)	Environment (Protection) Act, 1986	Environmental compliance obligations
c)	Environment (Protection) Rules, 1986	Detailed procedures for environmental protection
d)	EIA Notification, 2006	Environmental Clearance and monitoring requirements
e)	SBM 2.0 Guidelines	Central Public Health & Environmental Engineering Organisation (CPHEEO) recommendations
f)	Electricity Act, 2003	Power generation and supply obligations
g)	Electricity Rules, 2005	Safety and technical compliance for electrical systems
h)	State Electricity Regulatory Commission Guidelines	Tariff, grid connectivity, and operational compliance
i)	CPCB & TNPCB Guidelines	Air, water, and soil quality standards, emissions and effluent control

j)	Motor Vehicle Act & Emission Control Regulations	Waste transportation and vehicle emission standards
k)	Labour Laws	Minimum wages, contract labour, ESI, PF, occupational health & safety
l)	Factories Act, 1948	Industrial safety, health, and welfare measures
m)	Tamil Nadu PWD / Municipal Construction Standards	Civil and structural standards for roads, ramps, drainage, and buildings

3) Indian Standards (IS)

The Concessionaire shall comply with relevant **Indian Standards (IS)** issued by **BIS**, including but not limited to:

S. No	IS Code / Standard	Description / Applicability
3.1	IS 8757:1987	Sampling and analysis of solid waste
3.2	IS 1460:2000	Determination of calorific value of solid fuels
3.3	IS 8759:2001	Industrial furnaces
3.4	IS 14823:2000	Landfill liners and covers
3.5	IS 3025 series	Water quality testing
3.6	IS 5216 / IS 5379	Pumps, pipes, and materials
3.7	IS 3020 series	Noise measurement and limits
3.8	IS 456:2000	Reinforced concrete structures
3.9	IS 800:2007	Steel structures
3.10	IS 12309 / IS 2026 / IS 2071	Electrical equipment, transformers, and switchgear

4) Indian Road Congress (IRC) and National Building Code (NBC)

4.1 The Concessionaire shall comply with IRC norms for roads, ramps, and waste transport infrastructure.

4.2 All structural works shall comply with the National Building Code (NBC), including fire safety, structural design, and building services.

5) Waste-to-Energy Plant

5.1 The WtE Plant shall process Acceptable Waste at Design Capacity and generate 15 MW electricity.

5.2 All systems, including combustion, gas cleaning, and emission control, shall meet:

i) CPCB emission standards for WtE plants

ii) Stack emission limits as per MoEFCC standards

iii) Continuous Emission Monitoring System (CEMS) installation

5.3 Auxiliary systems shall include ash handling, slag management, residue management, and operational safety features.

6) Pre-processing Units

6.1 Pre-processing shall include segregation, shredding, and size reduction of MSW.

6.2 Equipment standards:

i) Conveyors, feed hoppers, and shredders as per IS / BIS standards

ii) Mechanical screens, magnetic separators, and trommels

iii) Dust, odor, and leachate management systems

7) Scientific Landfill (SLF)

7.1 SLF shall follow CPCB Guidelines for Sanitary Landfills, including:

i) Engineered liners, leachate collection, and treatment

ii) Gas collection, flaring, or energy recovery

iii) Daily, intermediate, and final cover systems

7.2 Site selection, operation, and closure shall follow SWM Rules 2026 and 2026.

8) Environmental Compliance

8.1 Air quality, water quality, and noise monitoring shall comply with CPCB/TNPCB standards.

8.2 Hazardous waste management per Hazardous Waste (Management, Handling and Transboundary Movement) Rules, 2016.

8.3 Strict adherence to EIA conditions and environmental clearance requirements.

9) Electrical Systems

9.1 Compliance with:

i) CEA Grid Code

ii) IS 12309, IS 2026, IS 2071 for transformers, switchgear, and control panels

iii) State Electricity Regulatory Commission guidelines for grid integration

10) Auxiliary Systems and Utilities

10.1 Leachate treatment, ash handling, odor control, and water recycling systems.

10.2 Fire safety and occupational safety as per NBC, IS codes, and Factory Act.

10.3 Pumps, valves, and mechanical systems must conform to BIS and PWD standards.

10.4 Monitoring, instrumentation, and control systems must meet ISO and BIS standards.

11) Compliance and Certification

11.1 Certificates of compliance from statutory authorities and accredited testing agencies must be provided for all systems.

11.2 Periodic audits and third-party inspections shall verify adherence to technical specifications and environmental compliance.

SCHEDULE H – SAFETY REQUIREMENTS

The Concessionaire shall develop, implement, and administer a surveillance and safety program for the Project Facilities. Compliance with this Schedule is in addition to the Concessionaire's obligations under the KPIs and Technical Specifications set forth in the Agreement.

1. General Obligations

1.1 The Concessionaire shall maintain an incident/hazard-free work environment on all Project Facilities.

1.2 The Concessionaire shall comply with:

a) Instructions issued by the Authority;

b) Applicable Laws and Applicable Permits;

c) Provisions of this Agreement;

d) Relevant standards/guidelines contained in internationally accepted codes; and

e) Good Industry Practice.

2. Planning and Hazard Management

2.1 The Concessionaire shall pre-plan all work to minimize potential for personal injury and property damage.

2.2 The Concessionaire shall develop a Project-specific safety plan designed to:

a) Anticipate and identify hazards before work begins;

b) Define measures to eliminate hazards or control risks;

c) Cover scope of work, sequence of activities, site-specific fall protection, high-angle rescue procedures, safety control methods, training records, competent persons, lead and asbestos abatement, excavations.

2.3 Safety planning is continuous; if new hazards arise, work shall be suspended until the plan is revised.

3. Subcontractors, Vendors, and Training

3.1 All subcontractors, suppliers, and vendors shall be informed of their obligations regarding safety.

3.2 Concessionaire or contractors/subcontractors with ≥25 employees per shift shall establish a full-time Contractor Safety Manager; for every additional 100 employees, an additional Safety Management Representative is required. Contractors with <25 employees shall appoint a Safety Representative.

3.3 Orientation and training programs must include:

a) Hazards in assigned work areas;

b) Personal protective equipment (PPE) requirements;

c) Emergency procedures;

d) Job-specific safety training (fall protection, scaffolds, forklifts, excavation, confined space entry, fire watch, OSHA-PSM, traffic control, etc.).

4. Safety Equipment and Facilities

4.1 Concessionaire shall provide and maintain:

a) Chemical and flammable material storage areas;

b) Adequate safety equipment including PPE;

c) Fire protection equipment in all storage areas, offices, and temporary structures.

4.2 All PPE shall comply with applicable standards (e.g., ANSI hard hats, ANSI-approved safety glasses).

5. Safety Meetings and Incident Management

5.1 Conduct regular supervisory safety meetings and document observations, incidents, and corrective actions.

5.2 Report all work-related injuries, near misses, or hazards to the appointed Authority representative immediately.

5.3 Submit an initial incident report within 24 hours, and a full accident investigation report within 3 working days or provide written intimation with estimated completion date for complex cases.

5.4 All first aid injuries shall be documented; escalation procedures must follow if the case develops into a significant injury.

6. Emergency Preparedness and Evacuation

6.1 Develop an emergency action plan for all Project Facilities.

6.2 Train all employees on the emergency plan during orientation.

6.3 On emergency evacuation:

a) Immediately follow alarms/announcements;

b) Evacuate via nearest exit;

c) Perform headcount and report missing personnel;

d) Follow further instructions from Authority representatives.

7. Housekeeping and Compliance

7.1 Maintain a clean work environment, including proper trash/debris management.

7.2 Use approved chutes/containers and follow barricading or flagging requirements.

7.3 Comply with all safety measures noted in the EIA Report for the Project Facilities.

8. Authority Inspection and Enforcement

8.1 The Authority may inspect the Project Facilities to verify compliance with Safety Requirements.

8.2 The Concessionaire shall implement any corrective actions identified during inspections without delay.

8.3 All costs related to compliance with this Schedule shall be borne by the Concessionaire, as part of the Development Requirements.

SCHEDULE I – SCOPE OF WORK OF THE INDEPENDENT ENGINEER

1. General Role and Principles

1.1 The Independent Engineer shall perform its duties and functions strictly in accordance with Article 13 of this Agreement and this Schedule.

1.2 The Independent Engineer shall act independently, reasonably, fairly and expeditiously, and shall not, except as expressly provided in this Agreement, have any authority to amend, vary, modify or curtail the rights or obligations of the Authority or the Concessionaire.

1.3 Any review, inspection, comment or report of the Independent Engineer shall not relieve the Concessionaire of its obligations, risks or liabilities under this Agreement.

2. Development and Design Stage

2.1 The Independent Engineer shall review the following documents submitted by the Concessionaire and provide its comments to the Authority and the Concessionaire within the timelines specified in the Agreement:

(a) Project Execution Plan;

(b) DPR;

(c) Designs and Drawings;

(d) Construction Plan;

(e) EMP and OHS Plan;

(f) Waste Acceptance and Rejection Plan;

(g) Sampling Plan;

(h) EMP Report; and

(i) such other document prepared by the Concessionaire in terms of the Agreement

2.2 The review under this Paragraph 2 shall be limited to verifying consistency of the above documents with the provisions of this Agreement, the Technical Specifications, Applicable Laws and Applicable Permits.

2.3 The Independent Engineer shall review any revised or modified versions of the documents referred to in Paragraph 2.1 and provide its comments in accordance with the timelines specified in the Agreement.

3. Construction Period

3.1 During the Construction Period, the Independent Engineer shall inspect the Project Facilities at least once every month in accordance with Clause 13.1(e) and shall prepare an inspection report setting out:

(a) the status and progress of construction and installation of the Project Facilities;

(b) any defects or deficiencies observed; and

(c) the status of compliance with the Construction Plan, Project Execution Plan, DPR, Technical Specifications, Designs and Drawings, EMP, OHS Plan, Waste Acceptance and Rejection Plan, Sampling Plan and Applicable Laws.

3.2 The Independent Engineer shall forward its monthly inspection reports to the Authority, with a copy to the Concessionaire.

3.3 Where defects or deficiencies are observed, the Independent Engineer shall record the same in its inspection report and monitor the rectification thereof by the Concessionaire.

3.4 The Independent Engineer shall have the right to inspect the Project Facilities more than once in a month, if required, having regard to the progress of works or the nature of defects or deficiencies observed.

3.5 Where delay in achievement of any Project Milestone is observed, the Independent Engineer shall review the progress of construction and record its observations in the inspection report.

4. Tests and Certification Support

4.1 The Independent Engineer shall witness or monitor the Tests on completion and trial operations in accordance with the provisions of this Agreement.

4.2 The Independent Engineer shall, in accordance with Articles 15, 16 and 17 of this Agreement, provide its inspection findings, observations and recommendations to the Authority as may be needed to issue necessary certificates to the Concessionaire.

4.3 The Independent Engineer shall not issue any certificate directly unless expressly required under the Agreement, and all certificates shall be issued by the Authority in accordance with the Agreement.

5. Operation and Maintenance Period

5.1 During the O&M Period, the Independent Engineer shall inspect the Project Facilities at least once every month and prepare inspection reports in accordance with Clause 13.1(e), covering:

(a) operation and maintenance of the Project Facilities;

(b) compliance with the O&M Plan;

(c) compliance with KPIs;

(d) waste acceptance, processing and disposal, including Residual Inert Matter; and

(e) compliance with EMP, OHS Plan, Waste Acceptance and Rejection Plan, Sampling Plan and Applicable Laws.

5.2 The Independent Engineer shall forward its monthly inspection reports to the Authority, with a copy to the Concessionaire.

5.3 The Independent Engineer shall review the monthly reports submitted by the Concessionaire in relation to construction or O&M, as applicable, and record its observations in the inspection reports.

5.4 The Independent Engineer shall determine, in accordance with the Agreement, whether any failure to comply with KPIs has occurred and provide its findings to the Authority for the purposes of levy of Liquidated Damages, if any.

6. Access, Meetings and Communications

6.1 The Independent Engineer shall have the right to enter upon and access the Site at all times during the Concession Period for carrying out inspections or attending meetings, in accordance with Clause 13.1(f).

6.2 The Concessionaire shall have the right to accompany the Independent Engineer during inspections of the Project Facilities.

6.3 The Independent Engineer shall have the right to attend meetings held by the Concessionaire relating to construction or O&M of the Project Facilities and to provide comments or suggestions, in accordance with Clause 13.1(g).

6.4 Any comments or suggestions of the Independent Engineer shall not be construed as approval of the construction works or O&M services or a waiver of the Concessionaire's obligations.

7. Limitations

7.1 Except as expressly provided in this Agreement, the Independent Engineer shall have no authority to:

(a) direct or instruct the Concessionaire to vary the Project Facilities;

(b) amend or modify the Agreement; or

(c) bind the Authority or the Concessionaire in any manner.

7.2 The Concessionaire shall remain solely responsible for the quality, adequacy and suitability of the Project Facilities and for compliance with this Agreement, notwithstanding any review, inspection or report of the Independent Engineer.

8. Dispute Assistance

The Independent Engineer may, where required under the Agreement, assist the Parties by providing factual information, inspection reports or technical inputs in connection with resolution of Disputes, without acting as an arbitrator or adjudicator.

9. Other duties and functions

The Independent Engineer shall perform all other duties and functions specified in the Agreement.

10. Miscellaneous Obligations

10.1 The Independent Engineer shall notify its programme of inspection to the Authority and to the Concessionaire, who may, in their discretion, depute their respective representatives to be present during the inspection.

10.2 A copy of all communications, comments, instructions, drawings or documents sent by the Independent Engineer to the Concessionaire pursuant to this TOR, and a copy of all the test results with comments of the Independent Engineer thereon shall be furnished by the Independent Engineer to the Authority forthwith.

10.3 The Independent Engineer shall obtain, and the Concessionaire shall furnish in 2 (two) copies thereof, all communications and reports required to be submitted, under this Agreement, by the Concessionaire to the Independent Engineer, whereupon the Independent Engineer shall send 1 (one) of the copies to the Authority along with its comments thereon.

10.4 The Independent Engineer shall retain at least one copy each of all drawings and documents received by it, including 'as-built' Drawings, and keep them in its safe custody.

10.5 Upon completion of its assignment hereunder, the Independent Engineer shall duly classify and list all drawings, documents, results of tests and other relevant records, and hand them over to the Authority or such other person as the Authority may specify, and obtain written receipt thereof. Two copies of the said documents shall also be furnished in their editable digital format or in such other medium or manner as may be acceptable to the Authority.

10.6 Wherever no period has been specified for delivery of services by the Independent Engineer, the Independent Engineer shall act with the efficiency and urgency necessary for discharging its functions in accordance with Good Industry Practice.

11. Process of Selection of Independent Engineer by the Authority

The Authority shall appoint the Independent Engineer through a transparent and competitive selection process in accordance with Applicable Laws and the provisions of this Agreement. The Independent Engineer shall be an independent, suitably qualified and experienced consulting engineering firm having demonstrated expertise in infrastructure projects of comparable size and complexity. No entity owned or controlled by the Authority shall be eligible for appointment as the Independent Engineer. Notwithstanding the foregoing, the Authority may appoint a government-owned entity as the Independent Engineer, provided that such entity is a body corporate having as one of its primary functions the provision of consulting, advisory or supervisory services for engineering projects and is not owned or controlled by the Authority.

SCHEDULE J – VESTING CERTIFICATE

1. The _____, Madurai Corporation (the "Authority") refers to the Concession Agreement dated ******(the "Agreement") entered into between the Authority and ****** (the "Concessionaire") for "Selection of Concessionaire for Establishment of Municipal Waste-to-Energy Facility at Vellaikal, Madurai on Cluster Basis for Madurai Corporation & Other Participating ULBs under Design, Build, Finance, Operate and Transfer (DBFOT) Model on PPP Mode" (Project).

2. The Authority hereby acknowledges compliance and fulfilment by the Concessionaire of the Divestment Requirements set forth in Article 30 of the Agreement on the basis that upon issue of this Vesting Certificate, the Authority shall be deemed to have acquired, and all title and interest of the Concessionaire in or about the Project shall be deemed to have vested unto the Authority, free from any encumbrances, charges and liens whatsoever.

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

Signed this **** day of ****, 20 at [****]

AGREED, ACCEPTED AND SIGNED,	AGREED, ACCEPTED AND SIGNED,
SEALED AND DELIVERED	SEALED AND DELIVERED
For and on behalf of CONCESSIONAIRE by:	for and on behalf of AUTHORITY by:
(Signature)	(Signature)
(Name)	(Name)
(Designation)	(Designation)
(Address)	(Address)
In the presence of:	
1.	2.

SCHEDULE K – ESCROW AGREEMENT

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

AMONGST

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

2. ****(insert name and particulars of Senior Lenders' Representative) and having its registered office at **** acting for and on behalf of the Senior Lenders as their duly authorized agent with regard to matters arising out of or in relation to this Agreement (hereinafter referred to as the "Senior Lenders' Representative" which expression shall, unless repugnant to the context or meaning thereof, include its successors and substitutes);

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

4. The Madurai Corporation represented by Commissioner and having its principal offices at Aringar, Anna Malligai, Thallakulam, Madurai - 625002 (hereinafter referred to as the "Authority" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns).

WHEREAS:

A. The Authority has entered into a Concession Agreement dated _____with the Concessionaire (the "Concession Agreement") for "Selection of Concessionaire for Establishment of Municipal Waste-to-Energy Facility at Vellaikal, Madurai on Cluster Basis for Madurai Corporation & Other Participating ULBs under Design, Build, Finance, Operate and Transfer (DBFOT) Model on PPP Mode" ("Project")..

B. Senior Lenders have agreed to finance the Project in accordance with the terms and conditions set forth in the Financing Agreements.

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

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

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

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

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

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

"Cure Period" means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Concessionaire, and shall commence from the date on which a notice is delivered by the Authority or the Senior Lenders' Representative, as the case may be, to the Concessionaire asking the latter to cure the breach or default specified in such notice;

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

"Escrow Default" shall have the meaning ascribed thereto in Clause 6.1;

"Senior Lenders' Representative" means the person referred to as the Senior Lenders' Representative in the foregoing Recitals;

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

"Payment Date" means, in relation to any payment specified in Clause 4.1, the date(s) specified for such payment; and

"Sub-Accounts" means the respective sub-accounts of the Escrow Account, into which the monies specified in Clause 4.1 would be credited every month and paid out if due, and if not

due in a month then appropriated proportionately in such month and retained in the respective subaccounts and paid out therefrom on the Payment Date(s).

1.2 Interpretation

1.2.1 References to Senior Lenders' Representative shall, unless repugnant to the context or meaning thereof, mean references to the Senior Lenders' Representative, acting for and on behalf of Senior Lenders.

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

1.2.3 References to Clauses are, unless stated otherwise, references to Clauses of this Agreement.

1.2.4 The rules of interpretation stated in Clauses 1.2 and 1.3 of the Concession Agreement shall apply, mutatis mutandis, to this Agreement.

2. ESCROW ACCOUNT

2.1 Escrow Bank to act as trustee

2.1.1 The Concessionaire hereby appoints the Escrow Bank to act as trustee for the Authority, the Senior Lenders' Representative and the Concessionaire in connection herewith and authorizes the Escrow Bank to exercise such rights, powers, authorities and discretion as are specifically delegated to the Escrow Bank by the terms hereof together with all such rights, powers, authorities and discretion as are reasonably incidental hereto, and the Escrow Bank accepts such appointment pursuant to the terms hereof.

2.1.2 The Concessionaire hereby declares that all rights, title and interest in and to the Escrow Account shall be vested in the Escrow Bank and held in trust for the Authority, the Senior Lenders' Representative and the Concessionaire, and applied in accordance with the terms of this Agreement. No person other than the Authority, the Senior Lenders' Representative and the Concessionaire shall have any rights hereunder as the beneficiaries of or as third-party beneficiaries under this Agreement.

2.2 Acceptance of Escrow Bank

The Escrow Bank hereby agrees to act as such and to accept all payments and other amounts to be delivered to and held by the Escrow Bank pursuant to the provisions of this Agreement.

The Escrow Bank shall hold and safeguard the Escrow Account during the term of this Agreement and shall treat the amount in the Escrow Account as monies deposited by the Concessionaire, Senior Lenders or the Authority with the Escrow Bank. In performing its functions and duties under this Agreement, the Escrow Bank shall act in trust for the benefit of, and as agent for, the Authority, the Senior Lenders' Representative and the Concessionaire or their nominees, successors or assigns, in accordance with the provisions of this Agreement.

2.3 Establishment and operation of Escrow Account

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

2.3.2 The Escrow Bank shall maintain the Escrow Account in accordance with the terms of this Agreement and its usual practices and applicable regulations and pay the maximum rate of interest payable to similar customers on the balance in the said account from time to time.

2.3.3 The Escrow Bank and the Concessionaire shall, after consultation with the Senior Lenders' Representative, agree on the detailed mandates, terms and conditions, and operating procedures for the Escrow Account, but in the event of any conflict or inconsistency between this Agreement and such mandates, terms and conditions, or procedures, this Agreement shall prevail.

2.4 Escrow Bank's fee

The Escrow Bank shall be entitled to receive its fee and expenses in an amount, and at such times, as may be agreed between the Escrow Bank and the Concessionaire. For the avoidance of doubt, such fee and expenses shall form part of the O&M Expenses and shall be appropriated from the Escrow Account in accordance with Clause 4.1.

2.5 Rights of the Parties

Save and except as otherwise provided in the Concession Agreement, the rights of the Authority, the Senior Lenders' Representative and the Concessionaire in the monies held in the Escrow Account are set forth in their entirety in this Agreement and the Authority, the Senior Lenders' Representative and the Concessionaire shall have no other rights against or to the monies in the Escrow Account.

2.6 Substitution of the Concessionaire

The Parties hereto acknowledge and agree that upon substitution of the Concessionaire, pursuant to the Substitution Agreement, it shall be deemed for the purposes of this Agreement that the substituted entity is a Party hereto and the substituted entity shall accordingly be deemed to have succeeded to the rights and obligations of the Concessionaire under this Agreement on and with effect from the date of substitution of the Concessionaire with the Nominated Company.

3. DEPOSITS INTO ESCROW ACCOUNT

3.1 Deposits by the Concessionaire

3.1.1 The Concessionaire agrees and shall deposit the following inflows and receipts into the Escrow Account with:

a. All funds received in relation to the Project from any source, including the Senior Lenders, lenders of Subordinated Debt and the Authority;
b. All funds received by the Concessionaire from its shareholders, in any manner or form;
c. All the revenues from the sale of power, recovered materials, including but not limited to any by-products and any other marketable outputs by the concessionaire;
d. All proceeds of any rentals, deposits, capital receipts or insurance claim; and
e. All payments by the Authority, after deduction of any outstanding payments.

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

3.2 Deposits by the Authority

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

a. Any monies disbursed by the Authority to the Concessionaire;
b. All revenues collected by the Authority in exercise of its rights under the Concession Agreement; and
c. Termination Payments.

Provided that, notwithstanding the provisions of Clause 4.1.1, the Authority shall be entitled to appropriate from the aforesaid amounts, any amounts due and payable to it by the Concessionaire, and the balance remaining shall be deposited into the Escrow Account.

3.3 Deposits by Senior Lenders

The Senior Lenders' Representative agrees, confirms and undertakes that the Senior Lenders shall deposit into and/or credit the Escrow Account with all disbursements made by them in relation to or in respect of the Project; provided that notwithstanding anything to the contrary contained in this Agreement, the Senior Lenders shall be entitled to make direct payments to the EPC Contractor under and in accordance with the express provisions contained in this behalf in the Financing Agreements.

3.4 Interest on deposits

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

4. WITHDRAWALS FROM ESCROW ACCOUNT

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

a. all taxes due and payable by the Concessionaire for and in respect of the Project;
b. all payments relating to construction of the Project, subject to and in accordance with the conditions, if any, set forth in the Financing Agreements;
c. O&M Expenses, subject to the ceiling, if any, set forth in the Financing Agreements;
d. O&M Expenses and other costs and expenses incurred by the Authority in accordance with the provisions of this Agreement, and certified by the Authority as due and payable to it;
e. Monthly proportionate provision of Debt service due in an accounting year;
f. All payments and Damages certified by the Authority as due and payable to it by the Concessionaire;
g. Monthly proportionate provision of debt service payments due in an Accounting Year in respect of Subordinated Debt;
h. Any reserve requirements set forth in the Financing Agreements
i. Balance, if any, in accordance with the instructions of the Concessionaire.

4.1.1 No later than 60 (sixty) days prior to the commencement of each Accounting Year, the Concessionaire shall provide to the Escrow Bank, with prior written approval of the Senior Lenders' Representative, details of the amounts likely to be required for each of the payment obligations set forth in this Clause 4.1; provided that such amounts may be subsequently

modified, with prior written approval of the Senior Lenders' Representative, if fresh information received during the course of the year makes such modification necessary.

4.2 Withdrawals upon Termination

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

a. All taxes due and payable by the Concessionaire for and in respect of the Project;
b. Percentage of Debt Due excluding Subordinated Debt if required to be as per the terms of this Agreement;
c. Outstanding payments due to the Authority;
d. All payments and Damages certified by the Authority as due and payable to it by the Concessionaire;
e. Retention and payments relating to the liability for defects and deficiencies;
f. Outstanding Debt Service including the balance of Debt Due;
g. Outstanding Subordinated Debt;
h. Incurred or accrued O&M Expenses;
i. Any other payments required to be made under this Agreement; and
j. Balance, if any, in accordance with the instructions of the Concessionaire:

Provided that no appropriations shall be made under Sub-clause (j) of this Clause 4.2 until a Vesting Certificate has been issued by the Authority under the provisions of Article 30 of Concession Agreement.

4.3 Application of insufficient funds:

Funds in the Escrow Account shall be applied in the serial order of priority set forth in Clauses 4.1 and 4.2, as the case may be. If the funds available are not sufficient to meet all the requirements, the Escrow Bank shall apply such funds in the serial order of priority until exhaustion thereof.

4.4 Application of insurance proceeds

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

4.5 Withdrawals during Suspension

Notwithstanding anything to the contrary contained in this Agreement, the Authority may exercise all or any of the rights of the Concessionaire during the period of Suspension under Article 27 of the Concession Agreement. Any instructions given by the Authority to the Escrow Bank during such period shall be complied with as if such instructions were given by the Concessionaire under this Agreement and all actions of the Authority hereunder shall be deemed to have been taken for and on behalf of the Concessionaire.

5. OBLIGATIONS OF THE ESCROW BANK

5.1 Segregation of funds

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

5.2 Notification of balances

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

5.3 Communications and notices

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

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

d. shall, within 5 (five) business days after receipt, deliver a copy to the Concessionaire of any notice or document received by it from the Senior Lenders' Representative in connection herewith.

5.4 No set off

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

5.5 Regulatory approvals

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

6. ESCROW DEFAULT

6.1 Escrow Default

6.1.1 Following events shall constitute an event of default by the Concessionaire (an "Escrow Default") unless such event of default has occurred as a result of Force Majeure or any act or omission of the Authority or the Senior Lenders' Representative:

a. the Concessionaire commits breach of this Agreement by failing to deposit any receipts into the Escrow Account as provided herein and fails to cure such breach by depositing the same into the Escrow Account within a Cure Period of 5 (five) business days;
b. the Concessionaire causes the Escrow Bank to transfer funds to any account of the Concessionaire in breach of the terms of this Agreement and fails to cure such breach by depositing the relevant funds into the Escrow Account or any Sub-Account in which such transfer should have been made, within a Cure Period of 5 (five) business days; or
c. the Concessionaire commits or causes any other breach of the provisions of this Agreement and fails to cure the same within a Cure Period of 5 (five) business days.

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

7. TERMINATION OF ESCROW AGREEMENT

7.1 Duration of the Escrow Agreement

This Agreement shall remain in full force and effect so long as any sum remains to be advanced or is outstanding from the Concessionaire in respect of the debt, guarantee or Financial Assistance received by it from the Senior Lenders, or any of its obligations to the Authority remain to be discharged, unless terminated earlier by consent of all the Parties or otherwise in accordance with the provisions of this Agreement.

7.2 Substitution of Escrow Bank

The Concessionaire may, by not less than 45 (forty five) days prior notice to the Escrow Bank, the Authority and the Senior Lenders' Representative, terminate this Agreement and appoint a new Escrow Bank, provided that the new Escrow Bank is acceptable to the Senior Lenders' Representative and arrangements are made satisfactory to the Senior Lenders' Representative for transfer of amounts deposited in the Escrow Account to a new Escrow Account established with the successor Escrow Bank.

The termination of this Agreement shall take effect only upon coming into force of an Escrow Agreement with the substitute Escrow Bank.

7.3 Closure of Escrow Account

The Escrow Bank shall, at the request of the Concessionaire and the Senior Lenders' Representative made on or after the payment by the Concessionaire of all outstanding amounts under the Concession Agreement and the Financing Agreements including the payments specified in Clause 4.2, and upon confirmation of receipt of such payments, close the Escrow Account and Sub- Accounts and pay any amount standing to the credit thereof to the Concessionaire. Upon closure of the Escrow Account hereunder, the Escrow Agreement shall be deemed to be terminated.

8. SUPPLEMENTARY ESCROW AGREEMENT

8.1 Supplementary escrow agreement

The Senior Lenders' Representative and the Concessionaire shall be entitled to enter into a supplementary escrow agreement with the Escrow Bank providing, inter alia, for detailed procedures and documentation for withdrawals from Sub-Accounts pursuant to Clause 4.1.1 and for matters not covered under this Agreement such as the rights and obligations of Senior

Lenders and lenders of Subordinated Debt, investment of surplus funds, restrictions on withdrawals by the Concessionaire in the event of breach of this Agreement or upon occurrence of an Escrow Default, procedures relating to operation of the Escrow Account and withdrawal therefrom, reporting requirements and any matters incidental thereto; provided that such supplementary escrow agreement shall not contain any provision which is inconsistent with this Agreement and in the event of any conflict or inconsistency between provisions of this Agreement and such supplementary escrow agreement, the provisions of this Agreement shall prevail.

9. INDEMNITIES

9.1 General indemnity

9.1.1 The Concessionaire will indemnify, defend and hold the Authority, Escrow Bank and the Senior Lenders, acting through the Senior Lenders' Representative, harmless against any and all proceedings, actions and third-party claims for any loss, damage, cost and expense arising out of any breach by the Concessionaire of any of its obligations under this Agreement or on account of failure of the Concessionaire to comply with Applicable Laws and Applicable Permits.

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

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

9.2 Notice and contest of claims

In the event that any Party hereto receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under Clause 9.1 or in respect of which it is entitled to reimbursement (the "Indemnified Party"), it shall notify the other Party responsible for indemnifying such claim hereunder (the "Indemnifying Party") within 15 (fifteen) days of receipt of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. In the event that the

Indemnifying Party wishes to contest or dispute the claim, it may conduct the proceedings in the name of the Indemnified Party and shall bear all costs involved in contesting the same. The Indemnified Party shall provide all cooperation and assistance in contesting any claim and shall sign all such writings and documents as the Indemnifying Party may reasonably require.

10. DISPUTE RESOLUTION

10.1 Dispute resolution

10.1.1 Any dispute, difference or claim arising out of or in connection with this Agreement, which is not resolved amicably, shall be decided finally by reference to arbitration to a Board of Arbitrators comprising one nominee of each Party to the dispute, and where the number of such nominees is an even number, the nominees shall elect another person to such Board. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the "Rules") or such other rules as may be mutually agreed by the Parties and shall be subject to the provisions of the Arbitration and Conciliation Act, 1996, as amended from time to time.

10.1.2 The Arbitrators shall issue a reasoned award and such award shall be final and binding on the Parties. The place of arbitration shall be Capital of the State and the language of arbitration shall be English.

11. MISCELLANEOUS PROVISIONS

11.1 Governing law and jurisdiction

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

11.2 Waiver of sovereign immunity

The Authority unconditionally and irrevocably:

a. agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;
b. agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Authority with respect to its assets;

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

11.3 Priority of agreements

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

11.4 Alteration of terms

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

11.5 Waiver

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

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

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

11.6 No third party beneficiaries

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

11.7 Survival

11.7.1 Termination of this Agreement:

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

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

11.7.2 All obligations surviving the cancellation, expiration or termination of this Agreement shall only survive for a period of 3 (three) years following the date of such termination or expiry of this Agreement.

11.8 Severability

If for any reason whatever any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to dispute resolution under Clause 10.1 of this Agreement or otherwise.

11.9 Successors and assigns

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

11.10 Notices

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

shall promptly deliver a copy thereof personally or send it by courier or registered post to the addressee of such notice or communication. It is hereby agreed and acknowledged that any Party may by notice change the address to which such notices and communications to it are to be delivered or mailed. Such change shall be effective when all the Parties have notice of it.

11.11 Language

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

11.12 Authorized representatives

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

11.13 Original Document

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

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

THE COMMON SEAL OF CONCESSIONAIRE has been affixed pursuant to the resolution passed by the by the Board of Directors of the Concessionaire has been affixed For and on behalf of pursuant to the resolution passed by the LENDERS by the Board of Directors of the Concessionaire Senior Lenders Representative: at its meeting held on the day of _____20__ hereunto affixed in the presence of , Director, who has signed these presents in token thereof and Company Secretary / Authorized Officer who has countersigned the same in token thereof	SIGNED, SEALED AND DELIVERED For and on behalf of LENDERS by the Senior Lender's representative:
(Signature) (Name)	(Signature) (Name)

(Designation)
(Address)
(Fax No.)
(E-mail address)

SIGNED, SEALED AND DELIVERED
For and on behalf of THE ESCROW BANK by

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)
(E-mail address)

In the presence of:

1

(Designation)
(Address)
(Fax No.)
(E-mail address)

SIGNED, SEALED AND DELIVERED
For and on behalf of THE AUTHORITY by

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)
(E-mail address)

2

SCHEDULE L – SUBSTITUTION AGREEMENT

THIS SUBSTITUTION AGREEMENT is entered into on this the****day of****20**

AMONGST

1. Madurai Corporation, represented by the _____ and having its principal office at Aringar, Anna Malligai, Thallakulam, Madurai- 625002, Tamil Nadu, India (hereinafter referred to as the "Authority" which expression shall unless repugnant to the context or meaning thereof include its administrators, successors and assigns);

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

3. ***** (insert name and particulars of Senior Lenders' Representative) and having its registered office at *****, acting for and on behalf of the Senior Lenders as their duly authorized agent with regard to matters arising out of or in relation to this Agreement (hereinafter referred to as the "Senior Lenders' Representative", which expression shall unless repugnant to the context or meaning thereof include its successors and substitutes)

WHEREAS:

A. The Authority has entered into a Concession Agreement dated ***** With the Concessionaire (the "Concession Agreement") for "Selection of Concessionaire for Establishment of Municipal Waste-to-Energy Facility at Vellaikal, Madurai on Cluster Basis for Madurai Corporation & Other Participating ULBs under Design, Build, Finance, Operate and Transfer (DBFOT) Model on PPP Mode" ("Project") and a copy of which is annexed hereto and marked as Annex-A to form part of this Agreement.

B. Senior Lenders have agreed to finance the Project in accordance with the terms and conditions set forth in the Financing Agreements.

C. Senior Lenders have requested the Authority to enter into this Substitution Agreement for securing their interests through assignment, transfer and substitution of the Concession to a Nominated Company in accordance with the provisions of this Agreement and the Concession Agreement.

D. In order to enable implementation of the Project including its financing, construction, operation and maintenance, the Authority has agreed and undertaken to transfer and assign the

Concession to a Nominated Company in accordance with the terms and conditions set forth in this Agreement and the Concession Agreement.

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

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

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

"Agreement" means this Substitution Agreement and any amendment thereto made in accordance with the provisions contained in this Agreement;

"Financial Default" means occurrence of a material breach of the terms and conditions of the Financing Agreements or a continuous default in Debt Service by the Concessionaire for a minimum period of 3 (three) months;

"Senior Lenders' Representative" means the person referred to as the Senior Lenders' Representative in the foregoing Recitals;

"Nominated Company" means a company, incorporated under the provisions of the Companies Act, 1956/ 2013, including any re-enactment or amendment thereof, selected by the Senior Lenders' Representative, on behalf of Senior Lenders, and proposed to the Authority for assignment/transfer of the Concession as provided in this Agreement;

"Notice of Financial Default" shall have the meaning ascribed thereto in Clause 3.2.1; and

"Parties" means the parties to this Agreement collectively and "Party" shall mean any of the Parties to this Agreement individually.

1.2 Interpretation

1.2.1 References to Senior Lenders' Representative shall, unless repugnant to the context or meaning thereof, mean references to the Senior Lenders' Representative, acting for and on behalf of Senior Lenders.

1.2.2 References to Clauses are, unless stated otherwise, references to Clauses of this Agreement.

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

1.2.4 The rules of interpretation stated in Clauses 1.2 and 1.3 of the Concession Agreement shall apply, mutatis mutandis, to this Agreement.

2. ASSIGNMENT

2.1 Assignment of rights and title

The Concessionaire hereby agrees to assign the rights, title and interest in the Concession to, and in favor of, the Senior Lenders' Representative pursuant to and in accordance with the provisions of this Agreement and the Concession Agreement by way of security in respect of financing by the Senior Lenders under the Financing Agreements.

3. SUBSTITUTION OF THE CONCESSIONAIRE

3.1 Rights of substitution

3.1.1 Pursuant to the rights, title and interest assigned under Clause 2.1, the Senior Lenders' Representative shall be entitled to substitute the Concessionaire by a Nominated Company under and in accordance with the provisions of this Agreement and the Concession Agreement.

3.1.2 The Authority hereby agrees to substitute the Concessionaire by endorsement on the Concession Agreement in favor of the Nominated Company selected by the Senior Lenders' Representative in accordance with this Agreement. For the avoidance of doubt, the Senior Lenders or the Senior Lenders' Representative shall not be entitled to operate and maintain the Project as Concessionaire either individually or collectively.

3.2 Substitution upon occurrence of Financial Default

3.2.1 Upon occurrence of a Financial Default, the Senior Lenders' Representative may issue a notice to the Concessionaire (the "Notice of Financial Default") along with particulars thereof, and send a copy to the Authority for its information and record. A Notice of Financial Default under this Clause 3 shall be conclusive evidence of such Financial Default and it shall be final and binding upon the Concessionaire for the purposes of this Agreement.

3.2.2 Upon issue of a Notice of Financial Default hereunder, the Senior Lenders' Representative may, without prejudice to any of its rights or remedies under this Agreement or the Financing Agreements, substitute the Concessionaire by a Nominated Company in accordance with the provisions of this Agreement.

3.2.3 At any time after the Senior Lenders' Representative has issued a Notice of Financial Default, it may by notice require the Authority to suspend all the rights of the Concessionaire and undertake the operation and maintenance of the Project in accordance with the provisions of Articles 27, 28 and 29 of the Concession Agreement, and upon receipt of such notice, the Authority shall undertake Suspension under and in accordance with the provisions of the Concession Agreement. The aforesaid Suspension shall be revoked upon substitution of the Concessionaire by a Nominated Company, and in the event such substitution is not completed within 180 (one hundred and eighty) days from the date of such Suspension, the Authority may terminate the Concession Agreement forthwith by issuing a Termination Notice in accordance with the provisions of the Concession Agreement; provided that upon written request from the Senior Lenders' Representative and the Concessionaire, the Authority may extend the aforesaid period of 180 (one hundred and eighty) days by a period not exceeding 90 (ninety) days. For the avoidance of doubt, the Authority expressly agrees and undertakes to terminate the Concession Agreement forthwith, upon receipt of a written request from the Senior Lenders' Representative at any time after 240 (two hundred and forty) days from the date of Suspension hereunder.

3.3 Substitution upon occurrence of Concessionaire Default

3.3.1 Upon occurrence of a Concessionaire Default, the Authority shall by a notice inform the Senior Lenders' Representative of its intention to issue a Termination Notice and grant 15 (fifteen) days' time to the Senior Lenders' Representative to make a representation, stating the intention to substitute the Concessionaire by a Nominated Company.

3.3.2 In the event that the Senior Lenders' Representative makes a representation to the Authority within the period of 15 (fifteen) days specified in Clause 3.3.1, stating that it intends to substitute the Concessionaire by a Nominated Company, the Senior Lenders' Representative shall be entitled to undertake and complete the substitution of the Concessionaire by a Nominated Company in accordance with the provisions of this Agreement within a period of 180 (one hundred and eighty) days from the date of such representation, and the Authority shall either withhold Termination or undertake Suspension for the aforesaid period of 180 (one hundred and eighty) days; provided that upon written request from the Senior Lenders' Representative and the Concessionaire, the Authority shall extend the aforesaid period of 180 (one hundred and eighty) days by a period not exceeding 90 (ninety) days; provided further that the Senior Lenders' Representative may at any time withdraw its representation hereunder and

upon such withdrawal, the Authority may terminate this Agreement in accordance with the provisions hereof.

3.4 Procedure for substitution

3.4.1 The Authority and the Concessionaire hereby agree that on or after the date of Notice of Financial Default or the date of representation to the Authority under Clause 3.3.2, as the case may be, the Senior Lenders' Representative may, without prejudice to any of the other rights or remedies of the Senior Lenders, invite, negotiate and procure offers, either by private negotiations or public auction or tenders for the take over and transfer of the Project including the Concession to the Nominated Company upon such Nominated Company's assumption of the liabilities and obligations of the Concessionaire towards the Authority under the Concession Agreement and towards the Senior Lenders under the Financing Agreements.

3.4.2 To be eligible for substitution in place of the Concessionaire, the Nominated Company shall be required to fulfil the eligibility criteria that were laid down by the Authority for short listing the bidders for award of the Concession; provided that the Senior Lenders' Representative may represent to the Authority that all or any of such criteria may be waived in the interest of the Project, and if the Authority determines that such waiver shall not have any material adverse effect on the Project, it may waive all or any of such eligibility criteria.

3.4.3 Upon selection of a Nominated Company, the Senior Lenders' Representative shall request the Authority to:

a. Accede to transfer to the Nominated Company the right to construct, operate and maintain the Project in accordance with the provisions of the Concession Agreement;
b. Endorse and transfer the Concession to the Nominated Company, on the same terms and conditions, for the residual Concession Period; and
c. Enter into a Substitution Agreement with the Senior Lenders' Representative and the Nominated Company on the same terms as are contained in this Agreement.

3.4.4 If the Authority has any objection to the transfer of Concession in favor of the Nominated Company in accordance with this Agreement, it shall within 15 (fifteen) days from the date of proposal made by the Senior Lenders' Representative, give a reasoned order after hearing the Senior Lenders' Representative. If no such objection is raised by the Authority, the Nominated Company shall be deemed to have been accepted. The Authority shall thereupon transfer and endorse the Concession within 15 (fifteen) days of its acceptance/deemed acceptance of the Nominated Company; provided that in the event of such objection by the Authority, the Senior Lenders' Representative may propose another Nominated Company whereupon the procedure set forth in this Clause 3.4 shall be followed for substitution of such Nominated Company in place of the Concessionaire.

3.4.5 The transfer of Concession hereunder to a Nominated Company may, notwithstanding anything to the contrary in this Agreement and the Concession Agreement, be undertaken by transfer of no less than 75% (seventy five percent) of the equity of the Concessionaire to the Nominated Company, and upon such transfer hereunder, the Concessionaire shall be deemed to be the Nominated Company under and in accordance with the provisions of this Agreement and the Concession Agreement.

3.5 Selection to be binding

The decision of the Senior Lenders' Representative and the Authority in selection of the Nominated Company shall be final and binding on the Concessionaire. The Concessionaire irrevocably agrees and waives any right to challenge the actions of the Senior Lenders' Representative or the Senior Lenders or the Authority taken pursuant to this Agreement including the transfer/assignment of the Concession in favor of the Nominated Company. The Concessionaire agrees and confirms that it shall not have any right to seek revaluation of assets of the Project or the Concessionaire's shares. It is hereby acknowledged by the Parties that the rights of the Senior Lenders' Representative are irrevocable and shall not be contested in any proceedings before any court or Authority and the Concessionaire shall have no right or remedy to prevent, obstruct or restrain the Authority or the Senior Lenders' Representative from effecting or causing the transfer by substitution and endorsement of the Concession as requested by the Senior Lenders' Representative.

4. PROJECT AGREEMENTS

4.1 Substitution of Nominated Company in Project Agreements

The Concessionaire shall ensure and procure that each Project Agreement contains provisions that entitle the Nominated Company to step into such Project Agreement, in its discretion, in place and substitution of the Concessionaire in the event of such Nominated Company's assumption of the liabilities and obligations of the Concessionaire under the Concession Agreement.

5. TERMINATION OF CONCESSION AGREEMENT

5.1 Termination upon occurrence of Financial Default

At any time after issue of a Notice of Financial Default, the Senior Lenders' Representative may by a notice in writing require the Authority to terminate the Concession Agreement forthwith, and upon receipt of such notice, the Authority shall undertake Termination under and in accordance with the provisions of Articles 28 and 29 of the Concession Agreement.

5.2 Termination when no Nominated Company is selected

In the event that no Nominated Company acceptable to the Authority is selected and recommended by the Senior Lenders' Representative within the period of 180 (one hundred and eighty) days or any extension thereof as set forth in Clause 3.3.2, the Authority may terminate the Concession Agreement forthwith in accordance with the provisions thereof.

5.3 Realization of Debt Due

The Authority and the Concessionaire hereby acknowledge and agree that, without prejudice to their any other right or remedy, the Senior Lenders' Representative is entitled to receive from the Concessionaire, without any further reference to or consent of the Concessionaire, the Debt Due upon Termination of the Concession Agreement. For realization of the Debt Due, the Senior Lenders' Representative shall be entitled to make its claim from the Escrow Account in accordance with the provisions of the Concession Agreement and the Escrow Agreement.

6. DURATION OF THE AGREEMENT

6.1 Duration of the Agreement

This Agreement shall come into force from the date hereof and shall expire at the earliest to occur of the following events:

a. Termination of the Agreement; or

b. No sum remains to be advanced and no sum are outstanding to the Senior Lenders, under the Financing Agreements.

7. INDEMNITY

7.1 General indemnity

7.1.1 The Concessionaire will indemnify, defend and hold the Authority and the Senior Lenders' Representative harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense of whatever kind and nature arising out of any breach by the Concessionaire of any of its obligations under this Agreement or on account of failure of the Concessionaire to comply with Applicable Laws and Applicable Permits.

7.1.2 The Authority will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Authority to fulfil any of its obligations under this Agreement, materially and

adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement or this Agreement, other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Authority, its officers, servants and agents.

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

7.2 Notice and contest of claims

In the event that any Party hereto receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under Clause 7.1 or in respect of which it is entitled to reimbursement (the "Indemnified Party"), it shall notify the other Party responsible for indemnifying such claim hereunder (the "Indemnifying Party") within 15 (fifteen) days of receipt of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, such approval not to be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim, it may conduct the proceedings in the name of the Indemnified Party and shall bear all costs involved in contesting the same. The Indemnified Party shall provide all cooperation and assistance in contesting any claim and shall sign all such writings and documents as the Indemnifying Party may reasonably require.

8. DISPUTE RESOLUTION

8.1 Dispute resolution

8.1.1 Any dispute, difference or claim arising out of or in connection with this Agreement which is not resolved amicably shall be decided by reference to arbitration to a Board of Arbitrators comprising one nominee each of the Authority, Concessionaire and the Senior Lenders' Representative. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the "Rules") or such other rules as may be mutually agreed by the Parties and shall be subject to provisions of the Arbitration and Conciliation Act, 1996.

8.1.2 The Arbitrators shall issue a reasoned award and such award shall be final and binding on the Parties. The place of arbitration shall be the capital of the State and the language of arbitration shall be English.

9. MISCELLANEOUS PROVISIONS

9.1 Governing law and jurisdiction

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

9.2 Waiver of sovereign immunity

The Authority unconditionally and irrevocably:

a. agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;

b. agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Authority with respect to its assets;

c. waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and

d. consents generally in respect of the enforcement of any judgment or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgment that may be made or given in connection therewith).

9.3 Priority of agreements

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

9.4 Alteration of terms

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

9.5 Waiver

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

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

b. Shall not be effective unless it is in writing and executed by a duly authorized representative of the Party; and

c. Shall not affect the validity or enforceability of this Agreement in any manner.

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

9.6 No third party beneficiaries

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

9.7 Survival

9.7.1 Termination of this Agreement:

a. Shall not relieve the Parties of any obligations hereunder which expressly or by implication survive termination hereof; and

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

9.7.2 All obligations surviving the cancellation, expiration or termination of this Agreement shall only survive for a period of 3 (three) years following the date of such termination or expiry of this Agreement.

9.8 Severability

If for any reason whatever any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to dispute resolution under Clause 8 of this Agreement or otherwise.

9.9 Successors and assigns

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

9.10 Notices

All notices or other communications to be given or made under this Agreement shall be in writing, shall either be delivered personally or sent by courier or registered post with an additional copy to be sent by facsimile or e-mail. The address for service of each Party, its facsimile number and email address are set out under its name on the signing pages hereto. A notice shall be effective upon actual receipt thereof, save that where it is received after 5.30 (five thirty) p.m. on any day, or on a day that is a public holiday, the notice shall be deemed to be received on the first working day following the date of actual receipt. Without prejudice to the foregoing, a Party giving or making a notice or communication by facsimile or e-mail shall promptly deliver a copy thereof personally, or send it by courier or registered post to the addressee of such notice or communication. It is hereby agreed and acknowledged that any Party may by notice change the address to which such notices and communications to it are to be delivered or mailed. Such change shall be effective when all the Parties have notice of it.

9.11 Language

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

9.12 Authorized representatives

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

9.13 Original Document

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

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

THE COMMON SEAL OF CONCESSIONAIRE has been affixed pursuant to the resolution passed by the Board of Directors of the Concessionaire at its meeting held on the ****day of the *****20**here unto affixed in to the presence of******the Director, who has signed these presents in token thereof, ****Company Secretary /Authorized Officer who has countersigned the same in token thereof

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)
(E-mail address)

SIGNED, SEALED AND DELIVERED
For and behalf of THE AUTHORITY by:

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)
(E-mail address)

SIGNED, SEALED AND DELIVERED
For and on behalf of

LENDERS by Senior Lenders' Representative:
(Signature)
(Name)
(Designation)
(Address)
(Fax No.)
(E-mail address)

In the presence of:

1.

2.

SCHEDULE M – POWER PURCHASE AGREEMENT (PPA)

(SUBJECT TO APPROVAL BY TNERC)

SCHEDULE N – COMPLETION CERTIFICATE

COMPLETION CERTIFICATE

1. I/We, …….. (Name of the Independent Engineer), acting as Independent Engineer, under and in accordance with the Concession Agreement dated …… (the "Agreement"), for the …….. (the "Project"), through …….. (Name of Concessionaire), hereby certify that the Tests specified in Article 16 of the Agreement have been successfully undertaken to determine compliance of the Project and the Project Facilities with the provisions of the Agreement, and I/We am/are satisfied that the Project Facilities can be safely and reliably placed in commercial service thereof.

2. It is certified that, in terms of the aforesaid Agreement, all works forming part of the Project have been completed, and the Project is hereby declared fit for entry into commercial operation on this the …… day of …… 20…….

SIGNED, SEALED AND DELIVERED

For and on behalf of

the INDEPENDENT ENGINEER by:

(Signature)

(Name)

(Designation)

(Address)

PROVISIONAL CERTIFICATE

1. I/We, …… (Name of the Independent Engineer), acting as Independent Engineer, under and in accordance with the Concession Agreement dated …….. (the "Agreement"), for the …….. (the "Project") through ..... (Name of Concessionaire), hereby certify that the Tests specified in Article 14 and Schedule-I of the Agreement have been undertaken for the Project to determine compliance thereof with the provisions of the Agreement.

2. Construction Works forming part of the Project that were found to be incomplete and/or deficient have been specified in the Punch List appended hereto, and the Concessionaire has agreed and accepted that it shall complete and/or rectify all such works in the time and manner set forth in the Agreement. (Some of the incomplete works have been delayed as a result of reasons attributable to the Authority or due to Force Majeure and the Provisional Certificate cannot be withheld on this account. Though the remaining incomplete works have been delayed as a result of reasons attributable to the Concessionaire,)[$] I/We am/are satisfied that having regard to the nature and extent of such incomplete works, it would not be prudent to withhold commercial operation of the Project, pending completion thereof.

3. In view of the foregoing, I/We am/are satisfied that the Project can be safely and reliably placed in commercial service thereof, and in terms of the Agreement, the Project is hereby provisionally declared fit for entry into commercial operation on this the …….. day of …….. 20…….

ACCEPTED, SIGNED, SEALED

ACCEPTED, SIGNED, SEALED

For and on behalf of

CONCESSIONAIRE by: SIGNED, SEALED AND

DELIVERED

For and on behalf of

INDEPENDENT ENGINEER by:

(Signature)

(Name and Designation)

(Address) (Signature)

(Name and Designation)

(Address)

$ May be struck out if not applicable. Also strike out other parts which are not applicable.