CONCESSION AGREEMENT

BETWEEN
TIRUNELVELI CITY MUNICIPAL CORPORATION
(THE AUTHORITY)

AND

_____

(THE CONCESSIONAIRE)

FOR

SETTING UP OF AN 50 TPD MUNICIPAL SOLID WASTE BASED BIO-CNG PLANT ON DESIGN, BUILD, FINANCE, OPERATE AND TRANSFER (DBFOT) BASIS UNDER PPP MODE FOR A CONCESSION PERIOD OF 21 YEARS

DATED _____

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CONCESSION AGREEMENT

THIS CONCESSION AGREEMENT is made at _____ on this the _____ day of _____

BETWEEN:

1. Tirunelveli **City Municipal Corporation,** represented by its Commissioner and having its principal office at S.N. High Road, Tirunelveli – 627 001, Tamil Nadu, hereinafter referred to as **"the Authority"** (which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns) of One Part;

AND

2. _____**,** a special purpose company incorporated under the Companies Act, 2013, with Corporate Identity Number (CIN) _____and having its registered office at ……, represented by its ……. authorized vide Board Resolution dated …… 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) of the Second Part;

The Authority, and Concessionaire individually referred to as "Party" and jointly as "Parties"

WHEREAS:

A. The Authority is desirous of selecting a Concessionaire for setting up of 50 TPD Municipal Solid Waste based Bio-CNG plant and undertaking Operation & Maintenance on Design, Build, Finance, Operate and Transfer (DBFOT) model under PPP mode;

B. The Authority, vide RFP No. _____ dated _____, invited bids from interested parties for setting up of an 50 TPD Municipal Solid Waste-based Bio-CNG Plant, as referred to in Recital 'A' above;

C. In response to the invitation referred to in recital 'B' above, the Authority received the bid dated _____ submitted by the Applicant in accordance with the RFP conditions;

D. The Authority, after evaluating the Proposal received by it from the Applicant, accepted the Proposal referred to in recital "C" above submitted by the Applicant and communicated its acceptance to the Applicant vide Letter of Intent for Award of Concession dated _____;

E. The Concessionaire has incorporated a special purpose company in India, under the Companies Act, 2013 to implement the Project;

F. Following the issue of the Letter of Award for award of Concession, the Authority has agreed to enter into this Concession Agreement with the Concessionaire for establishing the Project on Design, Build, Finance, Operate & Transfer basis on the terms, conditions and covenants hereinafter set forth in this Agreement.

NOW, THIS AGREEMENT WITNESSETH AS FOLLOWS:

ARTICLE 1

DEFINITIONS AND INTERPRETATION

1.1. Definitions

In this Agreement, unless the context otherwise requires the following terms shall have the following meanings assigned/ascribed thereto: -

"**Acceptable Waste**" means source-segregated biodegradable organic waste, suitable for processing through bio-methanation, generated from households, commercial establishments, markets, hotels, restaurants, institutions, agricultural activities, dairy farms and other similar organic waste sources, and may include food waste, vegetable and fruit waste, agricultural residues, dairy waste and other biodegradable organic waste. Acceptable Waste shall exclude all Prohibited Waste and may contain impurities not exceeding 20% (twenty percent) by weight, as determined at the Receipt Point in accordance with the Waste Acceptance and Rejection Plan.

"**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 Waste to Bio-CNG Plant, and which shall be notified to the Concessionaire at least [3 (three)] months prior to the Scheduled COD;

"Acceptable Waste Quantity" means the quantity of Acceptable Waste, expressed in tonnes, determined at the Receipt Point after deducting the quantity of Prohibited Waste and rejected waste identified in accordance with the Waste Acceptance and Rejection Plan.

"**Accounting Year**" means the financial year commencing from the first day of April of any calendar year and ending on the thirty-first day of March of the next calendar year;

"Adjoining Property" means any land, building, structure or other immovable property adjacent to or sharing a common boundary with the Site;

"**Adjusted 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 till the expiry of the Concession Period, an amount equal to the Adjusted Equity as on COD shall be deemed to be the base (the "Base Adjusted Equity") and the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, revised at the commencement of each year following COD to the extent of variations in WPI occurring between COD and 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.

"**Affected Party**" shall have the meaning as set forth in Clause 27.1;

"**Affiliate" or "Associate"** means, with respect to any Party and/or with respect to the Applicant and/or with respect to any member of Consortium, any other Person directly or indirectly controlling, controlled by or under common control with such Party, Applicant and/or member of Consortium. For the purposes of this definition, the term "control" (including with correlative meaning, the terms "controlled by" and "under common control with") as applied to any Party or Applicant or a member of Consortium, means the possession, directly or indirectly, of the power to direct or cause the direction of the management of that Party or Applicant or a member of Consortium whether through ownership of 50 (Fifty) % or more of the voting securities, by contract, or otherwise;

"**Agreement**" or "**Concession Agreement**" means this Agreement, its Recitals, and the Schedules hereto and any amendments thereto made in accordance with the provisions contained in this Agreement;

"**Appendix**" shall have the meaning as set forth in Clause 10.4.(a);

"**Applicable Laws**" means all laws, brought into force and effect by GOI or the State Government including rules, regulations and notifications made thereunder, and judgments, decrees, injunctions, writs and orders of any court of record, applicable to this Agreement and the exercise, performance and discharge of the respective rights and obligations of the Parties hereunder, as may be in force and effect during the subsistence of this Agreement;

"**Applicable Permits**" means all clearances, licenses, permits, authorizations, no objection certificates, consents, approvals, applicable Development Control Regulations/Zoning Regulations and exemptions required to be obtained or maintained under Applicable Laws in connection with the construction, operation and maintenance of the Project during the subsistence of this Agreement and amendment or modification in to or any re- enactment thereof, as may come in force from time to time;

"**Applicant**" means M/s _____;

"**Application**" means the Proposal and the entire set of documents submitted by the Applicant in response to the RFP;

"**Appointed Date**" means the date on which Financial Close is achieved and every Condition Precedent is satisfied or waived, in accordance with the provisions of this Agreement. For the avoidance of doubt, every Condition Precedent shall have been satisfied or waived prior to the Appointed Date and in the event all Conditions Precedent are not satisfied or waived, as the case may be, the Appointed Date shall be deemed to occur only when each and every Condition Precedent is either satisfied or waived, as the case may be;

"Associated Infrastructure" means all civil works, buildings, utility systems, storage facilities, internal roads, drainage, weighbridge, power supply, water supply, effluent treatment facilities, digestate handling facilities, gas upgrading, compression and bottling systems, electrical and mechanical installations, instrumentation, fire protection systems, and all other ancillary facilities required for the construction, operation and maintenance of the Project Facility.

"**Authority**" shall have the meaning attributed thereto in the array of Parties as set forth in the Recitals;

"**Authority Default**" shall have the meaning as set forth in Clause 30.2.(a);

"**Authority Indemnified Persons**" shall have the meaning set forth in Clause 35.1.(a);

"**Authority Representative**" means such person or persons as may be authorized in writing by the Authority to act on its behalf under this Agreement and shall include any person or persons having authority to exercise any rights or perform and fulfil any obligations of the Authority under this Agreement;

"**Bank Rate**" means the rate of interest specified by the Reserve Bank of India from time to time in pursuance of section 49 of the Reserve Bank of India Act, 1934 or any replacement of such Bank Rate for the time being in effect;

"**Bid Security**" means the security provided by the Concessionaire to the Authority along with the Bid, in accordance with the Request for Proposals, and which is to remain in force until substituted by the Performance Security;

"**Biodegradable Waste**" means any organic material that can be degraded by micro-organisms into simpler stable compounds as defined in SWM rules 2026;

"Bio-CNG Plant" or "CBG Plant" or "Project Facility" means the Waste-to-Bio-CNG/Compressed Bio-Gas (CBG) Facility, together with all Associated Infrastructure, to be designed, constructed, installed, commissioned, operated and maintained by the Concessionaire at the Project Site for processing Biodegradable Waste into Bio-CNG/CBG and other by-products in accordance with the provisions of this Agreement;

"**Bio-medical Waste**" shall have the meaning as defined under the Bio-Medical Waste Management Rules, 2016 and as amended thereto;

"By-Products" means all products, co-products and residual outputs generated from the processing of Acceptable Waste at the Project Facility, other than the Bio-CNG/CBG Output, including but not limited to digestate, organic manure, compost, liquid bio-fertiliser, recovered carbon dioxide and such other products as may be generated in accordance with Applicable Laws;

"**COD**" or "**Commercial Operation Date**" shall have the meaning as set forth in Clause 15.1;

"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 law relating to taxation of the income of the Concessionaire, including the Income-tax Act, as amended, re-enacted or replaced from time to time, insofar as it relates to taxes on the income of the Concessionaire, and change in tariff of utilities;

"Change in Ownership" means any direct or indirect transfer, acquisition, sale, assignment, creation of encumbrance over, or other disposition of Equity Shares or voting rights in the Concessionaire, or any transaction resulting in a change in the ownership or control of the Concessionaire. Any breach of the equity lock-in conditions as prescribed in the Clause 5.18 shall be construed as "Change in Ownership" under this definition.

"**Change of Scope**" shall have the meaning as set forth in Clause 16.1.(a);

"**Company**" means the company acting as the Concessionaire under this Agreement;

"**Completion Certificate**" shall have the meaning as set forth in Clause 14.2;

"**Composting**" means a controlled process involving microbial decomposition of organic matter;

"**Compressed Biogas (CBG)" or "Bio-CNG**" means compressed biogas that is purified [as per Bureau of Indian Standards IS16087:2016];

"**Concession**" shall have the meaning as set forth in Clause 3.1;

"**Concessionaire**" shall have the meaning attributed thereto in the array of Parties as set forth in the Recitals;

"**Concession Period**" means the period starting on and from the Appointed Date and ending on the Transfer Date;

"**Concessionaire Default**" shall have the meaning as set forth in Clause 30.1.(a);

"**Conditions Precedent**" shall have the meaning as set forth in Clause 4.1;

"**Construction Period**" means the period beginning from the Appointed Date and ending on COD;

"**Construction Works**" means all works and things necessary to complete the Project in accordance with this Agreement;

"**Contractor**" means the person or persons, as the case may be, with whom the Concessionaire has entered into any of the EPC Contract, the O&M Contract or any other material agreement or contract for construction, operation and/or maintenance of the Project or matters incidental thereto, but does not include a person who has entered into an agreement for providing financial assistance to the Concessionaire;

"**C&T Contractors**" means the contractors appointed by the Authority for collection and transportation of waste;

"**Cure Period**" means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Party responsible for such breach or default and shall:

a. commence from the date on which a notice is delivered by one Party to the other Party asking the latter to cure the breach or default specified in such notice;

b. not relieve any Party from liability to pay Damages or compensation under the provisions of this Agreement; and

c. not in any way be extended by any period of Suspension under this Agreement;

provided that if the cure of any breach by the Concessionaire requires any reasonable action by the Concessionaire that must be approved by the Authority or the Independent Engineer hereunder, the applicable Cure Period shall be extended by the period taken by the Authority or the Independent Engineer to accord their approval;

"**Debt Due**" means the aggregate of the following sums expressed in Indian Rupees outstanding on the Transfer Date:

a. the principal amount of the debt provided by the Senior Lenders under the Financing Agreements for financing the Total Project Cost (the "principal") but excluding any part of the principal that had fallen due for repayment two years prior to the Transfer Date;

b. all accrued interest, financing fees and charges payable under the Financing Agreements on, or in respect of, the debt referred to in Sub-clause (a) above until the Transfer Date but excluding (i) any interest, fees or charges that had fallen due one year prior to the Transfer Date, (ii) any penal interest or charges payable under the Financing Agreements to any Lender, and (iii) any pre-payment charges in relation to accelerated repayment of debt except where such charges have arisen due to Authority Default; and

c. any Subordinated Debt which is included in the Financial Package and disbursed by lenders for financing the Total Project Cost;

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

provided further that the Debt Due, on or after COD, shall in no case exceed 70% (seventy percent) of the Total Project Cost;

"**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 Lenders for and in respect of Debt Due under the Financing Agreements;

"**Development Period**" means the period from the date of this Agreement until the Appointed Date;

"**Disposal Point**" means the Disposal Location (as notified by the Authority), in accordance with this Agreement.

"**Dispute**" shall have the meaning as set forth in Clause 37.1.(a);

"**Dispute Resolution Procedure**" means the procedure for resolution of Disputes as set forth in Article 37;

"**Divestment Requirements**" means the obligations of the Concessionaire in relation to the transfer and handover of the Project Assets upon expiry of the Concession Period by efflux of time or upon earlier Termination of this Agreement, as set forth in Clause 31.1;

"**Document**" or "**Documentation**" means documentation in printed or written form, or in tapes, discs, drawings, computer programmers, writings, reports, photographs, films, cassettes, or expressed in any other written, electronic, audio or visual form;

"**Drawings**" means all of the drawings, calculations and documents pertaining to the Project as set forth in Schedule-E, and shall include 'as built' drawings of the Project;

"**EPC Contract**" means the engineering, procurement and construction contract or contracts entered into by the Concessionaire with one or more Contractors for, inter alia, engineering and construction of the Project in accordance with the provisions of this Agreement;

"**EPC Contractor**" means the person with whom the Concessionaire has entered into an EPC Contract;

"**Emergency**" means a condition or situation that is likely to endanger the security of the individuals on or about the Project, including Users thereof, or which poses an immediate threat of material damage to any of the Project Assets;

"**Encumbrances**" means, in relation to the Project, any encumbrances such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations, and shall include any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Project, where applicable herein but excluding utilities referred to in Clause 11.1;

"**Equity**" means the sum expressed in Indian Rupees representing the paid up equity share capital of the Concessionaire for meeting the equity component of the Total Project Cost, and for the purposes of this Agreement shall include convertible instruments or other similar forms of capital, which shall compulsorily convert into equity share capital of the Company, and any interest-free funds advanced by any shareholder of the Company for meeting such equity component;

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

"**Escrow Agreement**" shall have the meaning as set forth in Clause 24.1;

"**Escrow Bank**" shall have the meaning as set forth in Clause 24.1;

"**Escrow Default**" shall have the meaning as set forth in Schedule-O;

"Execution Date" shall mean the date of signing of this Concession Agreement;

"**Expert**" means any person, body or organization of repute with recognized technical/ professional expertise in respect of any field, matter or subject relevant for the purpose of this Agreement;

"**Financial Close**" means the fulfilment of all Conditions Precedent to the initial availability of funds under the Financing Agreements;

"**Financial Default**" shall have the meaning as set forth in Schedule-Q;

"**Financial Model**" means the financial model adopted by Lenders, setting forth the capital and operating costs of the Project and revenues therefrom on the basis of which financial viability of the Project has been determined by the Lenders, and includes a description of the assumptions and parameters used for making calculations and projections therein; in case the Project is entirely funded by the Concessionaire through their own funds, "Financial Model" means the financial model submitted to and approved by the Authority;

"**Financial Package**" means the financing package indicating the total capital cost of the Project and the means of financing thereof, as set forth in the Financial Model and approved by the Lenders, and includes Equity, all financial assistance specified in the Financing Agreements and Subordinated Debt, if any;

"**Financing Agreements**" means the agreements executed by the Concessionaire in respect of financial assistance to be provided by the Lenders by way of loans, guarantees, subscription to non-convertible debentures and other debt instruments including loan agreements, guarantees, notes, debentures, bonds and other debt instruments, security agreements, and other documents relating to the financing (including refinancing) of the Total Project Cost, and includes amendments or modifications made in accordance with Clause 5.2.(c);

"**Forced Unavailability**" means any period during which the Project Facility is unavailable for operation due to any act, omission, default, negligence or failure of the Concessionaire, its Contractors, Personnel or any Person acting on its behalf, including any failure to maintain, repair or operate the Project Facility in accordance with this Agreement, but excluding any period of Force Majeure or any event attributable to the Authority;

"**Force Majeure**" or "**Force Majeure Event**" shall have the meaning ascribed to it in Clause 27.1;

"**GOI**" means the Government of India;

"**Good Industry Practice**" means the practices, methods, techniques, designs, standards, skills, diligence, efficiency, reliability and prudence which are generally and reasonably expected from a reasonably skilled and experienced operator engaged in the same type of undertaking as envisaged under this Agreement and which would be expected to result in the performance of its obligations by the Concessionaire in accordance with this Agreement, Applicable Laws and Applicable Permits in reliable, safe, economical and efficient manner;

"**Government**" means the Government of Tamil Nadu;

"**Government Instrumentality**" means any department, division or sub-division of the Government of India or the State Government and includes any commission, board, authority, agency or municipal and other local authority or statutory body, including Panchayat, under the control of the Government of India 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;

"**Guaranteed Acceptable Waste Quantity**" means 50 TPD of Acceptable Waste with a variation of (+/-) 20%;

"**Hazardous Waste**" shall have the meaning assigned to it under the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, as amended, modified, re-enacted or replaced from time to time;

"**Impurities**" means non-biodegradable fraction of MSW;

"**Indemnified Party**" means the Party entitled to the benefit of an indemnity pursuant to Article 35;

"**Independent Engineer**" shall have the meaning as set forth in Clause 20.1;

"**Indirect Political Event**" shall have the meaning as set forth in Clause 27.3;

"**Insolvency Event**" in respect of a Party means: (a) such Party has (A) applied for or consented to the appointment of, or the taking of possession by, a receiver, custodian, trustee, administrator, liquidator or the like of itself or of all or a substantial part of its assets or business; (B) been unable to pay its debts as such debts become due; (C) enters into a compromise arrangement with its creditors ; (D) an attachment or restraint has been levied on the assets of such entity Party which materially affects such Party's ability to perform its obligations under this Agreement; (E) commenced proceedings under the (Indian) Insolvency and Bankruptcy Code, 2016 ("Code"); (F) filed a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; or (G) taken any corporate or other action for the purpose of effecting any of the foregoing; or (b) a proceeding or case has been commenced without the application or consent of such Party in any court of competent jurisdiction seeking (A) its liquidation, reorganization, dissolution or winding-up or the composition or readjustment of debts or, (B) the appointment of an insolvency resolution professional, a trustee, receiver, custodian, administrator, liquidator or the like of such Party under the Code and an order admitting the

insolvency petition has been passed in such proceeding and such order has not been stayed or dismissed within a period of [90 (ninety)] days or (C) directions with the same or similar effect happen under the provisions of the Companies Act, 1965 or the Companies Act, 2013 or the Code in relation to the winding up of the company;

"**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 Clause 25.2 but not actually taken, and when used in the context of any act or event, it shall mean the aggregate of the maximum sums insured and payable or deemed to be insured and payable in relation to such act or event;

"**Intellectual Property**" means all patents, trademarks, service marks, logos, get-up, trade names, internet domain names, rights in designs, blue prints, programs and manuals, drawings, copyright (including rights in computer software), database rights, semi-conductor, topography rights, utility models, rights in know-how and other intellectual property rights, in each case whether registered or unregistered and including applications for registration, and all rights or forms of protection having equivalent or similar effect anywhere in the world;

"**Lenders**" means the financial institutions, banks, multilateral lending agencies, , 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 paripassu charge on the assets, rights, title and interests of the Concessionaire;

"**Lenders' Representative**" means the person duly authorized by the Lenders to act for and on behalf of the Lenders with regard to matters arising out of or in relation to this Agreement, and includes his successors, assigns and substitutes;

"**License Fee**" shall have the meaning assigned to it under Article 22.1.(a);

"**Licensed Premises**" shall have the meaning as set forth in Clause 10.2.(b);

"**Material Adverse Effect**" means a material adverse effect of any act or event on the ability of either Party to perform any of its obligations under and in accordance with the provisions of this Agreement and which act or event causes a material financial burden or loss to either Party;

"**Material Breach**" a breach by any Party of any of its obligations under this Agreement which has or is likely to have a Material Adverse Effect on the Project and which such Party shall have failed to cure;

"**MSW**" or "**Municipal Solid Waste**" or "**Solid Waste**" means solid or semi-solid waste generated by households, public services, agricultural activities, commercial establishments and industries and shall include Solid Waste, and Organic Waste, but shall not include the Prohibited Wastes, as defined herein;

"**Nominated Company**" means a company selected by the Lenders' Representative and proposed to the Authority for substituting the Concessionaire in accordance with the provisions of the Substitution Agreement;

"**Non-Political Event**" shall have the meaning as set forth in Clause 27.2;

"**O&M**" means the operation and maintenance of the Project and includes all matters connected with or incidental to such operation and maintenance, provision of services and facilities in accordance with the provisions of this Agreement;

"**O&M Contract**" means the operation and maintenance contract that may be entered into between the Concessionaire and the O&M Contractor for performance of all or any of the O&M obligations;

"**O&M Contractor**" means the person, if any, with whom the Concessionaire has entered into an O&M Contract for discharging O&M obligations for and on behalf of the Concessionaire;

"**O&M Expenses**" means expenses incurred by or on behalf of the Concessionaire or by the Authority, as the case may be, for all O&M including (a) cost of salaries and other compensation to employees, (b) cost of materials, supplies, utilities and other services, (c) premium for insurance, (d) all taxes, duties, cess and fees due and payable for O&M, (e) all repair, replacement, reconstruction, reinstatement, improvement and maintenance costs, (f) payments required to be made under the O&M Contract or any other contract in connection with or incidental to O&M, and (g) all other expenditure required to be incurred under Applicable Laws, Applicable Permits or this Agreement;

"**O&M Inspection Report**" shall have the meaning as set forth in Clause 19.3;

"**Offtake Agreement**" means any agreement entered into by the Concessionaire with an Offtaker for the sale, purchase and offtake of Bio-CNG/CBG Output, By-Products and/or such other products generated at the Project Facility, in accordance with the provisions of this Agreement and Applicable Laws;

"Offtaker" means any person, entity, company, Government agency or other purchaser who enters into an Offtake Agreement with the Concessionaire for the purchase of Bio-CNG/CBG Output, By-Products or any other products generated at the Project Facility;

"**Operation Period**" means the period commencing from COD and ending on the Transfer Date;

"**Organic Waste**" means such type of Waste that can be degraded by microorganisms;

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

"**Performance Guarantee**" shall have the meaning as set forth in Clause 32.2.(c);

"**Performance Security**" shall have the meaning as set forth in Clause 9.1;

"**Political Event**" shall have the meaning as set forth in Clause 27.4;

"**Prohibited Waste**" means hazardous waste (as defined under the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016), 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 Battery Waste Management Rules, 2022), radioactive waste (as defined under the Atomic Energy (Safe disposal of Radioactive Wastes) Rules, 1987), sludge, sewage waste, ash, dirt, soil, and silt;

"**Project**" means the construction, operation and maintenance of the Bio-CNG facility along with associated amenities & facilities in accordance with the provisions of this Agreement, and includes all works, services and equipment relating to or in respect of the Scope of the Project;

"**Project Agreements**" means this Agreement, the Financing Agreements, EPC Contract, O&M Contract, and any other material agreements or contracts that may be entered into by the Concessionaire with any person in connection with matters relating to, arising out of or incidental to the Project, but does not include the Escrow Agreement and the Substitution Agreement;

"**Project Assets**" means all physical and other assets relating to and forming part of the Site including (a) rights over the Site in the form of license, Right of Way or otherwise; (b) tangible assets such as civil works and equipment including foundations, (c) Project Facility situated on

the Site; (d) all rights of the Concessionaire under the Project Agreements; (e) financial assets, such as receivables, security deposits etc.; (f) insurance proceeds; and (g) Applicable Permits and authorizations relating to or in respect of the Project;

"**Project Completion Schedule**" means the progressive Project Milestones set forth in Schedule- D for completion of the Project on or before the Scheduled Completion Date;

"**Project Milestones**" means the project milestones as set forth in Schedule-D;

"**Provisional Certificate**" shall have the meaning as set forth in Clause 14.3;

"**Punch List**" shall have the meaning ascribed to it in Clause 14.3;

"**RBI**" means the Reserve Bank of India, as constituted and existing under the Reserve Bank of India Act, 1934, including any statutory modification or replacement thereof, and its successors;

"**Re.**", "**Rs.**" or "**Rupees**" or "**Indian Rupees**" or "**₹**" means the lawful currency of the Republic of India;

"**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;

"**Recyclable Materials**" means recyclable materials recovered or segregated from the Acceptable Waste at the Project Facility prior to or during processing, including but not limited to paper, cardboard, plastics, metals, glass, textiles and other recyclable materials capable of being reused, recycled or sold in accordance with Applicable Laws;

"Reportable Accident" means any accident or dangerous occurrence at the Project Facility resulting in death, permanent disability, hospitalization, or any incident that is required to be reported to any Government Authority under the Applicable Laws.

"**Request for Proposal**" or "**RFP**" means the Request for proposal dated _____ vide ref no._____, issued by the Authority inviting Applications/Proposals in accordance therewith for selection of Applicant, and includes any addendum / clarifications issued in respect thereof by the Authority;

"**Residual Inert Matter**" means the waste matter obtained after processing of the MSW by the Bio-CNG plant;

"**Right of Way**" means the constructive possession of the Site, together with all way leaves, easements, unrestricted access and other rights of way, howsoever described, necessary for construction, operation and maintenance of the Project in accordance with this Agreement;

"**Safety Requirements**" shall have the meaning as set forth in Clause 18.1.(a);

"**Scheduled Bank**" means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934, as amended, modified, re-enacted or replaced from time to time;

"**Scheduled Completion Date**" shall have the meaning as set forth in Clause 12.3.(a);

"**Scope of the Project**" shall have the meaning as set forth in Clause 2.1;

"Selected Bidder" means the successful Bidder selected by the Authority pursuant to the Bidding Process and includes a Single Entity or a Consortium, as the case may be.

"**Site**" shall have the meaning as set forth in Clause 10.1;

"**Specifications and Standards**" means the specifications and standards relating to the quality, quantity, capacity and other requirements for the Project, as set forth in Schedule-H, and any modifications thereof, or additions thereto, as included in the design and engineering for the Project submitted by the Concessionaire to, and expressly approved by, the Authority;

"**State**" means the State of Tamil Nadu and "State Government" means the government of that State;

"**Statutory Auditors**" means a reputable firm of chartered accountants acting as the statutory auditors of the Concessionaire under the provisions of the Companies Act, 2013, including any re-enactment or amendment thereof, for the time being in force;

"**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 Transfer 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 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 percent) above

the Bank Rate in case of loans expressed in Indian Rupees and lesser of the actual interest rate and 6 (six) month term SOFR (Secured Overnight Financing Rate) plus 2% (two percent) in case of loans expressed in foreign currency, but does not include any interest that had fallen due 1 (one) year prior to the Transfer 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**" shall have the meaning as set forth in Clause 33.3.(a);

"**Suspension**" shall have the meaning as set forth in Clause 29.1;

"**SWM Rules**" means The Solid Waste Management Rules, 2026 framed by the Government of India under the Environment (Protection) Act,1986 (Act29 of 1986), as amended from time to time and any other rules/modification related to this Act;

"**Taxes**" means any Indian taxes including Goods and Service Tax (GST), local taxes, cess and any impost or surcharge of like nature (whether Central, State or local) on the goods, materials, equipment and services incorporated in and forming part of the Project charged, levied or imposed by any Government Instrumentality, but excluding any interest, penalties and other sums in relation thereto imposed on any account whatsoever. For the avoidance of doubt, Taxes shall not include taxes on corporate income;

"**Termination**" means the termination of this Agreement and the Concession hereunder;

"**Termination Notice**" means the communication issued in accordance with this Agreement by one Party to the other Party terminating this Agreement;

"**Termination Payment**" means the amount payable by the Authority to the Concessionaire, under and in accordance with the provisions of this Agreement, upon Termination;

"**Tests**" means the tests set forth in Schedule-F to determine the completion of the Project in accordance with the provisions of this Agreement;

"**Total Project Cost**" means the total cost incurred for the development of the Project, as set out in the Financing Agreements or as certified by the Authority/Independent Engineer, whichever is lower;

"**Transfer Date**" means the date on which this Agreement and the Concession hereunder expires pursuant to the provisions of this Agreement or is terminated by a Termination Notice;

"**Vesting Certificate**" shall have the meaning as set forth in Clause 31.4;

"**Waste Acceptance and Rejection Plan"** means the plan required to be prepared by the Concessionaire and approved by the Authority in accordance with Clause 17.3, for the inspection, testing and rejection of waste delivered to the Concessionaire; and

"**WPI**" means the Wholesale Price Index for all commodities as published by the Ministry of Commerce & Industry, Government of India 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. Interpretations

This Agreement constitutes the entire understanding between the Parties regarding the Project and supersedes all previous written and/or oral representations and/or arrangements regarding the Project. If there is any aspect of the Project not covered by any of the provisions of this Agreement, then and only in that event, reference may be made by the Parties to the Application documents, inter alia including the RFP, issued by the Authority and also including addendums, clarifications given in writing and the submissions of the Concessionaire and the Application submitted by the Concessionaire but not otherwise. In case of any contradictions in the terms of this Agreement and any such other Application documents as referred to above, the terms of this Agreement shall prevail.

In this Agreement unless the context otherwise requires:

a. any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies or is capable of applying to any transactions entered into hereunder;

b. the words importing singular shall include plural and vice versa, and words denoting natural persons shall include partnerships, firms, companies, corporations, joint ventures, trusts, associations, organisations or other entities (whether or not having a separate legal entity);

c. the table of contents and any headings in this Agreement are for ease of reference only and shall not affect the construction or interpretation of this Agreement;

d. the words “include” and “including” are to be construed without limitation;

e. any reference to any period of time shall mean a reference to that according to Indian Standard Time;

f. any reference to day shall mean a reference to a calendar day;

g. any reference to month shall mean a reference to a calendar month;

h. “Recital”, “Article” and “Appendix” shall refer, except where the context otherwise requires, to Articles of and any Appendix to this Agreement. The Appendices to this Agreement shall form an integral part and parcel of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;

i. “Rupee”, “Rupees”, “Rs.” and “₹” shall denote Indian Rupees, the lawful currency of India.

j. any reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to that agreement, deed, instrument, license or other document as amended, varied, supplemented, modified or novated at the time of such reference;

k. any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Agreement from or by any Party and/or a Statutory Auditor shall be valid and effectual only if it is in writing under the hands of duly authorized representative of such Party and/or Statutory Auditor, as the case may be, in this behalf and not otherwise;

l. unless otherwise stated, any reference to any period commencing “from” a specified day or date and “till” or “until” a specified day or date shall include both such days or dates;

m. unless otherwise specified, any interest to be calculated and payable under this Agreement shall accrue on a Monthly basis and from the respective due dates as provided for in this Agreement; and

n. any word or expression used in this Agreement, unless defined or construed in this Agreement, shall be construed as per the definition given in General Clauses Act, 1897 failing which it shall bear the ordinary English meaning.

1.3. Measurements and Arithmetic Conventions

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

1.4. Priority of agreements, clauses and schedules

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

    1. this Agreement; and

    2. all other agreements and documents forming part hereof or referred to herein;

    i.e. the Agreement at (1) above shall prevail over the agreements and documents at (2) above.

b. Subject to provisions of Clause 1.4.(a), in case of ambiguities or discrepancies within this Agreement, the following shall apply:

    1. between two or more Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in other Clauses;

    2. between the Clauses of this Agreement and the Schedules, the Clauses shall prevail and between Schedules and Annexes, the Schedules shall prevail;

    3. between any two Schedules, the Schedule relevant to the issue shall prevail;

    4. between the written description on the Drawings and the Specifications and Standards, the latter shall prevail;

    5. between the dimension scaled from the Drawing and its specific written dimension, the latter shall prevail; and

    6. between any value written in numerals and that in words, the latter shall prevail.

ARTICLE 2

SCOPE OF THE PROJECT

2.1. Scope of the Project

The scope of the Project (the "Scope of the Project") shall mean and include the following:

a. The Concessionaire shall design, finance and undertake construction of an 50 TPD Municipal Solid Waste based Bio-CNG Plant on the Site set forth in Schedule A in accordance with the provisions of this Agreement and in total compliance to Solid Waste Management Rules 2026 (including its amendments), issued by Government of India (GOI), Environmental Guidelines for Compressed Biogas Plant (CBG) /Bio-CNG Plants, Applicable Laws, Applicable Permits and Good Industry Practices;

b. Undertake operation and maintenance of the Project for entire duration of the Concession in accordance with the provisions of this Agreement; and

c. Performance and fulfilment of all other obligations of the Concessionaire as specified in Schedule-R and in accordance with the provisions of this Agreement and matters incidental thereto or necessary for the performance of any or all the obligations of the Concessionaire under this Agreement;

d. transfer of the Project Assets upon expiry or early termination of this Agreement in accordance with the provisions of this Agreement;

ARTICLE 3

GRANT OF CONCESSION

3.1. Concession

Subject to and in accordance with the provisions of this Agreement, the Applicable Laws and the Applicable Permits, the Authority hereby grants to the Concessionaire the concession set forth herein including the exclusive right, licence and authority to design, construct, operate and maintain the Project (the "Concession") for a period as provided in clause 3.3 below, 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

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

a. perform and fulfil all the Concessionaire's obligations under and in accordance with this Agreement;

b. the Right of Way, access and license rights to use the Site for the purpose of and to the extent conferred by the provisions of this Agreement;

c. to design, engineer, finance, procure, construct, install, commission, operate and maintain each of the Project Facility 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;

d. bear and pay all costs, expenses and charges in connection with or incidental to the performance of the obligations of the Concessionaire under this Agreement;

e. to transfer the Project Facility to the Authority at the end of the Concession Period or on Termination, in accordance with the provisions of this Agreement;

f. to borrow or raise money or funding required for the due implementation of the Project and mortgage, charge or create lien or encumbrance on the whole or part of the Project Facility except the Site;

g. upon successful completion of the Trial Operations and performance tests, operate and maintain the Project Facility 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;

h. receive, handle and process the waste up to the design capacity to produce the Bio-CNG output;

i. receive, handle and segregate Acceptable Waste up to the Acceptable Waste Quantity;

j. transport the Residual Inert Matter and/or Process rejects to the designated location i.e. Disposal Point;

k. store, use, appropriate, dispose of or market and sell all products of the Acceptable Waste including but not limited to the Bio-CNG Output, the By-Products and any Recyclable Materials in accordance with Applicable Laws;

l. develop and maintain a green area around the Facility within the premises of plant in accordance with Applicable rules/ Laws;

m. to obtain the utilities required for enabling the construction of the Project Facility;

n. exclusively hold, possess, and control the Site, in accordance with the terms of the Concession Agreement for the purposes of the due implementation of this Project;

o. save as otherwise expressly provided in this Agreement, bear and pay all costs, expenses and charges in connection with or incidental to the performance of the obligations of the Concessionaire under this Agreement; and

p. Neither assign, transfer or sublet or create any lien or Encumbrance on this Agreement, or the Concession hereby granted or on the whole or any part of the Project nor transfer, lease or part possession thereof; save and except as expressly permitted by this Agreement or the Substitution Agreement.

3.3. Concession Period

Subject to early termination of this Agreement in accordance with its terms, the term of Concession for this Agreement is 21 (twenty-one) years from the Appointed Date (the "Concession Period"). The Concession Period is inclusive of Construction Period of 12

(twelve) months reckoned from the Appointed Date and operations and maintenance period of 20 years (O&M Period) commencing from the Commercial Operation Date.

In the event of early termination of this Agreement in accordance with the provisions hereof, the Concession Period shall expire on the date on which such termination becomes effective.

ARTICLE 4

CONDITIONS PRECEDENT

4.1. Effectiveness

a. Save and except as expressly provided in Articles 4, 5, 6, 7, 8, 9, 10, 21, 27, 37 and 39 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. Conditions Precedent for Authority

The Authority shall satisfy the Conditions Precedent specified in this Clause 4.2 within a period of 180 (one hundred and eighty) days from the Execution Date, except the handover of Project Site, which shall be satisfied within 270 (two hundred and seventy) days from the Execution Date. The Conditions Precedent of the Authority shall be deemed to have been fulfilled upon the Authority having:

i. handed over physical possession of the Project Site, free from Encumbrances to the Concessionaire for the purposes of the Project within 270 (two hundred and seventy) days from the date of execution of this Agreement, provided that the License Fee shall be payable by the Concessionaire from the date of handing over of the Project Site;

ii. Provided to the Concessionaire the License, Right of Way and access to the Site in accordance with the provisions of Article 10;

iii. Executed and procured execution of Substitution Agreement;

iv. Executed and procured execution of the Escrow Agreement with the Concessionaire and the Escrow Bank in accordance with Article 24;

v. Appointed an Independent Engineer in terms of this Agreement.

4.3. Conditions Precedent for the Concessionaire

The Concessionaire shall satisfy the Conditions Precedent specified in this Clause 4.3 within a period of 180 (one hundred and eighty) days from the Execution Date. The Conditions Precedent of the Concessionaire shall be deemed to have been fulfilled upon the Concessionaire having:

i. provided the Performance Security to the Authority within 10 days from the Execution Date;

ii. procured all the Applicable Permits specified in Schedule B unconditionally and if subject to conditions, all such conditions required to be fulfilled by the date specified therein shall have been satisfied in full and such Applicable Permits are in full force and effect;

iii. executed the Financing Agreements and delivered to the Authority 3 (three) true copies thereof, duly attested by a Director of the Concessionaire;

iv. delivered to the Authority, 3 (three) true copies of the Financial Package and the Financial Model, duly attested by a Director of the Concessionaire, along with a soft copy of the Financial Model in MS Excel version or any substitute thereof, which is acceptable to the Lenders;

v. prepare and submit Environment Management Plan (EMP) to the Authority and the Independent Engineer for their approval;

vi. delivered to the Authority {from the Consortium Members, their respective} a confirmation of the correctness of their representations and warranties set forth in Clause 7.1.(k), Clause 7.1.(l) and Clause 7.1.(m) of this agreement;

vii. executed and procured execution of the Escrow Agreement;

viii. provided proof of its shareholding pattern, evidenced by certificates from the authorised signatory of the Concessionaire;

ix. executed and procured execution of Substitution Agreement;

x. delivered to the Authority the Operations Plan as per Schedule-J;

xi. if the Selected Bidder had, as part of its Bid, submitted an exclusive MoU with a technology provider, the Concessionaire shall, within 45 days from the Execution Date, submit to the Authority, a draft agreement to be signed with the Technology Provider. The Authority shall within 15 (fifteen) days, provide its approval / comments for required modification, if any. Thereafter, the Concessionaire shall duly execute the legally binding and enforceable agreement with the Technology Provider and deliver a certified true copy thereof to the Authority. Such agreement shall explicitly and unconditionally include the following covenants:

a. 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, non-exclusive, non-transferable* licence to use the Proposed Technology solely for the limited purpose of designing, constructing, operating, and maintaining the Project during the Concession Period.

b. Upon early termination of this Agreement, the Concessionaire shall assign the license and its related rights to use the Proposed Technology for the sole purpose of operating and maintaining the Project Facility to the Authority or, as applicable, to lender exercising step-in rights or any entity substituting the Concessionaire, at no cost to the Authority or the lender or any entity substituting the Concessionaire.

c. 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.

*The licence shall however be assignable as per conditions laid out in 4.3 (xi) (b).

4.4. Waiver of Conditions Precedent

a. Each Party shall make all reasonable endeavours to satisfy the Conditions Precedent within the time stipulated and shall provide the other Party with such reasonable cooperation as may be required.

b. The parties shall notify each other in writing at least once a month on the progress made in satisfying the Conditions Precedent. Each Party shall promptly inform the other Parties when any Condition Precedent for which it is responsible has been satisfied. The Parties

shall also, immediately upon fulfilment of all the respective Conditions Precedents, inform to the other Parties that all Conditions Precedent have been satisfied.

c. Any of the Conditions Precedent set forth in Clause 4.3 may be waived fully or partially by the Authority at any time in its sole discretion or the Authority may grant additional time for compliance with these conditions and the Concessionaire shall be bound to ensure compliance within such additional time as may be specified by the Authority. Any of the Conditions Precedent set forth in Clause 4.2 may be waived fully or partially by the Concessionaire at any time in its sole discretion.

4.5. Consequences of failure to satisfy Conditions Precedent

a. If the Concessionaire has fulfilled all the Conditions Precedent under Clause 4.3 including the furnishing of the Performance Security and has not waived or extended the time under Clause 4.4 above, and if the Authority has failed to fulfil the Conditions Precedent to be fulfilled by it under Clause 4.2 (and which are within the power of the Authority), the Authority shall be liable to pay liquidated damages in a sum calculated at the rate of 0.1% (zero point one percent) of the Performance Security for each day's delay until fulfilment of the Conditions Precedent subject to a maximum of 10% (ten percent). In such event, having regard to the quantum of damages, the time for the performance shall be deemed to have been extended by the number of days for which the liquidated damages is paid and if, after the extended period, the Authority is still not in a position to comply with the Conditions Precedent, then the agreement shall be liable to be terminated as provided for in Clause 4.5.(c) below;

b. If the Authority has fulfilled all the Conditions Precedent under Clause 4.2 and has not waived or extended the time under Clause 4.4 above, and if the Concessionaire has failed to fulfil the Conditions Precedent to be fulfilled by it under Clause 4.3 (and which are within the power of the Concessionaire), the Concessionaire shall be liable to pay liquidated damages in a sum calculated at the rate of 0.2% (zero point two percent) of the Performance Security for each day's delay until fulfilment of the Conditions Precedent subject to a maximum of 20% (twenty percent). In such event, having regard to the quantum of damages, the time for the performance shall be deemed to have been extended by the number of days for which the liquidated damages is paid and if, after the extended period the Concessionaire is still not in a position to comply with the Conditions Precedent, then the agreement shall be liable to be terminated as provided for in Clause 4.5.(c) below;

c. In the event that the Conditions Precedents are not complied with within the time (including the extended time, if any) in terms of the aforesaid Clauses, this Agreement shall be liable to be terminated. If such termination is on account of failure of the Concessionaire to

comply with the Conditions Precedent, the Performance Security shall stand forfeited. If such termination is on account of failure of the Authority, the Authority shall be obliged to return the Performance Security. It is clarified that except for the payment as stipulated in the foregoing Clause 4.5.(a) and 4.5.(b) and forfeiture in this Clause 4.5.(c), each party hereto shall have no claims against the other for costs, damages, compensation or otherwise.

ARTICLE 5

OBLIGATIONS OF THE CONCESSIONAIRE

5.1. Obligations of the Concessionaire

a. Subject to and on the terms and conditions of this Agreement, the Concessionaire shall, at its own cost and expense, procure finance for and undertake the design, engineering, procurement, construction, operation and maintenance of the Project and observe, fulfil, comply with and perform all its obligations set out in this Agreement or arising hereunder.

b. The Concessionaire shall be responsible to operate the Project Facility throughout the Concession Period post COD.

c. The Concessionaire shall be responsible for processing Acceptable Waste supplied by the Authority at the project site and disposal of the process remnants and Residual Inert Matters.

d. The Concessionaire shall be responsible for generation of Bio-CNG and entering into the Offtake Agreement for sale of Bio-CNG and Solid/Liquid fertilizer.

e. The Concessionaire shall comply with all the Applicable Laws and procure all the Applicable Permits (including renewals as required) for the performance of its obligations under this Agreement at its cost.

f. Obtain all Applicable Permits necessary for the delivery of the Bio-CNG to the Offtaker in accordance with the terms of the Offtake Agreement.

g. Procure cylinder cascades, trucks, pipelines or other appropriate vehicles and / or infrastructure that is safe, reliable and fit for purpose in order to transport Bio-CNG, process remnants and Residual Inert Matters.

h. Removal of process remnants and Residual Inert Matters at the project site and transport to the disposal point notified by the Authority within 30 kms from the site.

i. Provide all necessary assistance to the Independent Engineer and Authority in undertaking inspection of the Project Facility, and in performing its other obligations and duties under this Agreement.

j. 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, and all Applicable Laws.

k. 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, Applicable Laws and Applicable Permits.

l. Subject to the provisions of Clauses 5.1.(a) and 5.1.(d), the Concessionaire shall discharge its obligations in accordance with Good Industry Practice and as a reasonable and prudent organization.

m. The Concessionaire shall, at its own cost and expense, in addition to and not in derogation of its obligations elsewhere set out in this Agreement:

   i. make, or cause to be made, necessary applications to the relevant Government Instrumentalities with such particulars and details as may be required for obtaining Applicable Permits and obtain and keep in force and affect such Applicable Permits in conformity with the Applicable Laws.

   ii. procure, as required, the appropriate proprietary rights, licences, agreements and permissions for materials, methods, processes and systems used or incorporated into the Project.

   iii. procure at its own cost, water connection, power connection and other service connections to the Site.

   iv. perform and fulfil its obligations under the Financing Agreements.

   v. make reasonable efforts to maintain harmony and good industrial relations among the personnel employed by it or its Contractors in connection with the performance of its obligations under this Agreement.

   vi. Purchase, obtain and maintain insurance cover as stipulated in Article 25 at its own cost and expense, including towards the premium and all incidental costs.

   vii. ensure and procure that its Contractors comply with all Applicable Permits and Applicable Laws in the performance by them of any of the Concessionaire's obligations under this Agreement.

viii. not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Agreement.

ix. provide and maintain a buffer zone around the Facility.

x. Pay all statutory dues and renewal fees during the concession period.

xi. support, cooperate with and facilitate the Authority in the implementation and operation of the Project in accordance with the provisions of this Agreement and

xii. transfer the Project to the Authority upon expiry of Concession period/Termination of this Agreement, in accordance with the provisions thereof.

5.2. Obligations relating to Project Agreements

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

b. The Concessionaire shall submit to 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 amendments to any of the Financing Agreements without the prior written consent of the Authority if such addition, replacement or amendment has, or may have, the effect of imposing or increasing any financial liability or obligation on the Authority, and in the event that any replacement or amendment is made without such consent, the 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 refinancing, restructuring or rescheduling of the Debt Due.

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"). For the avoidance of doubt, it is expressly agreed that in the event the Authority does not exercise such rights of substitution within a period not exceeding 90 (ninety) days from the Transfer Date, the Project Agreements shall be deemed to cease to be in force and effect on the

Transfer Date without any liability whatsoever on the Authority and the Covenant shall expressly provide for such eventuality.

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

5.3. Environmental Compliance

The Concessionaire shall, at all times, ensure that all aspects of the Project / Project Facility and processes employed in the construction, operation and maintenance thereof shall conform with the laws pertaining to environment, health and safety aspects including rules such as SWM Rules, 2026, as amended, modified, re-enacted or replaced from time to time, and the policies, guidelines and directions issued thereunder. The Concessionaire shall obtain and maintain from time to time all necessary clearances including any changes in relevant laws related to Environmental Protection and Conservation and their amendment and modification or re-enactment thereof, as may come in force from time to time as detailed in the Schedule B and as applicable.

5.4. Land Use

The Concessionaire shall ensure optimum utilization of the Site and land available and shall not use the same for any purpose unconnected or which is not incidental to the Project or related activities. For avoidance of doubt, any land given by the Authority to the Concessionaire for this Project shall not be used for development of residential or commercial facilities or premises for rent, lease or similar purpose.

5.5. Processing of Acceptable Waste

The technologies adopted to process the Acceptable Waste shall be in compliance to the SWM Rules and Environmental Guidelines for CBG/Bio-CNG issued by CPCB. If the proposed technology is owned by another entity (either the selected bidder or a third party), the concessionaire should also be required to execute a technology license agreement with the selected bidder or the third party technology provider, as the case may be.

5.6. Measurement of MSW

a. For measurement of feedstock, weighbridges will need to be constructed at the entry and the exit of the Project Facility (the “Processing Input Weighbridge” and the “Processing Output Weighbridge” respectively) by the Concessionaire.

b. The Concessionaire shall prepare Waste Reports as defined in Schedule-M which shall be final and binding on the Parties.

c. Each consignment to Project Site shall be screened and weighed at the weighbridge. Concessionaire shall also keep a record of weight and volume of each empty delivery truck, in order to determine the net weight of the consignment.

d. The Authority, as and when required, shall depute a responsible person from the Authority (the "Authority Representative") to monitor the operations of the weighbridges.

e. The weighbridges shall be monitored and inspected regularly by the Concessionaire and Independent Engineer to ensure due calibration and accuracy, and any errors shall be rectified immediately.

5.7. Maintenance of Records and Operations Plan

The Concessionaire shall maintain records of the quantum of MSW as per the Schedule-M.

5.8. Sale of Products

a. The Concessionaire may adopt such processes and methods as it considers necessary or expedient for processing of feedstock at the Project Facility, subject to complying with the provisions of the Concession Agreement, construction requirements, operation requirements.

b. Subject to Clause 5.5, the Concessionaire is free to choose the processing technologies/options for Bio-CNG Plant in line with all applicable laws, including SWM Rules, 2026 as amended from time to time and Orders/ Directions of Hon'ble Courts/ NGT and is entitled to receive the revenues so generated through the products through its own marketing tie-ups.

5.9. Performance Standards

The Concessionaire recognizes that the services under this Agreement constitute a public health issue and concerns the wellbeing and quality of life of the citizens. Accordingly, the Concessionaire shall perform the services with diligence and promptness and manage the waste supplied by the Authority in accordance with the performance standards set out in Schedule K.

5.10. Engagement of Contractors

The Concessionaire may engage any Person possessing the requisite skill, expertise and capability for construction, operation and maintenance of the Project Facility.

Provided:

i. the Concessionaire shall at all times be solely responsible for all its obligations under this Agreement notwithstanding any such engagement and anything contained in any contract entered into by the Concessionaire in connection with the Project Facility or any other agreement, and no default under any such contract or agreement shall excuse the Concessionaire from its obligations or liabilities hereunder. The Concessionaire shall at all times be solely responsible for any non-performance, defect, deficiency or delay in the installation of the structures, equipment or any part thereof and for the operation and maintenance of the Project Facility in accordance with the provisions of this Agreement;

ii. the Concessionaire shall have obtained the requisite security clearance, if required, for the Contractor whom the Concessionaire intends to engage;

iii. the Concessionaire shall ensure that every contract entered into by it in connection with the Project Facility contains provisions entitling the Authority, at its sole discretion, to step into such contract in substitution of the Concessionaire in the event of termination or suspension of this Agreement; and

iv. any contract entered into by the Concessionaire with an Affiliate in respect of the Project shall be on an arm's length basis.

5.11. Employment of foreign nationals

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

5.12. 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.

5.13. Liability for Personnel

a. The Concessionaire shall be solely responsible for complying with all statutory responsibilities and liabilities in respect of the personnel engaged by him and liable for obtaining all mandatory registrations and deposit of contributions under various enactments. If, on account of default, the Authority is compelled to make any payments/contributions or discharge any responsibility/liability of the Concessionaire, the Authority shall be entitled to recover such amounts/expenses incurred from the Concessionaire without prejudice to the right of Authority to initiate appropriate legal proceedings for recovery of such amounts. The Concessionaire shall indemnify the Authority against all claims whatsoever arising out of his default in respect of the personnel engaged by him under any Statute/Law in force.

b. The Concessionaire shall maintain and submit all records & returns prescribed under all the Applicable Law to the designated authorities within the prescribed time limit and also to the Authority's Representative or any officer acting on its behalf whenever demanded.

c. The Agreement as entered into between the Authority and the Concessionaire shall in no way nullify, reduce, mitigate or absolve the parties of any responsibility, obligation or liability that may devolve upon them under any statutory/mandatory provisions prevailing in India. Liabilities of the Concessionaire in respect of obligatory laws remain unaffected and Concessionaire shall remain responsible for settlement of claims, if any, of third parties who may suffer damages either due to the fault of the Concessionaire or its employees and Associates.

d. The Concessionaire shall pay not less than minimum wages to the workers engaged by them as notified by the appropriate Authority from time to time during the currency of concession agreement.

e. The provisions indicated above are not comprehensive; the Concessionaire shall ensure compliance of all statutory/mandatory provisions under all the Applicable Laws, rules & regulations made by the State Government/Central Government from time to time pertaining to the contract, including all labour laws and the laws as applicable.

f. If as a result of the Concessionaire's failure to provide any of the statutory benefits under any labour welfare enactments, the liability falls on the Authority, such amounts incurred

by the Authority will be recovered from the Concessionaire by the Authority under this Agreement without prejudice to the right of the Authority such other legal recourse against the Concessionaire including termination of the contract.

5.14. Security and Safety at the Project Site

For security and safety at the Project Site, the Concessionaire shall:

a. provide and maintain boundary wall and other suitable protection around the Project Site / Facility and shall be responsible for the security arrangements for the Project Site / Facility in order to maintain safe and orderly conduct of its business and the security thereof.

b. install and operate a closed-circuit television system to monitor the Project Facility and such parts thereof as may be reasonably necessary for the safe operation of the Project Facility in accordance with Good Industry Practice.

c. engage and depute trained personnel for maintaining the security and safety of Personnel inside the Site in accordance with Good Industry Practice.

d. abide by and implement any instructions of the Authority and the Independent Engineer for enhancing the security within and around the Project Facility.

5.15. Branding of Project

The Concessionaire agrees that the Project shall be known, promoted, displayed and advertised by the name of "Waste to Compressed Biogas (CBG) Plant 50 TPD at Tirunelveli City Municipal Corporation". The Project or any part thereof shall not be branded in any manner to advertise, display or reflect the name or identity of the Concessionaire or its shareholders, save and except as may be necessary in the normal course of business. The Concessionaire shall, however, have the right to utilise the name of the Project to exhibit technical and financial capability of the Concessionaire for bidding for other projects.

5.16. Sole purpose of the Concessionaire

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

5.17. Concessionaire's Representative

To fulfil the Concessionaire's obligations and for implementation of the Project in accordance with this Agreement, the Concessionaire shall deploy representative(s) (the "Concessionaire Representative") on its behalf including a team leader (the "Team Leader"). The Team Leader shall have full authority to act on behalf of the Concessionaire for all matters relating to this Agreement and shall be an overall in- charge to ensure implementation of the project in accordance with the provisions hereof. The Team Leader shall closely co-ordinate with the Independent Engineer/Authority and shall be responsible to ensure redressal on an immediate basis, of any objections, observations, shortcomings, defects or defaults pointed out by the Independent Engineer during routine inspections and project review meetings and submit action taken report to the Independent Engineer/Authority, as the case may be, within a period not later than 7 (seven) days from the date of conveying of such defect/shortcoming. The Team Leader or its nominee shall make themselves available for meetings as and when called upon by the Independent Engineer/ Authority, as the case may be.

5.18. 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 5.18(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. The Selected Bidder shall hold 100% (one hundred percent) of the subscribed and paid-up Equity Share Capital and voting rights of the Concessionaire from the date of incorporation of the Concessionaire until the Commercial Operation Date (COD).
b. From the COD until the expiry of 5 (five) years thereafter, the Selected Bidder shall hold not less than 51% (fifty-one percent) of the subscribed and paid-up Equity Share Capital and voting rights of the Concessionaire.
c. From the expiry of the aforesaid 5 (five)-year period until the expiry or earlier termination of this Agreement, the Selected Bidder shall hold not less than 26% (twenty-six percent) of the subscribed and paid-up Equity Share Capital and voting rights of the Concessionaire.

B. Where the Selected Bidder is a Consortium:

a. From the date of incorporation of the Concessionaire until the Commercial Operation Date (COD), the Consortium Members shall collectively hold 100% (one hundred percent) of the subscribed and paid-up Equity Share Capital and voting rights in the Concessionaire, and the Lead Member shall hold not less than 51% (fifty-one percent) of the subscribed and paid-up Equity Share Capital and voting rights in the Concessionaire.
b. From the COD until the expiry of 5 (five) years thereafter, the Consortium Members shall collectively hold not less than 51% (fifty-one percent) of the subscribed and paid-up Equity Share Capital and voting rights in the Concessionaire, and the Lead Member shall hold not less than 26% (twenty-six percent) of the subscribed and paid-up Equity Share Capital and voting rights in the Concessionaire.
c. From the expiry of the aforesaid 5 (five)-year period until the expiry or earlier termination of this Agreement, the Consortium Members shall collectively hold not less than 26% (twenty-six percent) of the subscribed and paid-up Equity Share Capital and voting rights in the Concessionaire, and the Lead Member shall continue to hold not less than 26% (twenty-six percent) of the subscribed and paid-up Equity Share Capital and voting rights in the Concessionaire.

C. General Restrictions:

a. No change in the shareholding pattern or Equity 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.

c. Where the Selected Bidder has relied upon the financial capacity of an Associate for satisfying the Bid Qualification Requirements, such Associate shall continue to remain an Associate of the Selected Bidder until the expiry of the applicable lock-in period specified under this Agreement.

ii. The Concessionaire shall ensure that the change in ownership restrictions set out in Clause 5.18(b) are incorporated in the articles of association of the Concessionaire.

d. The Concessionaire shall not undertake or permit any Change in Ownership, except with the prior approval of the Authority, except as otherwise permitted in this agreement.

5.19. Obligations relating to Taxes

The Concessionaire shall pay and comply, at all times during the subsistence of this Agreement, all Taxes (including Goods & Service Tax), levies, duties, cess and all other statutory charges payable and falling due in respect of the Project. Further, it is also specified that in case there is any prospective change in Taxes/Levies in future whereby change in legislation/policy or otherwise by Central Govt./State Govt. or any other authority, the same shall be within scope of Concessionaire and no claim will be paid by the Authority.

5.20. 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.

5.21. Obligations relating to Other Charges

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. The Concessionaire shall hold the Authority harmless and keep the Authority indemnified from any fine/penalty/charges/levies/damages/ losses on account of any claims/suits/demands/proceedings arising out of non-payment or delayed payment of such charges or any default on the part of the Concessionaire in payment of such charges whatsoever.

ARTICLE 6

OBLIGATIONS OF THE AUTHORITY

6.1. Obligations of the Authority

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

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

i. support and cooperate with the Concessionaire in the implementation and operation of the Project in accordance with the provisions of this Agreement;

ii. supply adequate quantities of Acceptable Waste required by the Concessionaire for it to conduct the Trial Operations and performance testing of the Project Facility;

iii. supply Guaranteed Acceptable Waste Quantity during the Operation period of the Project Facility;

iv. ensure supply of the waste with minimal impurities not exceeding 20% of the supplied quantity.

v. ensure that no Prohibited Waste is delivered to the Concessionaire and if any Prohibited Waste is delivered at the Site, then cause such Prohibited Waste to be promptly and safely removed from the Site;

vi. notify the site for disposal of process remnants and Residual Inert Matters within 30 kms from the project site;

6.2. Obligations relating to Refinancing

Without prejudice to any rights or remedies of the Authority under this Agreement or otherwise, upon request made by the Concessionaire to this effect, the Authority shall, in conformity with any regulations or guidelines that may be notified by the Government Instrumentality, 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, however, that the refinancing hereunder shall always be subject to the prior consent of the Authority, which consent shall not be unreasonably withheld. The Authority shall

endeavour to convey its decision on such request of the Concessionaire within [30 (thirty)] days of receipt of the proposal by the Authority.] For the avoidance of doubt, the tenure of debt refinanced hereunder may be determined mutually between the Lenders and the Concessionaire, but the payment thereof shall be completed no later than 1 (one) year prior to expiry of the Concession Period.

ARTICLE 7

REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS

7.1. Representations and warranties of the Concessionaire

The Concessionaire represents and warrants to the Authority that:

a. it is duly organized and validly existing under the laws of India, and has full power and authority to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;

b. it has taken all necessary corporate and other actions under Applicable Laws to authorise the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;

c. it has {the Selected Bidder/ Consortium Members and its/their Associates have} the financial standing and resources to fund the required Equity and to raise the debt necessary for undertaking and implementing the Project in accordance with this Agreement;

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

e. 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 hereunder including any obligation, liability or responsibility hereunder;

f. the information furnished in the Bid and as updated on or before the date of this Agreement is true and accurate in all respects as on the date of this Agreement;

g. the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of its Memorandum and Articles of Association {or those of any member of the Consortium} or any Applicable Laws 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;

h. there are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-

judicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Agreement;

i. it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or Government Instrumentality 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;

j. it has complied with Applicable Laws 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;

k. it shall at no time undertake or permit any Change in Ownership except in accordance with the provisions of Clause 5.18;

l. {the Selected Bidder/ each Consortium Member} is duly organized and validly existing under the laws of the jurisdiction of its incorporation or registration, as the case may be, and has requested the Authority to enter into this Agreement with {itself/the Concessionaire} pursuant to the Letter of Award, and has agreed to and unconditionally accepted the terms and conditions set forth in this Agreement;

m. all its rights and interests in the Project shall pass to and vest in the Authority on the Transfer Date free and clear of all liens, claims and Encumbrances, without any further act or deed on its part or that of the Authority, and that none of the Project Assets shall be acquired by it, 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 in this Agreement;

n. no representation or warranty by it contained herein or in any other document furnished by it to the Authority or to any Government Instrumentality in relation to Applicable Permits contains or will contain any untrue or misleading statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;

o. 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;

p. all undertakings and obligations of the Concessionaire arising from the Request for Proposal or otherwise shall be binding on the Concessionaire as if they form part of this Agreement.

q. it has the financial standing and capacity to undertake the Project in accordance with the terms of this Agreement.

7.2. Representations and warranties of the Authority

The Authority represents and warrants to the Concessionaire that:

a. it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary to execute this Agreement, exercise its rights and perform its obligations, under this Agreement;

b. it has taken all necessary actions under Applicable Laws to authorize the execution, delivery and performance of this Agreement;

c. it has the financial standing and capacity to perform its obligations under this Agreement;

d. this Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof;

e. it has complied with Applicable Laws in all material respects;

f. it has good and valid right to the Site and has power and authority to grant a license in respect thereto to the Concessionaire.

g. there are no actions, suits or proceedings pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other Government Instrumentality, the outcome of which may result in the default or breach of this Agreement or which individually or in the aggregate may result in any material adverse effect upon its ability to perform its obligations under this Agreement;

h. all information provided by it in the Request for Proposal, including amendments thereto or disclosures thereunder, in connection with the Project is, to the best of its knowledge and belief, true and accurate in all material respects; and

i. upon the Concessionaire paying the License Fee and performing the covenants herein, it shall not at any time during the term hereof, interfere with peaceful exercise of the rights and discharge of the obligations by the Concessionaire, except in accordance with this Agreement.

7.3. Disclosure

In the event that any occurrence or circumstance comes to the attention of either Party that renders any of its aforesaid representations or warranties untrue or incorrect, such Party shall immediately notify the other Party of the same. 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 right, remedy or obligation of either Party under this Agreement.

ARTICLE 8

DISCLAIMER

8.1. Disclaimer

a. The Concessionaire acknowledges that prior to the execution of this Agreement, the Concessionaire has, after a complete and careful examination, made an independent evaluation of the Request for Proposal, Scope of the Project, Specifications and Standards, Site, existing structures, local conditions, physical qualities of ground, subsoil and geology, waste characteristics, accessibility of site and all information provided by the Authority or obtained, procured or gathered otherwise, and has determined to its satisfaction the accuracy or otherwise thereof and the nature and extent of difficulties, risks and hazards as are likely to arise or may be faced by it in the course of performance of its obligations hereunder. The Authority makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy, adequacy, correctness, reliability and/or completeness of any assessment, assumptions, statement or information provided by it and the 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(a) above and hereby acknowledges and agrees that the Authority shall not be liable for the same in any manner whatsoever to the Concessionaire, {the Selected Bidder/ Consortium Members and its/ their Associates} 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(a) above shall not vitiate this Agreement or render it voidable.

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

9.1. Performance Security

a. The Concessionaire shall, for the performance of its obligations hereunder, provide to the Authority, an unconditional and irrevocable bank guarantee for an amount equal to Rs.90,00,000/- (Rupees Ninety Lakhs Only) in the form set forth in Schedule-C (the "Performance Security"). Until such time the Performance Security is provided by the Concessionaire pursuant hereto and the same comes into effect, the Bid Security shall remain in force and effect, and upon such provision of the Performance Security pursuant hereto, the Authority shall release the Bid Security to the Concessionaire.

b. The Concessionaire shall maintain the Performance Security in full force and effect until the expiry of the Concession Period. The Performance Security shall have an initial validity period of 3 years, which must be renewed before the expiry of the 35th month, until the expiry of the Concession Period.

c. The Performance Security shall secure the due performance of the Concessionaire's obligations during the Concession Period. The cost of procuring the Performance Security shall be borne solely by the Concessionaire.

d. If the Performance Security is not renewed by the expiry of the 35th month during the Concession Period, then 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.

e. The Authority shall be entitled to utilize such retained amount in the same manner as it would utilise the Performance Security.

f. Upon receipt of a renewed or replacement Performance Security, the authority shall return the unutilized cash security amount for the Performance Security to the Concessionaire. The interest earned on any retained amounts or cash security shall be the property of the Authority and the Authority shall not be required to account to the Concessionaire for any such interest.

9.2. Appropriation of Performance Security

a. Upon occurrence of a Concessionaire Default or failure to meet any Condition Precedent, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate from the Performance Security the amounts due to it for and in respect of such Concessionaire Default or for failure to meet any Condition Precedent. Upon such encashment and appropriation from the Performance Security, the Concessionaire shall, within 15 (fifteen) days thereof, replenish, in case of partial appropriation, to the original level of the Performance Security, and in case of appropriation of the entire Performance Security provide a fresh Performance Security, as the case may be, failing which the Authority shall be entitled to terminate this Agreement in accordance with Article 29.

b. Provided that upon appropriation on account of Concessionaire's Default the Concessionaire shall replenish the Performance Security and upon such replenishment or furnishing of a fresh Performance Security, as the case may be, the Concessionaire shall be entitled to an additional Cure Period of 45 (forty five) days for remedying the Concessionaire Default, and in the event of the Concessionaire not curing its default within such Cure Period, the Authority shall be entitled to encash and appropriate such Performance Security as Damages, and to terminate this Agreement in accordance with Article 29.

9.3. References to Performance Security

References to Performance Security occurring in this Agreement for and in respect of any period prior to the delivery of the Performance Security by the Concessionaire to the Authority, or in respect of any period subsequent to the expiry or release thereof, as the case may be, shall be construed solely for the purposes of calculating the amount of Damages payable by the Concessionaire.

9.4. Release of Performance Security

The Performance Security shall remain in force and effect throughout the period of Concession Agreement and shall be released within 3 (three) months after the expiry of Concession Period, provided, however, that the Performance Security shall not be released and shall be kept alive by the Concessionaire if the Concessionaire is in breach of this Agreement. Upon request made by the Concessionaire for release of the Performance Security along with the particulars which establish satisfaction of the requirements specified in this Clause 9.4, the Authority shall release the Performance Security forthwith.

ARTICLE 10

PROJECT SITE

10.1. Project Site

The site of the Project shall comprise the land as described in Schedule-A; and in respect of which the Right of Way shall be provided and granted by the Authority to the Concessionaire as a licensee under and in accordance with this Agreement (the "Site"). For the avoidance of doubt, it is hereby acknowledged and agreed that references to the Site shall be construed as references to the land required for the Project as set forth in Schedule-A.

10.2. License, Access and Right of Way

a. The Authority hereby grants to the Concessionaire access to the Site for carrying out any surveys, investigations and soil tests that the Concessionaire may deem necessary during the Development Period, it being expressly agreed and understood that the Authority shall have no liability whatsoever in respect of survey, investigations and tests carried out or work undertaken by the Concessionaire on or about the Site pursuant hereto in the event of Termination or otherwise.

b. The Authority, in accordance with the terms and conditions set forth herein, hereby grants to the Concessionaire, commencing from the Appointed Date, leave and license rights in respect of all the land (along with any buildings, constructions or immovable assets, if any, thereon) comprising the Site which is described, delineated and shown in Schedule-A hereto (the "Licensed Premises"), on an "as is where is" basis, free of any Encumbrances, to develop, operate and maintain the said Licensed Premises, together with all and singular rights, liberties, privileges, easements and appurtenances whatsoever to the said Licensed Premises, hereditaments or premises or any part thereof belonging to or in any way appurtenant thereto or enjoyed therewith, for the duration of the Concession Period and, for the purposes permitted under this Agreement, and for no other purpose whatsoever which shall be substantially in the form set forth in Schedule-S.

c. The license, access and right of way granted by this Agreement to the Concessionaire shall always be subject to existing rights of way. It is expressly agreed that the license granted hereunder shall terminate automatically and forthwith, without the need for any action to be taken by the Authority to terminate the license, upon the expiry or termination of this Agreement for any reason whatsoever. For the avoidance of doubt, the Parties expressly agree that notwithstanding any temporary or permanent structures erected on the Site by the Concessionaire or its sublicensees, the license in respect of the Site shall automatically

terminate, without any further act of the Parties, upon expiry or termination of this Agreement.

d. The Concessionaire hereby irrevocably appoints the Authority (acting directly or through a nominee) to be its true and lawful attorney, to execute and sign in the name of the Concessionaire a transfer or surrender of the license granted hereunder at any time after the Concession Period has expired or has been terminated earlier in terms hereof, a sufficient proof of which will be the declaration of any duly authorized officer of the Authority, and the Concessionaire consents to it being registered for this purpose.

e. It is expressly agreed that trees on the Site are property of the Authority except that the Concessionaire shall be entitled to exercise usufructuary rights thereon during the Concession Period.

f. The Concessionaire shall allow access to and use of the Site for laying/installing/ maintaining telegraph lines, electric lines, gas lines of the Gas Authority of India Limited or for such other public purposes as the Authority may specify, provided that such access or use shall not result in a Material Adverse Effect to the Concessionaire.

10.3. Site Data and Verification

a. The Authority has made available to the Concessionaire all relevant data, studies and reports in Authority's possession in connection with the Site.

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 the Authority and any other information available with respect to the Site and to have satisfied itself as to all the relevant matters including:

   i. The nature of the Site, including the subsurface, hydrological, climatic and general physical conditions of the Site;

   ii. The suitability of the Site for undertaking the construction and operation of the Project;

   iii. the condition of the utilities available till the battery limits of the Site;

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 for the performance of 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 suitability and adequacy of any access roads to the Site and other utilities and facilities to be provided by the relevant Government Authority; and

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

d. Subject to Clause 10.3, 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 COD and/or compensation for additional costs incurred caused 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 Site and Site's 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 10.3.(c) above, which affect or may affect the Project or the performance of any of its obligations under this Agreement.

10.4. Procurement of the Site

a. Pursuant to Clause 4.2, the authorised representatives (as given in recitals) of the Authority and the Concessionaire shall, on mutually agreed date and time, inspect the Site and prepare a memorandum containing an inventory of the Site including the vacant and unencumbered land, building, structures, road network, trees, pipelines and any other immovable property on or attached to the Site. Such memorandum shall have appended thereto an appendix (the "Appendix") specifying in reasonable detail those parts of the Site

to which vacant and unencumbered possession of the Site has not been granted to the Concessionaire. Signing of the memorandum, as above, by the authorised representatives of the Parties shall, subject to the provision of Clause 10.1, be deemed to constitute a valid handover of possession of the Site to the Concessionaire for free and unrestricted use and development of the vacant and unencumbered Site during the Concession Period under and in accordance with the provisions of this Agreement and for no other purpose whatsoever. For avoidance of doubt, it is agreed that vacant and unencumbered possession of the Site in respect of those parts of the Site which have been set forth in the Appendix shall be deemed to have been granted to the Concessionaire upon vacant handover of possession being provided by the Authority to the Concessionaire.

b. In case of any dispute between the Concessionaire and the Authority in relation to the survey of the Project Site and the Appendix, the decision of the Authority shall prevail and shall be binding on the Concessionaire.

c. On and after signing the memorandum referred to in Clause 10.4.(a), and until the Transfer Date, the Concessionaire shall maintain a round-the-clock vigil over the Site and shall ensure that no encroachment thereon takes place, and in the event of any encroachment or occupation on any part thereof, the Concessionaire shall report such encroachment or occupation forthwith to the Authority and undertake its removal at its cost and expense.

d. Upon receiving the Right of Way to and in respect of land included in the Appendix, the Concessionaire shall complete the construction work thereon within a period specified in this Agreement and in accordance with Good Industry Practice; provided that the issue of Provisional Completion Certificate shall not be affected or delayed on account of vacant possession of any part of Site was not handed over to the Concessionaire or any construction on such part of the Site remaining incomplete on the date of Tests on account of delay or denial of such possession thereto.

e. Subject to the Sub-clauses of this Clause 10.4, the Authority hereby warrants that:

   i. The Site belongs to and is vested in the Authority and that the Authority has full powers to hold, dispose of and deal with the same; consistent and interlaid with the provisions of this Agreement and that the Concessionaire shall, in respect of the Site, have no liability regarding any compensation payment on account of land acquisition or rehabilitation/ resettlement of any person affected thereby.

   ii. The Concessionaire shall, subject to complying with the terms and conditions of this Agreement, remain in peaceful possession and enjoyment of the whole Site during the Concession Period.

10.5. Applicable Permits

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

10.6. Site to be free from Encumbrances

Subject to the provisions of Clause 10.4, the Site shall be made available by the Authority to the Concessionaire pursuant hereto free from all Encumbrances and occupations and without the Concessionaire being required to make any payment to the Authority on account of any costs, compensation, expenses and charges for the acquisition and use of such Site for the duration of the Concession Period, except insofar as otherwise expressly provided in this Agreement. For the avoidance of doubt, it is agreed that existing rights of way, easements, privileges, liberties and appurtenances to the Licensed Premises shall not be deemed to be Encumbrances. It is further agreed that the Concessionaire accepts and undertakes to bear any and all risks arising out of the inadequacy or physical condition of the Site.

10.7. Protection of Site from encroachments

During the Concession Period, the Concessionaire shall protect the Site from any and all occupations, encroachments or Encumbrances, and shall not place or create nor permit any Contractor or other person claiming through or under the Concessionaire to place or create any Encumbrance or security interest over all or any part of the Site or the Project Assets, or on any rights of the Concessionaire therein or under this Agreement, save and except as otherwise expressly set forth in this Agreement.

10.8. Special/temporary right of way

The Concessionaire shall bear all costs and charges for any special or temporary right of way required by it in connection with access to the Site. The Concessionaire shall obtain, at its cost, such facilities on or outside the Site as may be required by it for the purposes of the Project and the performance of its obligations under this Agreement.

10.9. Access to the Authority and Independent Engineer

The license, right of way and right to the Site granted to the Concessionaire hereunder shall always be subject to the right of access of the Authority and the Independent Engineer and their employees and agents for inspection, viewing and exercise of their rights and performance of their obligations under this Agreement.

ARTICLE 11

UTILITIES, ASSOCIATED ROADS AND TREES

11.1. Existing utilities and roads

Notwithstanding anything to the contrary contained herein, 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 of the controlling body of that road, right of way or utility, and the Authority shall, upon written request from the Concessionaire, initiate and undertake at the Concessionaire's cost, legal proceedings for acquisition of any right of way necessary for such diversion.

11.2. Shifting of obstructing utilities

The Concessionaire shall, subject to Applicable Laws and with assistance of the Authority, undertake shifting of any utility including electric lines, water pipes and telephone cables, to an appropriate location or alignment within or outside the Site if and only if such utility causes or shall cause a material adverse effect on the construction, operation or maintenance of the Project. The cost of such shifting shall be borne by the Authority or by the entity owning such utility, if the Authority so directs, and in the event of any delay in shifting thereof, the Concessionaire shall be excused for failure to perform any of its obligations hereunder if such failure is a direct consequence of delay on the part of the entity owning such electric lines, water pipes or telephone cables, as the case may be.

11.3. New utilities and roads

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. For the avoidance of doubt, it is agreed that use of the Site under this Clause 11.3 shall not in any manner relieve the Concessionaire of its obligation to maintain the Project in accordance with this Agreement and any damage caused by such use shall be restored forthwith.

11.4. Felling of trees

The Authority shall assist the Concessionaire in obtaining the Applicable Permits for felling of

trees to be identified by the Authority for this purpose if and only 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 thereof for reasons beyond the control of the Concessionaire, it shall be excused for failure to perform any of its obligations hereunder if such failure is a direct consequence of delay in the felling of trees. For the avoidance of doubt, the Parties hereto 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

CONSTRUCTION OF THE PROJECT

12.1. Obligations prior to commencement of construction

Prior to commencement of Construction Works, the Concessionaire shall:

a. submit to the Authority and the Independent Engineer its detailed design, construction methodology, quality assurance procedures, and the procurement, engineering and construction time schedule for completion of the Project in accordance with the Project Completion Schedule as set forth in Schedule-D.

b. appoint its representative duly authorized to deal with the Authority in respect of all matters under or arising out of or relating to this Agreement.

c. undertake, do and perform all such acts, deeds and things as may be necessary or required before commencement of construction under and in accordance with this Agreement, Applicable Laws and Applicable Permits. and

d. make its own arrangements for procurement of materials needed for the Project under and in accordance with Applicable Laws and Applicable Permits.

12.2. Drawings

In respect of the Concessionaire's obligations relating to the Drawings of the Project as set forth in Schedule-E, the following shall apply:

a. The Concessionaire shall prepare and submit, with reasonable promptness and in such sequence as is consistent with the construction requirements, submit a copy of each of the drawings as mentioned in Schedule-E to the Authority and Independent Engineer.

b. By submitting the Drawings to the Independent Engineer and the Authority pursuant to the preceding clause 12.2.(a), the Concessionaire shall be deemed to have represented that it has determined and verified that the design and engineering, including the field construction criteria related thereto, are in conformity with the construction requirements, Scope of the Project, Specifications and Standards, Applicable Laws and Good Industry Practice.

c. Within 15 (fifteen) days of the receipt of the Drawings, the Independent Engineer shall review the same taking into account, inter-alia comments of the Authority if any and convey its comments / observations to the Concessionaire with particular reference to their conformity or otherwise with the Scope of the Project and the Specifications and Standards.

d. If the aforesaid comments / observations of the Independent Engineer indicate that the Drawings are not in conformity with the Scope of the Project or the Specifications and Standards, such Drawings shall be revised by the Concessionaire and resubmitted to the Independent Engineer for review. The Independent Engineer shall give its observations, if any, within 7 (seven) days of receipt of the revised Drawings, which shall be taken into account by the Concessionaire while finalising the drawings.

e. If, within the period stipulated in Clauses 12.2(c) and 12.2(d), the Independent Engineer does not convey its comments or observations on the Drawings submitted by the Concessionaire, the Concessionaire shall issue a written notice to the Authority and the Independent Engineer of its intention to proceed with the Construction Works based on such Drawings. If no comments or observations are communicated by the Independent Engineer within 7 (seven) days from the date of such notice, the Concessionaire shall be entitled to proceed with the Construction Works on the basis of such Drawings, and shall intimate the same to the Authority. The same shall also be highlighted in the periodic progress reports submitted by the Concessionaire.

f. No review and/or observation of the Independent Engineer and/or its failure to review and/or convey its observations on any Drawings shall relieve the Concessionaire of its obligations and liabilities under this Agreement in any manner nor shall the Independent Engineer or the Authority be liable for the same in any manner.

g. The Concessionaire shall be responsible for delays in meeting the Construction Requirements caused by reason of any drawings not being in conformity with the Construction Requirements and shall not be entitled to seek any relief in that regard from the Authority.

h. 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 or manner as may be acceptable to the Authority, reflecting the Project as actually designed, engineered and constructed, including an as-built survey illustrating the layout of the Project and setback lines, if any, of the buildings and structures forming part of Project Facility.

12.3. Construction of the Project

a. On or after the Appointed Date, the Concessionaire shall undertake construction of the Project in conformity with the Specifications and Standards set forth in Schedule-H and drawings including installation of machineries and equipment. The end of the [12th (Twelfth month)] from the Appointed Date shall be the scheduled date for completion of the Project (the "Scheduled Completion Date") and the Concessionaire agrees and undertakes that the Project shall be completed on or before the Scheduled Completion Date.

b. The Concessionaire shall construct the Project in accordance with the Project Completion Schedule set forth in Schedule-D. In the event that the Concessionaire fails to achieve any Project Milestone by the date set forth for such Project Milestone in Schedule-D, unless such failure has occurred due to Force Majeure or for reasons attributable to the Authority, it shall pay Damages to the Authority in a sum calculated at the rate of 0.1% (zero point one percent) of the amount of Performance Security for delay of each day until such Project Milestone is achieved; provided that if any or all Project Milestones or the Scheduled Completion Date are extended in accordance with the provisions of this Agreement, the dates set forth in Schedule-D shall be deemed to be modified accordingly and the provisions of this Agreement shall apply as if Schedule-D has been amended as above; provided further that in the event COD is achieved on or before the Scheduled Completion Date, the Damages paid under this Clause 12.3.(b) shall be refunded by the Authority to the Concessionaire, but without any interest thereon. For the avoidance of doubt, it is agreed that recovery of Damages under this Clause 12.3.(b) shall be without prejudice to the rights of the Authority under this Agreement, including the right of Termination thereof.

c. In the event that the Project is not completed and COD does not occur within 180 (one hundred and eighty) days from the Scheduled Completion Date, unless the delay is on account of reasons attributable to the Authority or due to Force Majeure, the Authority shall be entitled to terminate this Agreement.

ARTICLE 13

MONITORING OF CONSTRUCTION

13.1. Monthly progress reports

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

13.2. Inspection

During the Construction Period, the Independent Engineer shall inspect the Project at least once a month and make a report of such inspection (the "Inspection Report") stating in reasonable detail the defects or deficiencies, if any, with particular reference to the Project Completion Schedule, Scope of the Project and Specifications and Standards. The Independent Engineer 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 within such period as specified by the Independent Engineer or the Authority. Such inspection or submission of Inspection Report by the Independent Engineer shall not relieve or absolve the Concessionaire of its obligations and liabilities hereunder in any manner whatsoever.

13.3. Tests

a. For determining that the Construction Works conform to the Specifications and Standards, the Independent Engineer shall require the Concessionaire to carry out or cause to be carried out tests, at such time and frequency and in such manner as may be specified by the Independent Engineer from time to time, in accordance with Good Industry Practice for quality assurance. The size of sample for such tests shall, to the extent possible, not exceed 10% (ten percent) of the quantity and/or number of tests that the owner or builder of such works would normally undertake in accordance with Good Industry Practice. The Concessionaire shall, with due diligence, carry out or cause to be carried out all the tests in accordance with the instructions of the Independent Engineer and furnish the results thereof to the Independent Engineer. One half of the costs incurred on such tests, and to the extent certified by the Independent Engineer as reasonable, shall be reimbursed by the Authority to the Concessionaire. Provided, however, that the Independent Engineer may, instead of carrying out the tests specified hereunder, at its option decide to witness, or participate in, any of the tests to be undertaken by the Concessionaire for its own quality

assurance in accordance with Good Industry Practice, and in such an event, the Concessionaire shall cooperate with, and provide the necessary assistance to, the Independent Engineer for discharging its functions hereunder. For the avoidance of doubt, the costs to be incurred on any test which is undertaken for determining the rectification of any defect or deficiency in construction shall be borne solely by the Concessionaire.

b. In the event that results of any tests conducted under this Clause 13.3 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 behalf. The Independent Engineer shall require 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 Specifications and Standards, and the procedure set forth in this Clause 13.3 shall be repeated until such Construction Works conform to the Specifications and Standards. For the avoidance of doubt, it is agreed that tests pursuant to this Clause 13.3 shall be undertaken in addition to and independent of the tests that shall be carried out by the Concessionaire for its own quality assurance in accordance with Good Industry Practice. It is also agreed that a copy of the results of such tests shall be sent by the Concessionaire to the Independent Engineer forthwith.

13.4. Delays during construction

Without prejudice to the provisions of Clause 12.3.(b), 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 Completion Date, 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.

13.5. 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 Works if, in the reasonable opinion of the Authority, such work threatens the safety of the Users and pedestrians. Provided, however, that in case of an Emergency, the Authority may suo moto issue the notice referred to hereinabove.

b. The Concessionaire shall, pursuant to the notice under Clause 13.5.(a), suspend the Construction Works or any part thereof for such time and in such manner as may be specified by the Authority and thereupon carry out remedial measures to secure the safety

of suspended works and the Users. The Concessionaire may, by notice, require the Independent Engineer to inspect such remedial measures forthwith and make a report to the Authority recommending whether or not the suspension hereunder 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 such other and further remedial measures as may be necessary in the reasonable opinion of the Authority, and the procedure set forth in this Clause 13.5 shall be repeated until the suspension hereunder is revoked.

c. Subject to the provisions of Clause 27.7, all reasonable costs incurred for maintaining and protecting the Construction Works or part thereof during the period of suspension (the "Preservation Costs") shall be borne by the Concessionaire; provided that if the suspension has occurred as a result of any breach of this Agreement by the Authority, the Preservation Costs shall be borne by the Authority.

d. If suspension of Construction Works is for reasons not attributable to the Concessionaire, the Independent Engineer shall determine any extension of the dates set forth in the Project Completion Schedule to which the Concessionaire is reasonably entitled and shall notify the Authority accordingly whereupon the Authority shall extend such Project Completion Schedule dates in accordance with the recommendations of the Independent Engineer. In the event that the Scheduled Completion Date is extended pursuant hereto, the Concession Period shall be deemed to be extended by a period equal in length to the period of extension of the Scheduled Completion Date.

13.6. Video recording

During the Construction Period, the Concessionaire shall provide to the Authority for every calendar quarter, a video recording, 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.

ARTICLE 14

COMPLETION CERTIFICATE

14.1. Tests

a. No later than 30 (thirty) days prior to the likely completion of the construction of the Project Facility, the Concessionaire shall notify the Independent Engineer of its intent to subject the construction works to Tests. The date and time of each of the Tests shall be determined by the Independent Engineer in consultation with the Concessionaire, and notified to the Authority, who may designate its representative to witness the Tests. The Concessionaire shall provide such assistance as the Independent Engineer may reasonably require for conducting the Tests. In the event of the Concessionaire and the Independent Engineer failing to mutually agree on the dates for conducting the Tests, the Concessionaire shall fix the dates by not less than 10 (ten) days' notice to the Independent Engineer, and in the event the Independent Engineer delays the Tests hereunder, the Authority shall ensure that Tests are completed in time either by the Independent Engineer or any substitute thereof.

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

14.2. Completion Certificate

Upon completion of Construction Works including installation of machineries and equipment and the Independent Engineer determining the Tests to be successful, it shall forthwith issue to the Concessionaire and the Authority, a certificate substantially in the form set forth in Schedule-G (the "Completion Certificate").

14.3. Provisional Certificate

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

14.4. Completion of Punch List Items

a. All items in the Punch List shall be completed by the Concessionaire within 30 (thirty) days from the date of issue of the Provisional Certificate and for any delay thereafter, other than for reasons solely attributable to the Authority or due to Force Majeure, the Authority shall be entitled to recover Damages from the Concessionaire to be calculated and paid for each day of delay until all items are completed, at the lower of (a) 0.1% (zero point one percent) of the Performance Security, and (b) 0.2% (zero point two percent) of the cost of completing such items as estimated by the Independent Engineer. Subject to payment of such Damages, the Concessionaire shall be entitled to a further period not exceeding 120 (one hundred and twenty) days for completion of the Punch List items. For the avoidance of doubt, it is agreed that if completion of any item is delayed for reasons solely attributable to the Authority or due to Force Majeure, the completion date thereof shall be determined by the Independent Engineer in accordance with Good Industry Practice, and such completion date shall be deemed to be the date of issue of the Provisional Certificate for the purposes of Damages, if any, payable for such item under this Clause 14.4.(a).

b. Upon completion of all Punch List items, the Independent Engineer shall issue the Completion Certificate. Failure of the Concessionaire to complete all the Punch List items within the time set forth in Clause 14.4.(a) for any reason, other than conditions constituting Force Majeure or for reasons solely attributable to the Authority, shall entitle the Authority to terminate this Agreement.

14.5. Withholding of Provisional or Completion Certificate

a. If the Independent Engineer determines that the Project or any part thereof does not conform to the provisions of this Agreement and cannot be safely and reliably placed in commercial operation, it shall forthwith make a report in this behalf and send copies thereof to the Authority and the Concessionaire. Upon receipt of such a report from the

Independent Engineer and after conducting its own inspection, if the Authority is of the opinion that the Project is not fit and safe for commercial service, it shall, within 7 (seven) days of receiving the aforesaid report, notify the Concessionaire of the defects and deficiencies in the Project and direct the Independent Engineer to withhold issuance of the Provisional Certificate or Completion Certificate, as the case may be. Upon receipt of such notice, the Concessionaire shall remedy and rectify such defects or deficiencies and thereupon Tests shall be undertaken in accordance with this Article 14. Such procedure shall be repeated as necessary until the defects or deficiencies are rectified.

b. Notwithstanding anything to the contrary contained in Clause 14.5.(a), the Authority may, at any time after receiving a report from the Independent Engineer under that Clause, direct the Independent Engineer to issue a Provisional Certificate under Clause 14.3, and such direction shall be complied forthwith.

14.6. Rescheduling of Tests

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

ARTICLE 15

ENTRY INTO COMMERCIAL SERVICE

15.1. Commercial Operation Date (COD)

The Project shall be deemed to be complete only when the Completion Certificate is issued under the provisions of Article 14, and accordingly the commercial operation date of the Project shall be the date on which such Completion Certificate is issued (the "COD"). The Project shall enter into commercial service on COD whereupon the Concessionaire shall be entitled to receive the Guaranteed Acceptable Waste Quantity from the Authority.

15.2. Damages for delay

Subject to the provisions of Clause 12.3, if COD does not occur prior to the Scheduled Completion Date, unless the delay is on account of reasons attributable to the Authority or due to Force Majeure, the Concessionaire shall pay Damages to the Authority in a sum calculated at the rate of 0.1% (zero point one percent) of the amount of Performance Security for delay of each day until COD is achieved. In the event, the Concessionaire fails to achieve COD within a period of 180 (one hundred and eighty) days from Scheduled Completion Date, without prejudice to the other rights of the Authority under this Agreement, the Authority shall have the right to terminate the Agreement for Concessionaire Default.

ARTICLE 16

CHANGE OF SCOPE

16.1. 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 Scope of the Project 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 16, and the costs thereof shall be expended by the Concessionaire and reimbursed to it by the Authority in accordance with Clause 16.3. However, minor operational instructions issued by the Authority which do not alter Project Cost, Project Capacity or Performance Standards shall not constitute a Change of Scope.

b. If the Concessionaire determines at any time that a Change of Scope is necessary for providing safer and improved Waste Management 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 therefore in accordance with this Article 16 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 16 shall form part of the Project and the provisions of this Agreement shall apply mutatis mutandis to such works or services.

16.2. 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 documents in support of:

    i. the impact, if any, which the Change of Scope is likely to have on the Project Completion Schedule if the works or services are required to be carried out during the Construction Period;

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, any impact on the operations or the cost of operation of the Project and Project Infrastructure, along with the proposed premium or 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; and

iii. its likely impact on the Gross Revenue and profitability of the Project.

c. Upon receipt of information set forth in Clause16.2.(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, thereupon of the Independent Engineer, 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.

d. The provisions of this Agreement, insofar as they relate to Development Works and Tests, shall apply mutatis mutandis to the works undertaken by the Concessionaire under this Article 16.

16.3. 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 of a sum equal to [20% (twenty percent)] of the cost of Change of Scope as agreed hereunder, and in the event of a Dispute, [20% (twenty percent)] 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 Documents 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.

16.4. Restrictions on certain works

a. Notwithstanding anything to the contrary contained in this Article 16, the Authority shall not require the Concessionaire to undertake any works or services if such works or services are likely to delay the completion of the Project by the Scheduled Completion Date; 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 the purposes of determining completion of the Project and issuing the Provisional Completion Certificate.

b. Notwithstanding anything to the contrary contained in this Article 16, 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 percent)] 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 percent)] of the total project cost at any time during the Concession Period.

16.5. Financing by the Concessionaire

Notwithstanding anything to the contrary contained in this Article 16, the Parties may, subject to this Article 16.5 agree on determining the Change of Scope which may be financed partly or entirely by the Concessionaire, if such arrangement enables the Concessionaire to provide the financing and undertake its recovery in accordance with the provisions of this Agreement.

ARTICLE 17

OPERATION AND MAINTENANCE

17.1. Operation & Maintenance Requirements

The Concessionaire shall procure that at all times during the Operation Period, the Project conforms to the operation & maintenance requirements set forth in Schedule I (the "Operation & Maintenance Requirements").

17.2. Operation & Maintenance Manual

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 Facility based on the proposed technology and in accordance with the Technical Specifications, EMP, applicable Laws and Applicable Permits. The O&M Plan shall specify the operation procedures and maintenance procedures (separately for each component of the Project Facility).

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 17.2.(b) shall continue until the O&M Plan is approved by the Authority and the Independent Engineer in accordance with this Clause 17.2.(b). The Concessionaire shall submit [4 (four)] hard copies and [1 (one)] soft copy on a USB drive or through email of the approved O&M Plan to the Authority. The Authority and the Independent Engineer shall not unreasonably withhold, condition or delay their approval of the O&M Plan.

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 17.2.(b) will apply as is to the approval of the revised plan.

d. The Concessionaire shall undertake the O&M of the Project Facility strictly in accordance with the approved O&M Plan. The Concessionaire shall not deviate from or make any amendment to the approved O&M Plan without the prior written approval of the Authority. The Concessionaire shall not commence operation of the Project Facility prior to approval of the O&M Plan in accordance with this Clause 17.2.

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. 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 17.2.

17.3. 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 Bio-CNG 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 any rejection of Prohibited Waste.

b. The Waste Acceptance and Rejection Plan shall set out the methodology that the Concessionaire proposes to use when inspecting, testing, processing and disposing of waste that is delivered at the Receipt Point. In particular, the Waste Acceptance and Rejection Plan shall detail the manner in which any Accepted Waste that is delivered shall be Segregated by pre-treatment such that any Biodegradable Waste that is capable of being processed at the Bio-CNG Facility is set aside for processing at the Bio-CNG Facility to produce the Bio-CNG, and any Residual Waste is separated, stored and disposed of in accordance with the requirements of this Agreement. The Waste Acceptance and Rejection Plan shall also specify the methodology for sampling, testing and determination of impurity percentage in the Waste delivered at the Receipt Point, including the procedure for inspection and verification by the Independent Engineer.

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 17.3.(c) shall continue until the Waste Acceptance and Rejection Plan is approved by the Authority and the Independent Engineer in accordance with this Clause 17.3.(c). The Concessionaire shall submit [4 (four)] hard copies and [1 (one)] soft copy on a USB drive or through email of the approved Waste Acceptance and Rejection Plan to the Authority. The Authority and the Independent Engineer shall not unreasonably withhold or delay their approval.

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 17.3.(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. 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. The Concessionaire shall not commence operation of the Project Facility prior to approval of the Waste Acceptance and Rejection Plan in accordance with this Clause 17.3.

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. 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 17.3.

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

a. The Concessionaire shall operate and maintain the Project Facility in a manner that:

    i. results in the Project Facility achieving the KPIs;

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

iii. ensures the Project Facility are capable of handling and processing Acceptable Waste on a daily basis, including handling, Pre-processing, processing, storing and disposing of impurities up to 20% (Twenty percent) contained in the Acceptable Waste delivered at the Receipt Point;

iv. is safe and reliable, subject to normal wear and tear of the Project Facility;

v. ensures safe and reliable transportation of the Residual Inert Matter and/or any Residual Waste to the Disposal Point;

vi. ensures that there is no damage to or deterioration of the environment resulting from the operation of the Project Facility;

vii. ensures that there is treatment/disposal as per statutory norms & maximum recycle of effluent from the operation of the Project Facility including no 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 Facility which could endanger the environment, persons or property at or about the Site;

ix. ensures that the Project Facility 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 Offtake Agreements and Applicable Laws in relation to the production and delivery of the Bio-CNG at the location agreed with the Offtaker;

xii. ensures that the Bio-CNG meets the IS 16087: 2016 Standard at a minimum, or such higher standard as may be prescribed under the Offtake Agreement;

xiii. maintains the safety and security of personnel, material and property at the Site, in accordance with the approved EMP, Applicable Laws and Applicable Permits;

xiv. 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 Facility; and

xv. ensures that all waste materials and hazardous substances are stored and/or disposed in accordance with the EMP, 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 access to the Site to monitor and inspect the Project Facility;

iii. ensure that all equipment, machinery, tools and other resources required to undertake the O&M of the Project Facility is 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 volume of Bio-CNG produced by the Facility, ensure that the meters installed are calibrated as per manufacture guidelines during the O&M Period in accordance with 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 Facility and adopt appropriate measures and safeguards for the security of the environment, life, and property at the Site.

17.5. Delivery of Waste

a. Delivery of Acceptable Waste

i. 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 Bio-CNG Facility, in accordance with the Acceptable Waste Delivery Schedule.

ii. The Authority shall supply Guaranteed Acceptable Waste Quantity of 50 TPD, subject to a permissible variation of ±20%.

iii. If the Acceptable Waste delivered by the Authority on any day during the O&M Period is less than the Guaranteed Acceptable Waste Quantity, then the Authority shall be liable to pay liquidated damages to the Concessionaire in accordance with Clause 17.7. The liquidated damages payable by the Authority for the shortfall in supply of the Guaranteed Acceptable Waste Quantities shall be calculated as per Clause 17.7 and payable on a monthly basis.

iv. The Concessionaire shall not accept any waste, including any Acceptable Waste, which is not delivered by the Authority, or any C&T Contractors appointed by Authority.

b. Delivery of Impurities in Acceptable Waste

i. 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 contain impurities exceeding 20%.

ii. If the amount of Waste delivered to the Concessionaire on any day contains Impurities more than 20%, then the Concessionaire may:

A. elect to Segregate, process and handle such Waste Quantity in accordance with Clause 17.8, in which case such Waste Quantity shall be deemed to be Acceptable Waste for the purpose of assessing if the Guaranteed Acceptable Waste Quantity was delivered by the Authority to the Concessionaire under 17.5.(a) above; or

B. reject the Waste Quantity in accordance with Clause 17.6 below.

17.6. Weighment, Inspection, Acceptance, and Rejection of Waste

a. As part of the Associated Infrastructure, the Concessionaire shall provide weighbridges (Weighbridges), to weigh the waste delivered by the Authority (or any C&T Contractors on behalf of the Authority) at the Receipt Point and the Residual Inert Matter generated from the operations of the Bio-CNG Facility.

b. The Concessionaire shall weigh each truck carrying a consignment of waste to the Site at the Weighbridges as follows:

    i. Each truck entering the Site must obtain an identification number from the Concessionaire's personnel posted at the gate.

    ii. At the Weighbridges, the weight of the truck loaded with the consignment of waste will be taken and the Concessionaire shall record the following details in the format to be approved by the Authority as part of the O&M Plan:

        - date of entry into the Site;
        - registration number of the truck;
        - time of entry into the Site;
        - total weight of the truck; and
        - zone/circle/ward from which the waste has been collected and delivered to the Concessionaire.

c. Inspection after Unloading

    i. Once a truck carrying a consignment of waste has been weighed at the weighbridge, the Concessionaire shall unload the waste and undertake an inspection of the consignment to determine whether it includes any Prohibited Waste or Waste with impurities exceeding 20% of the Waste delivered at the Receipt Point.

    ii. If, pursuant to such inspection after unloading, the Concessionaire determines that the consignment includes any Prohibited Waste or Waste with impurities exceeding 20%, then the Concessionaire shall:

        A. proceed to weigh the Waste in order to determine the impurities and/ or

B. proceed to weigh the Prohibited Waste (if any) in order to determine the quantity of such Prohibited Waste, and the quantity so determined shall be referred to as the "Unloaded Prohibited Waste Quantity".

C. If there exists any Unloaded Prohibited Waste Quantity and/or the Waste contains impurities exceeding 20% of the Waste delivered at the Receipt Point, the Concessionaire shall have the right to reject such Unloaded Prohibited Waste Quantity and/or Waste with impurities exceeding 20%, as the case may be.

D. The Concessionaire shall physically separate and set aside the Unloaded Prohibited Waste Quantity and/or the impurities, as applicable, for inspection by the Independent Engineer.

E. The Concessionaire shall promptly (and in any event within 2 hours of delivery of the relevant consignment of waste that includes Prohibited Waste and/or with impurities exceeding 20%) notify the Authority of the rejection of any consignment of Prohibited Waste and/or with impurities exceeding 20% quantity, along with details of the truck carrying the Prohibited Waste and/or Waste with impurities exceeding 20% and details of who supplied the Prohibited Waste and/or Waste with impurities exceeding 20% and such other details as the Authority may require.

F. Upon receipt of a notice from the Concessionaire regarding delivery of any Prohibited Waste and/ or Waste with impurities exceeding 20% to the Site, the Authority shall have the right to cause the Independent Engineer to inspect the relevant waste consignment within 6 hours of receipt of such notice from the Concessionaire. If the Independent Engineer certifies that the impurities in the Waste do not exceed 20% of Waste delivered at receipt point or the waste is not Prohibited Waste, then the Concessionaire shall be required to accept the waste for processing and handling at the Bio-CNG Facility, in which case such waste shall be deemed to be Acceptable Waste delivered to the Concessionaire for determining if the Authority has delivered the Guaranteed Acceptable Waste Quantity. If the Independent Engineer certifies that the waste is Prohibited Waste and / or constitutes Waste with impurities exceeding 20% which has been delivered, then, and subject to the Concessionaire's right under Clause 17.5.(b), the Authority shall (or shall cause the C&T Contractors to) remove such waste from

the Site. If the Authority chooses to accept the Concessionaire's determination of Prohibited Waste and / or Waste with impurities exceeding 20% (and not require the Independent Engineer to undertake a separate inspection), then, the Authority shall cause the Unloaded Prohibited Waste Quantity, and/ or, subject to the Concessionaire's right under Clause 17.5.(b), the Waste with impurities exceeding 20% to be removed from the Site. All costs associated with the removal and transportation of the Unloaded Prohibited Waste Quantity and/ or Waste with impurities exceeding 20% from the Site, shall be borne by the Authority.

G. In handling any Prohibited Waste and / or Waste with impurities exceeding 20% that has been delivered to the Site, the Concessionaire shall comply with the Waste Acceptance and Rejection Plan, the EMP, Applicable Laws and Applicable Permits.

d. Calculation of the Acceptable Waste Delivered

i. After inspection and unloading of the waste, the Concessionaire shall weigh the truck at the time of exit from the Site. The Concessionaire shall record the weight of the empty truck or, the truck carrying the Prohibited Waste and/or Waste with impurities exceeding 20% not accepted in accordance with Clause 17.6, as the case may be, and the time of exit of the truck in the format to be approved by the Authority as part of the Waste Acceptance and Rejection Plan.

ii. The difference between the weight of the truck carrying the waste, as recorded at the time of entry of the truck into the Site, and the weight of the truck recorded at the time the truck exits the Site, will be treated as the weight/volume of the total waste unloaded at the Receipt Point (the Total Unloaded Waste).

iii. The Total Unloaded Waste less any Unloaded Prohibited Waste Quantity and any Waste with impurities exceeding 20% (other than any Waste with impurities exceeding 20% that the Concessionaire chooses to accept pursuant to Clause 17.5.(b)), will be treated as the weight/volume of Acceptable Waste actually received by the Concessionaire for processing at the Bio-CNG Facility (the Daily Acceptable Waste Quantity). Provided that, any Waste with impurities exceeding 20% that the Concessionaire chooses to accept pursuant to Clause 17.5.(b) shall be counted towards the Daily Acceptable Waste Quantity received by the Concessionaire.

iv. The Daily Acceptable Waste Quantity, Waste with impurities exceeding 20%, Unloaded Prohibited Waste Quantity and the Unloaded Quantity of Waste with Impurities exceeding 20%, and details specified in Clause 17.6.(b).(ii), will be recorded in a daily weight sheet, in the format approved by the Authority as part of the Waste Acceptance and Rejection Plan. The daily weight sheets must be certified by the Independent Engineer.

v. If the Weighbridges are unavailable for any reason, then the Concessionaire has to make alternate arrangements for weighing of trucks at its own cost and in a manner acceptable to the Authority and the Independent Engineer. If the Concessionaire is unable to make acceptable alternate arrangements to weigh the trucks carrying the waste, then the following formula will be used to estimate the quantity of waste delivered to the Concessionaire on the days that the weighbridges are unavailable:

$W = W_{AVG} * N$

Where,

W = weight of the Acceptable Waste delivered to the Concessionaire at the Receipt Point during the period when the Weighbridges are not available;

W_{AVG} = the average Daily Acceptable Waste Quantity, per truck delivered at the Receipt Point over [30 (thirty) days] immediately preceding the date on which the Weighbridges were first unavailable; and

N = the number of truckloads of consignment of waste, received by the Concessionaire at the Receipt Point during the period that the Weighbridges are not available.

17.7. Guaranteed Waste Liquidated Damages

a. If the Acceptable Waste Quantity is less than the Guaranteed Acceptable Waste Quantity, then the Authority shall be liable to pay liquidated damages of ₹500 per MT to the Concessionaire for the shortfall quantity per day.

b. The Guaranteed Waste Liquidated Damages shall accrue on a daily basis for each day on which there is a Shortfall Quantity and shall be calculated on a monthly basis and paid by the Authority to the Concessionaire in accordance with the provisions of this Agreement.

c. If there is a Shortfall Quantity on any day in a month, the Concessionaire shall, by the [15th(fifteenth) Day] of the immediately following month, prepare and submit to the Authority and the Independent Engineer a statement of such Guaranteed Waste Liquidated Damages for the previous month. The Independent Engineer shall review the statement within 7 days of receipt and either accept the Concessionaire's calculation of the Guaranteed Waste Liquidated Damages, or reject such calculation, with reasons. If the Independent Engineer identifies any discrepancy, inaccuracy or shortcoming in the statement, it shall require the Concessionaire to amend or modify the statement, and the Concessionaire shall proceed to revise and re-submit the statement to the Authority and the Independent Engineer.

d. Upon approval of the statement by the Independent Engineer, the Authority shall communicate such approval to the Concessionaire within 15 (fifteen) days of receipt of the approved statement and shall pay the approved Guaranteed Waste Liquidated Damages to the Concessionaire within 30 (thirty) days thereafter. In the event of any delay in payment beyond the aforesaid period of 30 (thirty) days, the Authority shall pay interest on the outstanding amount at a rate equal to the Bank Rate prevailing on the due date of payment plus 3% (three per cent) per annum, calculated from the date on which such payment became due until the date of actual payment.

17.8. Pre-processing of Acceptable Waste

a. The Concessionaire shall set up a Pre-processing facility in accordance with the Waste Acceptance and Rejection Plan. The Pre-processing facility shall be setup in accordance with the Applicable law and the terms of any Applicable Permits and shall include providing adequate number of sorting machines to sort and segregate the Acceptable Waste.

b. The Concessionaire shall be required to provide at the Site, adequate storage facilities for the various wastes that are recovered after the Segregation of Waste.

c. Any Biodegradable Waste that is Segregated from the Acceptable Waste will be processed at the Bio-CNG Facility as if such waste was Acceptable Waste and any Recyclable Materials recovered from the Segregation of the Waste may be sold by the Concessionaire in accordance with Clause 17.10.

d. Any Residual Waste (including any Non-biodegradable Waste) left after Segregation of the Waste, and that cannot be processed at the Project Facility or be sold as Recyclable Materials, shall be delivered by the Concessionaire at the Disposal Point for disposal in accordance with Clause 17.9.

17.9. Delivery of Residual Inert Matter and Residual Waste

a. The Concessionaire shall undertake transportation of the Residual Inert Matter and any Residual Waste to the Disposal Point and shall ensure that transportation vehicles are operated and maintained in a manner which poses no risk of harm or damage to the environment, life or property in the course of transportation to the relevant disposal or delivery location.

b. The Concessionaire shall load the Residual Inert Matter and/or any Residual Waste onto trucks and have the weight of each truck taken at the Weighbridges. The Concessionaire shall record the following details with respect to each truck which is used to transport the Residual Inert Matter and/or any Residual Waste:

   (i) date of exit from the Site;
   (ii) time of exit from the Site;
   (iii) registration number of the truck; and
   (iv) total weight of the truck

c. The details specified in Clause 17.9.(b), shall be recorded in a daily weight sheet, in the format approved by the Authority as part of the Waste Acceptance and Rejection Plan. The daily weight sheets must be certified by the Independent Engineer.

d. The Concessionaire shall be responsible for safe and reliable transportation of the Residual Inert Matter and/or any Residual Waste to the Disposal Point and ensure that there is no spillage or leakage which could cause public nuisance or otherwise endanger environment, life or property.

e. From the COD and until the expiry of the Concession Period, the Authority shall cause the Disposal point to accept the Residual Inert Matter and/or any Residual Waste for disposal.

f. The Disposal point shall be within 30 kms from the Site.

17.10. Sale of Bio-CNG, By-Products and Recyclable Materials

a. Sale of Bio-CNG

   i. The Concessionaire shall be free to store, use, appropriate, market and sell the Bio-CNG.

ii. The Concessionaire may sell the Bio-CNG, at such price and to such person as it deems fit, and the proceeds of such sale shall be to the account of the Concessionaire [subject to payment of License Fee to the Authority in accordance with Article 22].

iii. The Concessionaire shall enter into an Offtake Agreement with any Offtaker of the Bio-CNG and the Bio-CNG shall be delivered at the delivery point agreed between the Concessionaire and the Offtaker.

iv. The Concessionaire shall be responsible for the transportation and delivery of the Bio-CNG to any Offtaker at its own cost, including for the cost of laying pipelines for the transportation of Bio-CNG and/or for the cost of arranging cylinders and cascades for transportation of Bio-CNG.

v. The Concessionaire shall ensure that any cylinder cascades, trucks, pipelines or other appropriate vehicles and / or infrastructure for the transport of the Bio-CNG, are deployed and maintained in good working condition and designed, operated and maintained in a manner which poses no risk of harm or damage to the environment, life or property in the course of transportation to the relevant delivery location.

vi. The Concessionaire shall maintain records of the quantum of the Bio-CNG sold and delivered. The Authority shall have the right to, at any time during the O&M Period, inspect the records maintained by the Concessionaire.

b. Sale of Recyclable Materials and By-Products

i. The Concessionaire shall, as a part of the Associated Infrastructure, create an area of storage at the Site for the By-Products and any material that is recyclable (Recyclable Material).

ii. The By-Products and the Recyclable Material shall be handled safely and stored by the Concessionaire in accordance with the EMP, Applicable Laws and Applicable Permits.

iii. The Concessionaire shall maintain records of the quantum of By-Products generated from the Project Facility and the Recyclable Material recovered. The Authority shall have the right to, at any time during the O&M Period, inspect the records maintained by the Concessionaire.

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iv. The Concessionaire shall be free to sell or otherwise dispose of the By-Product and /or the Recyclable Material, at such price and to such person as it deems fit, and the proceeds of such sale shall be to the account of the Concessionaire [subject to payment of License Fee to the Authority in accordance with Article 22].

v. The Concessionaire shall arrange for transportation of the By-Products and the Recyclable Material from the Site, at its own cost.

17.11. Utilities

a. The Concessionaire shall maintain, at its cost, all utilities necessary for undertaking the O&M of the Project Facility, including all power connections, lighting facilities, telephone connections, internet connections, etc. at the Site.

b. The Concessionaire shall be responsible for arranging for adequate supply of water for use in the operation of the Bio-CNG Facility during the O&M Period. The charges for any water supplied to the Concessionaire for utilization at the Bio-CNG Facility shall be as per the tariff to be notified by the relevant entity for water supply and the Concessionaire shall be responsible to pay all such charges directly to the relevant entity for water supply.

c. Notwithstanding anything contained in this Clause 17.11, if the relevant entity for water supply fails to supply adequate quantities of water to the Concessionaire for use in the operation of the Bio-CNG Facility, the Concessionaire shall be responsible for arranging an alternate source of water in order to ensure the continuous operations of the Bio-CNG Facility and the Concessionaire shall not be entitled to claim any additional costs in such cases.

17.12. Maintenance and Repair of the Bio-CNG Facility

a. During the O&M Period, the Concessionaire shall maintain the Bio-CNG Facility and repair any damage to the Bio-CNG Facility either by itself, or through an approved Subcontractor, in accordance with the O&M Plan, Scheduled Maintenance Programme, Applicable Laws, Applicable Permits, Good Industry Practice and the recommendations of the technology providers such that the Bio-CNG Facility is:

i. in good working condition (subject only to wear and tear and Force Majeure) and capable of achieving its useful economic life in accordance with the Designs and Drawings; and

ii. capable of meeting the KPIs.

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 Bio-CNG Facility, specifying the Scheduled Maintenance periods for the Bio-CNG Facility and the impact of such Scheduled Maintenance periods on the Availability of the Bio-CNG 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.

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 Bio-CNG 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 Bio-CNG 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 17.12, 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 17.12.(d) above, the Concessionaire shall provide to the Authority, the amended Scheduled Maintenance Programme, which shall then be the "Scheduled Maintenance Programme".

f. The Concessionaire shall, at its own cost, replace any components or parts of the Project Facility that are damaged or worn out or, in the Concessionaire's judgement, are no longer practicable to repair as a result of normal wear and tear.

g. If at any time during the O&M Period, the Bio-CNG Facility is damaged by a 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 Bio-CNG Facility to the same condition that it was in before the occurrence of such Casualty. To the extent available, insurance proceeds shall be applied to such repair, replacement or restoration and the balance amount shall be borne by the Concessionaire.

17.13. 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 Facility in accordance with the requirements set out in this Article 17.

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.

17.14. Damages for breach of operation & maintenance obligations

a. In the event that the Concessionaire fails to repair or rectify any defect or deficiency set forth in the Operation & Maintenance Requirements within the period specified therein, it shall be deemed to be in breach of this Agreement and the Authority shall be entitled to recover Damages, to be calculated and paid for each day of delay until the breach is cured at a rate of 5% (five percent) of the cost of such repair or rectification as estimated by the Independent Engineer. Recovery of such Damages shall be without prejudice to the rights of the Authority under this Agreement, including the right of Termination thereof.

b. The Damages set forth in Clause 17.14 may be assessed and specified forthwith by the Independent Engineer; provided that the Authority may, in its discretion, demand a smaller sum as Damages, if in its opinion, the breach has been cured promptly and the Concessionaire is otherwise in compliance with its obligations hereunder. The Concessionaire shall pay such Damages forthwith and in the event that it contests such Damages, the Dispute Resolution Procedure shall apply.

17.15. Authority's right to take remedial measures

a. In the event the Concessionaire does not maintain and /or repair the Project Facility or part thereof in conformity with the Operation & Maintenance Requirements or the Maintenance Manual, as the case may be, and fails to commence the remedial works within 15 (fifteen) days of receipt of the O&M Inspection Report or notice on this behalf from the Authority or the Independent Engineer, as the case may be, the Authority shall, without prejudice to its right under this Agreement including Termination thereof, be entitled to undertake such remedial measure at the risk and cost of the Concessionaire, and to recover its cost from the Concessionaire. In addition to recovery as aforesaid, a sum equal to 20% (twenty percent) of such cost shall be paid by the Concessionaire to the Authority as Damages. For avoidance of doubt, the right of the Authority under this Clause 17.15, shall be without prejudice to its rights and remedies provided under Clause 17.14.

b. The Authority shall have right, and the Concessionaire hereby expressly grants to the Authority the right, to recover the costs and Damages specified in Clause17.15.(a), directly from the Escrow Account as if such costs and Damages were O&M Expenses, 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 under this Clause 17.15.(b) and debit the same to O&M Expenses.

17.16. Overriding powers of the Authority

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

b. If the Concessionaire fails to rectify or remove such hardship or danger, the Authority may, without prejudice to any other rights or remedy available to it under this Agreement, have

such hardship removed at the risk and costs of the Concessionaire. The cost incurred by the Authority in rectifying such default of the Concessionaire, as certified by the Independent Engineer/ Authority, shall be reimbursed by the Concessionaire to the Authority within 7 days from the date of receipt of a claim in respect thereof from the Authority, failing which the Authority shall have right to adjust and recover such cost against the Performance Security deposited with the Authority.

c. In the event of national emergency, civil commotion or any other Indirect Political Event specified in Clause 27.3, the Authority may take over the performance of any or all of the obligations of the Concessionaire to the extent deemed necessary by it and exercise such control over the Project and give such direction to the Concessionaire as may be deemed necessary. It is agreed that the Concessionaire shall comply with such directions issued by the Authority and shall provide necessary assistance and cooperation to the Authority, on best effort basis, for performance of its obligations hereunder.

ARTICLE 18

SAFETY REQUIREMENTS

18.1. Safety Requirements

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

b. The Independent Engineer shall carry out the safety audit of the Project in accordance with the Safety Requirements and shall take all other actions necessary for securing compliance with the Safety Requirements.

18.2. 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 scope of the Project.

ARTICLE 19

MONITORING OF OPERATION AND MAINTENANCE

19.1. Monthly status reports

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

b. The Concessionaire shall deliver to the Authority, with a copy to the Independent Engineer, the following within the specified timelines:

   i. 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 Facility 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;

   ii. reports on any critical breakdowns or failures in the Project Facility, including any of the Weighbridges, within [4 (four)] hours of such occurrence;

   iii. reports on accidents or other incidents in relation to the O&M personnel or any third party, including any non-compliance with the EMP along with the actions taken to minimise recurrence, within [24 (twenty-four)] hours of such occurrence;

   iv. 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 17.6 at the end of each day;

v. [monthly/quarterly] report compiling the data collected from the environmental monitoring system, on or before the [7th (seventh)] day of the following month;

vi. monthly report on compliance with the KPIs 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;

vii. copies of any reports, notices or responses submitted for compliance/non-compliance with Applicable Laws or Applicable Permits, within [2 (two)] days of receipt of such notice from or submission of replies to the relevant Government Authority; and

viii. 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.

19.2. Environmental Monitoring

a. The Concessionaire shall operate the Project Facility and process the Acceptable Waste at the Bio-CNG Facility strictly in accordance with the O&M Plan, the Waste Acceptance and Rejection 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.

b. The Concessionaire shall ensure the treatment and disposal of all wastewater generated from the operation and maintenance of the Bio-CNG Facility in accordance with the applicable statutory norms, Applicable Laws and Applicable Permits, and shall maximise the reuse and recycling of such treated wastewater to the extent practicable. If any incident occurs at the Site resulting in any liquid discharge on the Site or any adjoining property, the Concessionaire shall ensure the prompt collection, clean-up and disposal of such liquid discharge in accordance with the EMP and the O&M Plan.

c. The Concessionaire shall carry out continuous environmental monitoring of the Bio-CNG Facility in accordance with the EMP, O&M Plan and Applicable Laws. The monitoring schedule and parameters shall be set out in the EMP.

d. For the purposes of the continuous environmental monitoring of the Bio-CNG Facility, the Concessionaire shall install and maintain an online monitoring system as part of the Project

Facility, in accordance with the Technical Specifications and Applicable Laws to monitor compliance with the KPIs.

19.3. Inspection

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

19.4. Tests

For determining that the Project Facility conforms to the Operation & Maintenance Requirements, the Independent Engineer shall require the Concessionaire to carryout, or cause to be carried out, tests specified by it in accordance with Good Industry Practice. 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 forthwith to the Independent Engineer. One half of the costs incurred on such tests, and to the extent certified by the Independent Engineer as reasonable, shall be reimbursed by the Authority to the Concessionaire.

19.5. Remedial measures

a. The Concessionaire shall repair or rectify the defects or deficiencies, if any, set forth in the O&M Inspection Report or in the test results referred to in Clause 19.4 and furnish a report in respect thereof to the Independent Engineer and the Authority within 15 (fifteen) days of receiving the O&M Inspection Report or the test results, as the case may be; provided that where the remedying of such defects or deficiencies is likely to take more than 15 (fifteen) days, the Concessionaire shall submit progress reports of the repair works once every week until such works are completed in conformity with this Agreement.

b. The Independent Engineer shall require the Concessionaire to carry out or cause to be carried out tests, at its own cost, to determine that such remedial measures have brought the Project Facility into compliance with the Operation & Maintenance Requirements and the procedure set forth in this Clause 19.5 shall be repeated until the Project Facility conforms to the Operation & Maintenance Requirements. In the event that remedial measures are not completed by the Concessionaire in conformity with the provisions of this Agreement, the Authority shall be entitled to recover Damages from the Concessionaire in accordance with clause 17.14. For avoidance of doubts, levy and

recovery of Damages by the Authority from the Concessionaire shall not absolve the Concessionaire for its obligation and the Authority shall be entitled to seek specific performance by the Concessionaire of its obligations under this Agreement.

ARTICLE 20

INDEPENDENT ENGINEER

20.1. Appointment of Independent Engineer

The Authority shall appoint a consulting engineering firm, to be the independent consultant under this Agreement (the "Independent Engineer"). The appointment shall be made no later than 90 (ninety) days from the date of this Agreement and shall be for a period of 3(three) years. On expiry or termination of the aforesaid appointment, the Authority shall appoint an Independent Engineer for a further term of 3 (three) years, and such procedure shall be repeated after expiry of each appointment till the end of Concession Period.

20.2. Duties and Functions of Independent Engineer

a. The Independent Engineer shall discharge its duties and functions substantially in accordance with the terms of reference set forth in Schedule-N.

b. The Independent Engineer shall be required to act independently, reasonably, fairly and expeditiously to ensure:

    i. the timely completion of construction of the Project Facility on or before the Scheduled Completion Date; and

    ii. compliance with the KPIs during the O&M Period.

c. The Independent Engineer shall, at all times during the Concession Period, have the right to enter upon and access the Site. The Concessionaire shall have the right to accompany the Independent Engineer during its inspection of the Project Facility.

d. During the Construction Period, the Independent Engineer shall inspect the Project Facility at least once a month and prepare an inspection report, setting out the progress of the construction of the Project Facility, defects or deficiencies, if any, and status of compliance with the Construction Plan, Specifications and Standards, and Designs and Drawings. The Independent Engineer shall send the report to Authority and the Concessionaire within 7 (seven) days of such inspection, pursuant to which, the Concessionaire shall be required to rectify the defects or deficiencies, if any, identified by the Independent Engineer.

e. During the O&M Period, the Independent Engineer shall inspect the Project Facility at least once a month and prepare an inspection report, setting out the defects or deficiencies,

if any, and status of compliance with the KPIs. The Independent Engineer shall send the report to Authority and the Concessionaire within 7 (seven) days of such inspection, pursuant to which, the Concessionaire shall be required to rectify the defects or deficiencies, if any, identified by the Independent Engineer.

f. The Independent Engineer shall attend any meetings held by the Concessionaire to review the progress of the construction or O&M of the Project Facility, 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 and all Applicable Laws and Applicable Permits.

g. 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.

h. 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 Facility.

20.3. Remuneration

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 and shall be reimbursed by the Concessionaire to the Authority within 15 (fifteen) days of receiving a statement of expenditure from the Authority.

20.4. Termination of Appointment

The Authority may, in its discretion, terminate the appointment of the Independent Engineer at any time.

20.5. 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.

20.6. 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 Dispute Resolution Procedure.

20.7. 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. Provided, however, that nothing contained in this Article 20.7 shall in any manner restrict the rights of the Authority to enforce compliance of the provisions of this Agreement.

ARTICLE 21

FINANCIAL CLOSE AND SUBSTITUTION AGREEMENT

21.1. Financial Close

a. The Concessionaire hereby agrees and undertakes that it shall achieve Financial Close within 150 (one hundred and fifty) days from the date of this Agreement. In the event of delay in achieving the Financial Close, the Concessionaire shall be entitled to a further period not exceeding 30 (thirty) days, subject to payment of Damages to the Authority in a sum calculated at the rate of 0.05% (zero point zero five percent) of the Performance Security for each day of delay, provided that the Damages specified herein shall be payable every week and the period beyond the said days shall be granted only to the extent of Damages so paid; provided further that no Damages shall be payable if such delay in Financial Close has occurred solely as a result of any default or delay by the Authority in procuring satisfaction of the Conditions Precedent specified in Clause 4.1.(a) or due to Force Majeure. For the avoidance of doubt, the Damages payable hereunder by the Concessionaire shall be in addition to the Damages, if any, due and payable under the provisions of Clause 4.5.

b. The Concessionaire shall, upon occurrence of Financial Close provide to the Authority, 3 (three) true copies of the Financial Package and the Financial Model, duly attested by a Director of the Concessionaire, along with a soft copy of the Financial Model in MS Excel version or any substitute thereof, which is acceptable to the Lenders.

21.2. Termination due to failure to achieve Financial Close

a. Notwithstanding anything to the contrary contained in this Agreement, in the event that Financial Close does not occur, for any reason whatsoever, within the period set forth in Clause 21.1.(a) or the extended period provided thereunder, all rights, privileges, claims and entitlements of the Concessionaire under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Concessionaire, and the Concession Agreement shall be deemed to have been terminated by mutual agreement of the Parties. For the avoidance of doubt, it is agreed that in the event the Parties hereto have, by mutual consent, determined the Appointed Date to precede the Financial Close, the provisions of this Clause 21.2.(a) shall not apply.

b. Upon Termination under Clause 21.2.(a), the Authority shall be entitled to encash the Bid Security and appropriate the proceeds thereof as Damages; provided, however, that if Financial Close has not occurred due to Force Majeure or as a result of the Authority being

in default of any of its obligations, it shall, upon Termination, return the Bid Security forthwith along with the Damages due and payable under Clause 4.5. For the avoidance of doubt, it is expressly agreed that if the Bid Security shall have been substituted by Performance Security, the Authority shall be entitled to encash there from an amount equal to Bid Security.

21.3. Substitution Agreement

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

b. The Lenders may exercise the rights of step in or substitution as provided in the Substitution Agreement provided that the Nominated Company substituting the Concessionaire shall enjoy all rights and be responsible for performing/fulfilling all obligations of the Concessionaire under this Agreement. Provided that in the event the Lenders are unable to substitute the Concessionaire by Nominated Company as per the provisions of the Substitution Agreement, the Authority shall proceed to terminate the Agreement.

ARTICLE 22

PAYMENTS TO/ FROM THE AUTHORITY

22.1. License Fee

a. The Concessionaire shall, as consideration for the use, in its capacity as a bare licensee of the Project Site made available in accordance with Article 4.1.(a)(i), pay to the Concessioning Authority Rs.1 per square metre per annum (the “License Fee”).

b. The License Fee shall be due and payable annually in advance commencing from the Execution Date and thereafter on each anniversary of the Execution Date during the Concession Period.

22.2. Viability Gap Funding (Grant)

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 provide Viability Gap Funding (the "Grant") to the Concessionaire in an amount equal to ₹_____ (Rupees _____ only), subject to and in accordance with the provisions of this Agreement.

b. The Concessionaire shall be deemed to have satisfied itself regarding the adequacy, accuracy and sufficiency of the Grant. The Grant shall constitute the sole financial support to be provided by the Authority under this Agreement, and no adjustment, revision or escalation shall be made to the Grant. The Grant shall be disbursed by the Authority in accordance with Clause 22.3.

22.3. Grant Payments

a. Upon fulfilment of the conditions specified for each Grant instalment, the Authority shall credit the corresponding portion of the Grant into the Escrow Account in accordance with the provisions of this Clause 22.3.

b. Grant Disbursement Schedule

   i. Subject to the provisions of this Clause 22.3, the Grant shall be released by the Authority to the Concessionaire in the following instalments:

Grant Instalment	Grant Amount	Condition for Release (with Definitions)
First Instalment	INR [●] (50% of the Grant)	Upon achievement of the COD
Second Instalment	INR [●] (Balance 50% of the Grant)	Upon completion of one (1) year from the COD, subject to satisfactory operation and maintenance of the Project Facilities in accordance with this Agreement

Provided that each Grant instalment shall be reviewed and recommended by the Independent Engineer and certified by the Authority prior to its release.

ii. Within 7 (seven) days of issuance of the relevant Milestone Completion Certificate or certification of eligibility for release of the respective Grant instalment, the Concessionaire shall submit an Invoice to the Authority for the corresponding Grant amount together with a copy of the relevant certificate.

iii. Within 30 (thirty) days of receipt of an Invoice submitted under Clause 22.3(b)(ii), the Authority shall verify the amounts due and payable to the Concessionaire and shall either:

A. approve the Invoice and issue a Payment Certificate to the Escrow Bank (with a copy to the Concessionaire), authorising release of the amount specified in the Invoice after deducting only such amounts as are expressly recoverable from the Concessionaire under this Agreement or Applicable Laws; or

B. notify the Concessionaire in writing disputing the Invoice, specifying the reasons therefor, and require the Concessionaire to submit a revised Invoice. Where only a portion of the Invoice is disputed, the Authority shall simultaneously issue a Payment Certificate for the undisputed amount.

iv. The Concessionaire shall submit a revised Invoice after rectifying the discrepancies identified by the Authority. The procedure specified in Clause 22.3(b)(iii) shall apply mutatis mutandis to such revised Invoice.

v. Any dispute relating to an Invoice shall be resolved in accordance with Article 37.

vi. A certificate issued by the Authority under Clause 22.3(b)(iii)(A) shall constitute a Payment Certificate. The Authority shall ensure that sufficient funds are made available for release of the certified Grant simultaneously with or prior to issuance of the Payment Certificate.

vii. If the Authority neither disputes nor approves an Invoice within 30 (thirty) days from the date of its receipt, the Invoice shall be deemed to have been accepted, and the Concessionaire shall be entitled to instruct the Escrow Bank (with a copy to the Authority) to release the amount specified therein.

viii. Immediately upon receipt of a Payment Certificate issued under Clause 22.3(b)(iii)(A), or upon receipt of instructions from the Concessionaire under Clause 22.3(b)(vii), the Escrow Bank shall release the amount specified in the Payment Certificate or Invoice, as the case may be, in accordance with the Escrow Agreement.

ix. Notwithstanding anything to the contrary contained in this Agreement, the Authority shall have no obligation to issue a Payment Certificate unless:

A. the Performance Security, as applicable, remains valid and in full force;

B. the insurances required under Article 25 remain valid and in effect;

C. the Applicable Permits required for construction, completion and operation of the Project Facilities remain valid and subsisting, unless the withdrawal or cancellation thereof is not attributable to the Concessionaire;

D. the Concessionaire has complied with the Environmental Management Plan and other obligations under this Agreement; and

E. no Concessionaire Default is subsisting at the time of issuance of the Payment Certificate.

22.4. Taxes and Statutory Levies

a. The Grant shall be deemed to be inclusive of all applicable Taxes, duties, levies and statutory charges, including Goods and Services Tax (GST), if applicable.

b. The Authority shall be entitled to deduct from the Grant or any other amount payable to the Concessionaire any income tax, withholding tax or other statutory deductions required to be deducted at source in accordance with Applicable Laws.

c. The Concessionaire shall be solely responsible for the payment of all applicable Taxes, duties, levies and statutory charges in connection with the Project and for complying with all procedural requirements relating thereto. The Concessionaire shall also be solely responsible for any proceedings, penalties or liabilities arising from any non-payment, short payment or delayed payment of such Taxes, duties, levies or statutory charges.

d. The Concessionaire shall indemnify, defend and hold harmless the Authority from and against any loss, liability, claim, demand, penalty, interest, cost or expense arising out of or in connection with the Concessionaire's failure to comply with its obligations relating to Taxes, duties, levies or statutory charges under this Agreement.

22.5. Mechanism of Payment

The payment of License Fee from 2nd year onwards shall be through the Escrow Account as per Article 24 of this Agreement.

22.6. Revenue sources for the Concessionaire

Subject to the provisions of this Agreement and in consideration of the Concessionaire accepting the Concession and Undertaking to perform and discharge its obligations in accordance with the terms, conditions and covenants set forth in this Agreement, the Authority agrees to provide the Concessionaire with the ownership of the materials extracted from solid waste and retain all the revenue earned from the sale of these materials if any. Also, the Authority agrees to allow the Concessionaire to retain the revenue resulting sale of by-products from processing/ and Bio-CNG Plant.

ARTICLE 23

KEY PERFORMANCE INDICATORS

23.1. Performance Indicators

Without prejudice to the obligations specified in this Agreement, the Concessionaire shall develop, operate and maintain the Project Facility, machinery, and vehicles such that it achieves the performance indicators comprising Availability, Throughput, Operation, Safety, Processing Efficiency and Environmental Compliance, as specified in this Article, Good Industry Practice and Applicable Laws (the "Key Performance Indicators").

23.2. Key Performance Indicators

a. Availability

The Concessionaire shall ensure that the Availability of the Project Facility for each month during the O&M Period shall be 90% (ninety percent) (the "Guaranteed Availability").

b. Throughput Guarantee

The Concessionaire shall ensure that the Project Facility is capable of receiving and processing Acceptable Waste up to its Design Capacity of 50 TPD, with an operational variation of ±20% (the "Throughput Guarantee").

c. Operation

The Concessionaire shall at all times ensure that, save and except any damage resulting from theft, arson or vandalism:

i. there are adequate manpower, equipment, machinery and operational arrangements as per Specifications and Standards;
ii. all machinery, equipment and facilities shall be maintained in good operating condition and shall function efficiently to achieve the Guaranteed Availability specified in Clause 23.2(a);
iii. the Project Facility is maintained in accordance with Maintenance Requirements.

d. Safety of Operations

i. The Concessionaire shall ensure safe operation of the Project Facility throughout the O&M Period.

ii. The number of Reportable Accidents during the O&M Period shall not exceed one (1) in any rolling period of sixty (60) months.

iii. There shall be no fatalities at the Project Facility during the O&M Period.

iv. The Concessionaire shall comply with all Applicable Laws relating to occupational health, industrial safety and environmental protection.

e. The Concessionaire shall ensure that the quantity of processing rejects, inert material and remnant waste disposed of at the designated Disposal Facility does not exceed 20% (twenty percent) of the total quantity of Acceptable Waste received at the Project Facility, measured as a rolling average over any continuous period of three (3) months. Failure to comply shall constitute non-achievement of the applicable KPI and attract Performance Liquidated Damages under Clause 23.4.

23.3. Availability of Project Facility

a. The "Availability" of each Project Facility will be determined as a ratio of the number of hours in a day during which such Project Facility was available to carry out operations up to its design capacity, to the total number of hours in a day, and the term "Available" shall be construed accordingly.

b. In computing the Availability of each Project Facility, the Concessionaire agrees that the Project Facility will be deemed to be Available at all times, other than during the period of:

i. An Unscheduled Outage affecting such Project Facility;

ii. A Power Outage attributable to the Concessionaire affecting such Project Facility;

iii. Suspension of the O&M services for such Project Facility, for reasons attributable to the Concessionaire; or

iv. An Emergency affecting such Project Facility, attributable to the Concessionaire, during which the Project Facility will be deemed to be not Available.

v. Notwithstanding anything to the contrary contained in this Agreement, during the period of a Forced Unavailability or a Force Majeure, the Project Facility affected by such Forced Unavailability or a Force Majeure will be deemed to be Available.

vi. If the Availability of the Project Facility during any calendar month is less than the Guaranteed Availability, the Authority shall issue a notice to the Concessionaire requiring the Concessionaire to restore the Guaranteed Availability within 3 (three) days from the date of receipt of such notice. If the Concessionaire fails to restore the Guaranteed Availability within the aforesaid period, the Authority shall be entitled to levy Availability Liquidated Damages in accordance with Clause 23.4(a), without prejudice to any other rights or remedies available to the Authority under this Agreement.

23.4. Damages for Failure to Achieve Key Performance Indicators

a. Availability Liquidated Damages

Where the Concessionaire fails to restore the Guaranteed Availability within the period specified in Clause 23.3(b)(vi), the Concessionaire shall be liable to pay liquidated damages (the "Availability Liquidated Damages") equal to 0.02% (zero-point zero two percent) of the Performance Security for each day of non-compliance commencing from the expiry of the cure period and continuing until the Guaranteed Availability is restored.

b. Performance Liquidated Damages

Where any KPI other than Availability is not achieved, the Concessionaire shall pay Performance Liquidated Damages equal to 0.05% (zero-point zero five percent) of the Performance Security for each day of non-compliance.

The following procedure shall apply:

i First Breach: Upon the first occurrence of non-compliance, the Authority shall issue a First Breach Notice requiring the Concessionaire to cure the breach. If the breach is cured within 2 (two) days, no Performance Liquidated Damages shall be payable. If the breach continues beyond 2 (two) days, Performance Liquidated Damages shall accrue from the

third day until the breach is cured. If the First Breach continues for 10 (ten) consecutive days from the date of the First Breach Notice, it shall constitute a Second Breach.

ii Second Breach: Where (i) the First Breach continues for 10 (ten) consecutive days from the date of the First Breach Notice; or (ii) another instance of non-compliance with the same KPI occurs within 6 (six) months of the First Breach, the Authority shall issue a Second Breach Notice.

If the breach continues beyond 2 (two) days from the date of the Second Breach Notice, the Concessionaire shall pay twice the applicable Performance Liquidated Damages from the third day onwards. If the Second Breach continues for 10 (ten) days from the date of the Second Breach Notice, it shall constitute a Third Breach.

iii Third Breach: Where (i) the Second Breach continues for 10 (ten) consecutive days from the date of the Second Breach Notice; or (ii) another instance of non-compliance with the same KPI occurs within 6 (six) months of the Second Breach, the breach shall constitute a Third Breach. Upon the occurrence of a Third Breach, the Authority shall issue a Third Breach Notice requiring the Concessionaire to cure the Third Breach.

If the Third Breach continues beyond 2 (two) days from the Third Breach Notice, the Concessionaire shall pay three times the applicable Performance Liquidated Damages from the third day onwards.

If the Third Breach is not cured within 10 (ten) consecutive days from the date of the Third Breach Notice, or if more than three (3) Third Breaches occur during any continuous period of 12 (twelve) months, the same shall constitute a Concessionaire Default.

iv The Parties acknowledge that the Availability Liquidated Damages and Performance Liquidated Damages represent a genuine pre-estimate of the losses likely to be suffered by the Authority and are not intended to operate as a penalty.

v Within 7 (seven) days after the end of each calendar month, the Concessionaire shall submit a Monthly KPI Adherence Report in the format prescribed by the Authority. The report shall be certified by the Independent Engineer within another 7 days.

c. Aggregate Liquidated Damages

Notwithstanding anything contained in this Agreement, where the aggregate of Availability Liquidated Damages and Performance Liquidated Damages levied during any calendar month exceeds 5% (five percent) of the Performance Security, the same shall constitute a Concessionaire Default, without prejudice to the Authority's other rights under this Agreement.

ARTICLE 24

ESCROW ACCOUNT

24.1. Escrow Account

i The Concessionaire shall, prior to the Appointed Date, open and establish an Escrow Account with a Scheduled Bank (the "Escrow Bank") in accordance with this Agreement read with the Escrow Agreement.

ii The nature and scope of the Escrow Account are fully described in the agreement (the "Escrow Agreement") to be entered into amongst the Concessionaire, the Authority, the Escrow Bank and the Lenders (if any) through the Lenders' Representative, which shall be substantially in the form set forth in Schedule-O.

24.2. Deposits into Escrow Account

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

a. all funds received in relation to the Project from any source, including the 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 revenues from the sale of the Bio-CNG, By-Products and Recyclable Materials by the Concessionaire;

d. all proceeds received pursuant to any insurance claims;

e. all payments by the Authority, after deduction of any outstanding payments.

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

24.3. Withdrawals during Concession Period

a. 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:

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 Agreements;

iii. O&M Expenses, subject to the ceiling, if any, set forth in the Financing Agreements;

iv. 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. License Fee due 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 Agreements;

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 24.3.(a), except with the prior written approval of the Authority.

24.4. Withdrawals upon Termination

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

i. all taxes due and payable by the Concessionaire for and in respect of the Project;

ii. percentage of Debt Due excluding Subordinated Debt, as required to be paid, as per the terms of this Agreement;

iii. outstanding License Fee 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 set forth in Article 32;

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; and

x. balance, if any, in accordance with the instructions of the Concessionaire:

Provided that no appropriations shall be made under Sub-clause (x) of this Clause 24.4.(a) until a Vesting Certificate has been issued by the Authority under the provisions of Article 31.

b. The provisions of this Article 24 and the instructions contained in the Escrow Agreement shall remain in full force and effect until the obligations set forth in Clause 24.4.(a) have been discharged.

ARTICLE 25

INSURANCE

25.1. Insurance during Concession Period

The Concessionaire shall affect and maintain at its own cost, during the Construction Period and the Operation Period, such insurances for such maximum sums as may be required under the Financing Agreements and Applicable Laws, and such insurances as may be necessary or prudent in accordance with Good Industry Practice. The Concessionaire shall also affect and maintain such insurances as may be necessary for mitigating the risks that may devolve on the Authority as a consequence of any act or omission of the Concessionaire during the Construction Period. The Concessionaire shall procure that in each insurance policy, the Authority shall be a co-insured and that the insurer shall pay the proceeds of insurance into the Escrow Account. For the avoidance of doubt, the level of insurance to be maintained by the Concessionaire after repayment of Lenders' dues in full shall be determined on the same principles as applicable for determining the level of insurance prior to such repayment of Lenders' dues.

25.2. Insurance Cover

Without prejudice to the provisions contained in Clause 25.1, the Concessionaire shall, during the Operation Period, procure and maintain Insurance Cover including but not limited to the following:

a. loss, damage or destruction of the Project Assets, including assets handed over by the Authority to the Concessionaire, at replacement value;

b. 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 Concession;

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 Facility, the Concessionaire and its employees, including all Force Majeure Events that are insurable at commercially reasonable premiums and not otherwise covered in items (a) to (e) above.

25.3. Notices to the Authority

No later than 45 (forty-five) days prior to commencement of the Construction Period or the Operation Period, as the case may be, the Concessionaire shall by notice furnish to the Authority, in reasonable detail, information in respect of the insurances that it proposes to effect and maintain in accordance with this Article 25. Within 30 (thirty) days of receipt of such notice, the Authority may require the Concessionaire to effect and maintain such other insurances as may be necessary pursuant hereto, and in the event of any difference or disagreement relating to any such insurance, the Dispute Resolution Procedure shall apply.

25.4. Evidence of Insurance Cover

All insurances obtained by the Concessionaire in accordance with this Article 25 shall be maintained with insurers on terms consistent with Good Industry Practice. Within 15 (fifteen) days of obtaining any insurance cover, the Concessionaire shall furnish to the Authority, notarized true copies of the certificate(s) of insurance, copies of insurance policies and premium payment receipts in respect of such insurance, and no such insurance shall be cancelled, modified, or allowed to expire or lapse until the expiration of at least 45 (forty five) days after notice of such proposed cancellation, modification or nonrenewal has been delivered by the Concessionaire to the Authority.

25.5. Remedy for failure to insure

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

25.6. Waiver of subrogation

All insurance policies in respect of the insurance obtained by the Concessionaire pursuant to this Article 25 shall include a waiver of any and all rights of subrogation or recovery of the insurers thereunder against, inter alia, the Authority, and its assigns, successors, undertakings and their subsidiaries, affiliates, employees, insurers and underwriters, and of any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy or in any way connected with any loss, liability or obligation covered by such policies of insurance.

25.7. Concessionaire's waiver

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

25.8. Application of insurance proceeds

The proceeds from all insurance claims, except life and injury, shall be paid to the Concessionaire by credit to the Escrow Account and it shall, notwithstanding anything to the contrary contained in Clause 24.3, apply such proceeds for any necessary repair, reconstruction, reinstatement, replacement, improvement and delivery of the Project Facility, and the balance remaining, if any, shall be applied in accordance with the provisions contained in this behalf in the Financing Agreements.

25.9. Compliance with conditions of insurance policies

The Concessionaire expressly acknowledges and undertakes to fully indemnify the Authority from and against all losses and claims arising from the Concessionaire's failure to comply with conditions imposed by the insurance policies affected in accordance with this Agreement.

ARTICLE 26

ACCOUNTS AND AUDIT

26.1. Audited accounts

a. The Concessionaire shall maintain books of accounts recording all its receipts (including revenue from Bio-CNG sale and other revenues derived/collected by it from or on account of the Project and/or its use), income, expenditure, payments (including payments from the Escrow Account), assets and liabilities, in accordance with this Agreement, Good Industry Practice, Applicable Laws and Applicable Permits. The 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 either Party under this Agreement. 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 either Party under this Agreement.

b. 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.

26.2. Appointment of auditors

a. The Concessionaire shall appoint and have during the subsistence of this Agreement as its Statutory Auditors. All fees and expenses of the Statutory Auditors shall be borne by the Concessionaire.

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

26.3. 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. For the avoidance of doubt, such certification shall not be required for exchange of information in the normal course of business including the submission of any periodic information in pursuance of the provisions of this Agreement, save and except where such certification is expressly provided.

26.4. Set-off

In the event any amount is due and payable by the Authority to the Concessionaire, it may set off any sums payable to it by the Concessionaire and pay the balance remaining. Any exercise by the Authority of its rights under this Clause 26.4 shall be without prejudice to any other rights or remedies available to it under this Agreement or otherwise.

26.5. Dispute resolution

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

ARTICLE 27

FORCE MAJEURE

27.1. Force Majeure

As used in this Agreement, the expression "Force Majeure" or "Force Majeure Event" shall, save and except as expressly provided otherwise, mean occurrence in India of any or all of Non-Political Event, Indirect Political Event and Political Event, as defined in Clauses 27.2, 27.3 and 27.4 respectively, if it affects the performance by the Party claiming the benefit of Force Majeure (the "Affected Party") of its obligations under this Agreement and which act or event (a) is beyond the reasonable control of the Affected Party, and (b) the Affected Party could not have prevented or overcome by exercise of due diligence and following Good Industry Practice, and (c) has Material Adverse Effect on the Affected Party.

27.2. Non-Political Event

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

a. act of God, epidemic, pandemic, quarantine restrictions, extremely adverse weather conditions, lightning, earthquake, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionizing radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Site);

b. strikes or boycotts (other than those involving the Concessionaire, Contractors or their respective employees/representatives, or attributable to any act or omission of any of them) interrupting supplies and services to the Project for a continuous period of 24 (twenty four) hours and an aggregate period exceeding 7 (seven) days in an Accounting Year, and not being an Indirect Political Event set forth in Clause 27.3;

c. any failure or delay of a Contractor but only to the extent caused by another Non-Political Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Contractor;

d. any judgment or order of any court of competent jurisdiction or statutory authority made against the Concessionaire in any proceedings for reasons other than (i) failure of the Concessionaire to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Agreement, or (iv) exercise of any of its rights under this Agreement by the Authority;

e. the discovery of geological conditions, toxic contamination or archaeological remains on the Site that could not reasonably have been expected to be discovered through a site inspection; or

f. any event or circumstances of a nature analogous to any of the foregoing.

27.3. Indirect Political Event

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

a. an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;

b. any political or economic upheaval, disturbance, movement, struggle or similar occurrence which could not have been anticipated or foreseen by a prudent person, and which causes the construction or operation of the Project to be financially unviable or otherwise not feasible;

c. industry-wide or State-wide strikes or industrial action for a continuous period of 24 (twenty-four) hours and exceeding an aggregate period of 7 (seven) days in an Accounting Year;

d. any civil commotion, boycott or political agitation which prevents delivery of Acceptable waste at the Project Site for an aggregate period exceeding 7 (seven) days in an Accounting Year;

e. failure of the Authority to permit the Concessionaire to continue the Construction Works, with or without modifications, in the event of stoppage of such works after discovery of any geological or archaeological finds or for any other reason;

f. any failure or delay of a Contractor to the extent caused by any Indirect Political Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Contractor;

g. any Indirect Political Event that causes a Non-Political Event; or

h. any event or circumstances of a nature analogous to any of the foregoing.

27.4. Political Event

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

a. Change in Law for which no relief is provided under the provisions of Article 34, resulting in Material Adverse Effect;

b. compulsory acquisition in national interest or expropriation of any Project Assets or rights of the Concessionaire or of the Contractors;

c. unlawful or unauthorized or without jurisdiction revocation of, or refusal to renew or grant without valid cause, any clearance, license, permit, authorization, no objection certificate, consent, approval or exemption required by the Concessionaire or any of the Contractors to perform their respective obligations under this Agreement and the Project Agreements; provided that such delay, modification, denial, refusal or revocation did not result from the Concessionaire's or any Contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such clearance, license, authorization, no objection certificate, exemption, consent, approval or permit;

d. any failure or delay of a Contractor but only to the extent caused by another Political Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Contractor; or

e. any event or circumstance of a nature analogous to any of the foregoing.

27.5. Duty to report Force Majeure Event

a. Upon occurrence of a Force Majeure Event, the Affected Party shall by notice report such occurrence to the other Party forthwith. Any notice pursuant hereto shall include full particulars of:

    i. the nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Article 27 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;

iii. the measures which the Affected Party is taking or proposes to take for alleviating the impact of such Force Majeure Event;

iv. Any other information relevant to the Affected Party's claim.

b. The Affected Party shall not be entitled to any relief for or in respect of a Force Majeure Event unless it shall have notified the other Party of the occurrence of the Force Majeure Event as soon as reasonably practicable, and in any event no later than 7 (seven) days after the Affected Party knew, or ought reasonably to have known, of its occurrence, and shall have given particulars of the probable material effect that the Force Majeure Event is likely to have on the performance of its obligations under this Agreement.

c. For so long as the Affected Party continues to claim to be materially affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than weekly) reports containing information as required by Clause 27.5.(a), and such other information as the other Party may reasonably request the Affected Party to provide.

27.6. Effect of Force Majeure Event on the Concession

a. Upon the occurrence of any Force Majeure Event prior to the Appointed Date, the period set forth in Clause 4.1 for fulfilment of Conditions Precedent and in Clause 21.1.(a) for achieving Financial Close shall be extended by a period equal in length to the duration of the Force Majeure Event.

b. At any time after the Appointed Date, if any Force Majeure Event occurs:

i. before COD, the Construction Period and the dates set forth in the Project Completion Schedule shall be extended by a period equal in length to the duration for which such Force Majeure Event subsists; or

ii. after COD, if the delivery of the Acceptable Waste is suspended, the Concession Period shall be extended by a period equal in length to the period during which the collection of the delivery of the Acceptable Waste is suspended.

27.7. Allocation of costs arising out of Force Majeure

a. Upon occurrence of any Force Majeure Event prior to the Appointed Date, the Parties shall bear their respective costs and no Party shall be required to pay to the other Party any costs thereof.

b. Upon occurrence of a Force Majeure Event after the Appointed Date, the costs incurred and attributable to such event and directly relating to the Project (the "Force Majeure Costs") shall be allocated and paid as follows:

i. upon occurrence of a Non-Political Event, the Parties shall bear their respective Force Majeure Costs and neither Party shall be required to pay to the other Party any costs thereof;

ii. upon occurrence of an Indirect Political Event, all Force Majeure Costs attributable to such Indirect Political Event, and not exceeding the Insurance Cover for such Indirect Political Event as certified by its statutory auditor along with supporting documents, shall be borne by the Concessionaire, and to the extent Force Majeure Costs exceed such Insurance Cover, one half of such excess amount shall be reimbursed by the Authority to the Concessionaire; and

iii. upon occurrence of a Political Event, all Force Majeure Costs attributable to such Political Event as certified by its statutory auditor along with supporting documents, shall be reimbursed by the Authority to the Concessionaire.

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

c. Save and except as expressly provided in this Article 27, neither Party shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event or exercise of any right pursuant hereto.

27.8. Termination Notice for Force Majeure Event

If a Force Majeure Event subsists for a period of 180 (one hundred and eighty) days or more within a continuous period of 365 (three hundred and sixty five) days, either Party may in its discretion terminate this Agreement by issuing a Termination Notice to the other Party without being liable in any manner whatsoever, save as provided in this Article 27, and upon issue of such Termination Notice, this Agreement shall, notwithstanding anything to the contrary contained herein, stand terminated forthwith; provided that before issuing such Termination

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

27.9. Termination Payment for Force Majeure Event

a. If Termination is on account of a Non-Political Event, the Authority shall make a Termination Payment to the Concessionaire in an amount equal to:

    i. 90% (ninety percent) of Debt Due less Insurance Cover; provided that if any insurance claims forming part of the Insurance Cover are not admitted and paid, then 80% (eighty percent) of such unpaid claims shall be included in the computation of Debt Due.

    ii. any accrued and undisputed amounts payable to the Concessionaire under the Agreement towards the Grant for Project Milestones completed and certified;

    Less

    iii. any other amounts due and payable by the Concessionaire under this Agreement (including Liquidated Damages).

b. If Termination is on account of an Indirect Political Event, the Authority shall make a Termination Payment to the Concessionaire in an amount equal to:

    i. Debt Due less Insurance Cover; provided that if any insurance claims forming part of the Insurance Cover are not admitted and paid, then 80% of such unpaid claims shall be included in the computation of Debt Due; and

    ii. 110% (one hundred and ten percent) of the Adjusted Equity.

    iii. any accrued and undisputed amounts payable to the Concessionaire under the Agreement towards the Grant for Project Milestones completed and certified;

    Less

iv. any other amounts due and payable by the Concessionaire under this Agreement (including Liquidated Damages).

c. If Termination is on account of a Political Event, the Authority shall make a Termination Payment to the Concessionaire in an amount that would be payable under Clause 30.3.(b) as if it were an Authority Default.

27.10. Dispute resolution

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

27.11. Excuse from performance of obligations

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

a. the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;

b. the Affected Party shall make all reasonable efforts to mitigate or limit damage to the other Party arising out of or as a result of the existence or occurrence of such Force Majeure Event and to cure the same with due diligence; and

c. when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party notice to that effect and shall promptly resume performance of its obligations hereunder.

ARTICLE 28

COMPENSATION FOR BREACH OF AGREEMENT

28.1. Compensation for default by the Concessionaire

Subject to the provisions of Clause 28.5, in the event of the Concessionaire being in material breach or default of this Agreement, it shall pay to the Authority by way of compensation, all direct costs suffered or incurred by the Authority as a consequence of such material breach or default, within 30 (thirty) days of receipt of the demand supported by necessary particulars thereof; provided that no compensation shall be payable under this Clause 28.1 for any material breach or default in respect of which Damages are expressly specified and payable under this Agreement or for any consequential losses incurred by the Authority.

28.2. Compensation for default by the Authority

Subject to the provisions of Clause 28.5, in the event of the Authority being in material breach or default of this Agreement at any time after the Appointed Date, it shall pay to the Concessionaire by way of compensation, all direct costs suffered or incurred by the Concessionaire as a consequence of such material breach or default within 30 (thirty) days of receipt of the demand supported by necessary particulars thereof; provided that no such compensation shall be payable for any material breach or default in respect of which Damages have been expressly specified in this Agreement. For the avoidance of doubt, compensation payable may include interest payments on debt, O&M Expenses and all other costs directly attributable to such material breach or default but shall not include loss of revenues, debt repayment obligations or other consequential losses, and for determining such compensation, information contained in the Financial Package and the Financial Model may be relied upon to the extent it is relevant.

28.3. Extension of Concession Period

Subject to the provisions of Clause 28.5, in the event that a material default or breach of this Agreement set forth in Clause 28.2 causes delay in achieving COD, the Authority shall, in addition to payment of compensation under Clause 28.2, extend the Concession Period, such extension being equal in duration to the period by which COD was delayed.

28.4. Compensation to be in addition

Compensation payable under this Article 28 shall be in addition to, and not in substitution for, or derogation of, Termination Payment, if any.

28.5. Mitigation of costs and damage

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

ARTICLE 29

SUSPENSION OF CONCESSIONAIRE'S RIGHTS

29.1. Suspension upon Concessionaire Default

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

29.2. Authority to act on behalf of Concessionaire

a. During the period of Suspension, the Authority shall be entitled to make withdrawals from the Escrow Account for meeting the O&M Expenses and for meeting the costs incurred by it for remedying and rectifying the cause of Suspension, and thereafter for defraying the expenses specified in Clause 24.3.

b. During the period of Suspension hereunder, all rights and liabilities vested in the Concessionaire in accordance with the provisions of this Agreement shall continue to vest in the Concessionaire and all things done or actions taken, including expenditure incurred by the Authority for discharging the obligations of the Concessionaire under and in accordance with this Agreement and the Project Agreements, shall be deemed to have been done or taken for and on behalf of the Concessionaire and the Concessionaire undertakes to indemnify the Authority for all costs incurred- during such period. The Concessionaire hereby licenses and sub-licenses respectively, the Authority or any other person authorized by it under Clause 29.1 to use during Suspension, all Intellectual Property belonging to or licensed to the Concessionaire with respect to the Project and its design, engineering, construction, operation and maintenance, and which is used or created by the Concessionaire in performing its obligations under the Agreement.

29.3. Revocation of Suspension

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

b. Upon the Concessionaire having cured the Concessionaire Default within a period not exceeding 90 (ninety) days from the date of Suspension, the Authority shall revoke the Suspension forthwith and restore all rights of the Concessionaire under this Agreement.

29.4. Substitution of Concessionaire

At any time during the period of Suspension, the Lenders' Representative, on behalf of Lenders, shall be entitled to substitute the Concessionaire under and in accordance with the Substitution Agreement, and upon receipt of notice thereunder from the Lenders' Representative, the Authority shall withhold Termination for a period not exceeding 180 (one hundred and eighty) days from the date of Suspension, and any extension thereof under Clause 29.1, for enabling the Lenders' Representative to exercise its rights of substitution on behalf of Lenders.

29.5. Termination

a. At any time during the period of Suspension under this Article 29, the Concessionaire may, by notice, require the Authority to revoke the Suspension and issue a Termination Notice. Subject to the rights of the Lenders' Representative to undertake substitution in accordance with the provisions of this Agreement and within the period specified in Clause 29.4, the Authority shall, within 30 (thirty) days of receipt of such notice, terminate this Agreement under and in accordance with Article 30 as if it is a Concessionaire Default under Clause 30.1.

b. Notwithstanding anything to the contrary contained in this Agreement, in the event that Suspension is not revoked within 180 (one hundred and eighty) days from the date of Suspension hereunder or within the extended period, if any, set forth in Clause 29.1, the Concession Agreement shall, upon expiry of the aforesaid period, be deemed to have been terminated by mutual agreement of the Parties and all the provisions of this Agreement shall apply, mutatis mutandis, to such Termination as if a Termination Notice had been issued by the Authority upon occurrence of a Concessionaire Default.

ARTICLE 30

TERMINATION

30.1. Termination for Concessionaire Default

a. Save as otherwise provided in this Agreement, in the event that any of the defaults specified below shall have occurred, and the Concessionaire fails to cure 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, the Concessionaire shall be deemed to be in default of this Agreement (the "Concessionaire Default"), unless the default has occurred as a result of any breach of this Agreement by the Authority or due to Force Majeure. The defaults referred to herein shall include the following:

i. the Performance Security has been encashed and appropriated in accordance with Clause 9.2 and the Concessionaire fails to replenish or provide fresh Performance Security within a Cure Period of 15 (fifteen) days;

ii. subsequent to the replenishment or furnishing of fresh Performance Security in accordance with Clause 9.2, the Concessionaire fails to meet any Condition Precedent or cure the Concessionaire Default, as the case may be, for which whole or part of the Performance Security was appropriated, within a Cure Period of 120 (one hundred and twenty) days;

iii. the Concessionaire does not achieve the latest outstanding Project Milestone due in accordance with the provisions of Schedule-D and continues to be in default for 60 (sixty) days;

iv. the Concessionaire abandons or manifests intention to abandon the construction or operation of the Project without the prior written consent of the Authority;

v. COD does not occur within the period specified in Clause 12.3.(c);

vi. the Punch List items have not been completed within the period set forth in Clause 14.4.(a);

vii. the Concessionaire is in breach of the Maintenance Requirements or the Safety Requirements, as the case may be;

viii. the Concessionaire is non-compliant to the Performance Standards as specified in the Schedule-K and remains non-compliant such that it becomes an Event of Default;

ix. the Concessionaire fails to remit the License Fee to the Authority for three (3) consecutive payment periods, or for any three (3) payment periods within a rolling window of five (5) years, within the timelines stipulated under this Agreement.

x. an Escrow Default has occurred, and the Concessionaire fails to cure the default within a Cure Period of 15 (fifteen) days;

xi. upon occurrence of a Financial Default, the Lenders' Representative has, by notice, required the Authority to undertake Suspension or Termination, as the case may be, in accordance with the Substitution Agreement and the Concessionaire fails to cure the default within the Cure Period specified hereinabove;

xii. a breach of any of the Project Agreements by the Concessionaire has caused a Material Adverse Effect;

xiii. the Concessionaire creates any Encumbrance in breach of this Agreement;

xiv. the Concessionaire repudiates this Agreement or otherwise takes any action or evidences or conveys an intention not to be bound by the Agreement;

xv. a Change in Ownership has occurred in breach of the provisions of Clause 5.18;

xvi. there is a transfer, pursuant to law either of (i) the rights and/or obligations of the Concessionaire under any of the Project Agreements, or of (ii) all or part of the assets or undertaking of the Concessionaire, and such transfer causes a Material Adverse Effect;

xvii. an execution levied on any of the assets of the Concessionaire has caused a Material Adverse Effect;

xviii. the Concessionaire is adjudged bankrupt or insolvent, or if a trustee or receiver is appointed for the Concessionaire or for the whole or material part of its assets that has a material bearing on the Project;

xix. the Concessionaire has been, or is in the process of being liquidated, dissolved, wound-up, amalgamated or reconstituted in a manner that would cause, in the reasonable opinion of the Authority, a Material Adverse Effect;

xx. occurrence of any Insolvency Event;

xxi. the Concessionaire fails to process the Acceptable Waste after COD for a consecutive period of 7 days;

xxii. the Concessionaire has been or is in the process of being amalgamated or reconstituted in a manner that would cause, in the reasonable opinion of the Authority, a Material Adverse Effect provided that, as part of such amalgamation or reconstruction, the entire property, assets and undertaking of the Concessionaire are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the obligations of the Concessionaire under this Agreement and the Project Agreements; and provided that:

A. the amalgamated or reconstructed entity has the capability and operating experience necessary for the performance of its obligations under this Agreement and the Project Agreements;

B. the amalgamated or reconstructed entity has the financial standing to perform its obligations under this Agreement and the Project Agreements and has a credit worthiness at least as good as that of the Concessionaire as at the Appointed Date; and

C. each of the Project Agreements remains in full force and effect;

xxiii. any representation or warranty of the Concessionaire herein contained which is, as of the date hereof, found to be materially false, incorrect or misleading or the Concessionaire is at any time hereafter found to be in breach thereof;

xxiv. the Concessionaire submits to the Authority any statement, notice or other document, in written or electronic form, which has a material effect on the Authority's rights, obligations or interests and which is false in material particulars;

xxv. the Concessionaire has failed to fulfil any obligation, for which failure, Termination has been specified in this Agreement;

xxvi. the Concessionaire issues a Termination Notice in violation of this Agreement; or

xxvii. the Concessionaire commits a default in complying with any other provision of this Agreement if such default causes a Material Adverse Effect on the Authority.

b. Without prejudice to any other rights or remedies which the Authority may have under this Agreement, upon occurrence of a Concessionaire Default, the Authority shall be entitled to terminate this Agreement by issuing a Termination Notice to the Concessionaire; provided that before issuing the Termination Notice, the Authority shall, by a notice, inform the Concessionaire of its intention to issue such Termination Notice and grant 15 (fifteen) days to the Concessionaire to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice, subject to the provisions of Clause 30.1.(c).

c. The Authority shall, if there be Lenders, send a copy of its notice of intention to issue a Termination Notice referred to in Clause 30.1.(b) to inform the Lenders' Representative and grant 15 (fifteen) days to the Lenders' Representative, for making a representation on behalf of the Lenders stating the intention to substitute the Concessionaire in accordance with the Substitution Agreement. In the event the Authority receives such representation on behalf of Lenders, it shall, in its discretion, either withhold Termination for a period not exceeding 180 (one hundred and eighty) days from the date of such representation or exercise its right of Suspension, as the case may be, for enabling the Lenders' Representative to exercise the Lenders' right of substitution in accordance with the Substitution Agreement:

Provided that the Lenders' Representative may, instead of exercising the Lenders' right of substitution, procure that the default specified in the notice is cured within the aforesaid period of 180 (one hundred and eighty) days, and upon such curing thereof, the Authority shall withdraw its notice referred to above and restore all the rights of the Concessionaire.

Provided further that upon written request from the Lenders' Representative and the Concessionaire, the Authority shall extend the aforesaid period of 180 (one hundred and eighty) days by such further period not exceeding 90 (ninety) days, as the Authority may deem appropriate.

30.2. Termination for Authority Default

a. In the event that any of the defaults specified below shall have occurred, and the Authority fails to cure such default within a Cure Period of 90 (ninety) days or such longer period as has been expressly provided in this Agreement, the Authority shall be deemed to be in default of this Agreement (the "Authority Default") unless the default has occurred as a result of any breach of this Agreement by the Concessionaire or due to Force Majeure. The defaults referred to herein shall include the following:

   i. The Authority commits a material default in complying with any of the provisions of this Agreement and such default has a Material Adverse Effect on the Concessionaire;

   ii. The Authority has failed to make any payment to the Concessionaire within the period specified in this Agreement;

   iii. The Authority repudiates this Agreement or otherwise takes any action that amounts to or manifests an irrevocable intention not to be bound by this Agreement.

b. Without prejudice to any other right or remedy which the Concessionaire may have under this Agreement, upon occurrence of an Authority Default, the Concessionaire shall, subject to the provisions of the Substitution Agreement, be entitled to terminate this Agreement by issuing a Termination Notice to the Authority; provided that before issuing the Termination Notice, the Concessionaire shall by a notice inform the Authority of its intention to issue the Termination Notice and grant 15 (fifteen) days to the Authority to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice.

30.3. Termination Payment

a. Upon Termination on account of a Concessionaire Default during the Operation Period, the Authority shall pay to the Concessionaire, by way of Termination Payment, an amount equal to:

   i. 90% (ninety percent) of Debt Due less Insurance Cover; provided that if any insurance claims forming part of the Insurance Cover are not admitted and paid, then 80% (eighty percent) of such unpaid claims shall be included in the computation of Debt Due.

ii. any accrued and undisputed amounts payable to the Concessionaire under the Agreement towards the Grant for Project Milestones completed and certified;

Less

iii. any other amounts due and payable by the Concessionaire under this Agreement (including Liquidated Damages).

For the avoidance of doubt, the Concessionaire herby acknowledges that no Termination Payment shall be due or payable on account of a Concessionaire Default occurring prior to COD.

b. Upon Termination on account of an Authority Default, the Authority shall pay to the Concessionaire, by way of Termination Payment, an amount equal to:

i. Debt Due; and

ii. 120% (one hundred and twenty percent) of the Adjusted Equity and

iii. any accrued and undisputed amounts payable to the Concessionaire under the Agreement towards the Grant for Project Milestones completed and certified;

c. Termination Payment shall become due and payable to the Concessionaire within 30 (thirty) days of a demand being made by the Concessionaire to the Authority with the necessary particulars, and in the event of any delay, the Authority shall pay interest at a rate equal to Bank Rate prevailing at the time plus 3% on the amount of Termination Payment remaining unpaid; provided that such delay shall not exceed 90 (ninety) days. For the avoidance of doubt, it is expressly agreed that Termination Payment shall constitute full discharge by the Authority of its payment obligations in respect thereof hereunder.

d. The Concessionaire expressly agrees that Termination Payment under this Article 30 shall constitute a full and final settlement of all claims of the Concessionaire on account of Termination of this Agreement for any reason whatsoever and that the Concessionaire or any shareholder thereof shall not have any further right or claim under any law, treaty, convention, contract or otherwise.

30.4. Other rights and obligations of the Authority

Upon Termination for any reason whatsoever, the Authority shall:

a. take possession and control of the Project Facility forthwith;

b. take possession and control of all materials, stores, implements, construction plants and equipment on or about the Site;

c. be entitled to restrain the Concessionaire and any person claiming through or under the Concessionaire from entering upon the Site or any part of the Project;

d. require the Concessionaire to comply with the Divestment Requirements set forth in Clause 31.1; and

e. succeed upon election by the Authority, without the necessity of any further action by the Concessionaire, to the interests of the Concessionaire under such of the Project Agreements as the Authority may in its discretion deem appropriate, and shall upon such election be liable to the Contractors only for compensation accruing and becoming due and payable to them under the terms of their respective Project Agreements from and after the date the Authority elects to succeed to the interests of the Concessionaire. For the avoidance of doubt, the Concessionaire acknowledges and agrees that all sums claimed by such Contractors as being due and owing for works and services performed or accruing on account of any act, omission or event prior to such date shall constitute debt between the Concessionaire and such Contractors, and the Authority shall not in any manner be liable for such sums. It is further agreed that in the event the Authority elects to cure any outstanding defaults under such Project Agreements, the amount expended by the Authority for this purpose shall be deducted from the Termination Payment.

30.5. Survival of Rights

Notwithstanding anything to the contrary contained in this Agreement, but subject to the provisions of Clause 30.3.(d), any Termination pursuant to the provisions of this Agreement shall be without prejudice to the accrued rights of either Party including its right to claim and recover money damages, insurance proceeds, security deposits, and other rights and remedies, which it may have in law or contract. All rights and obligations of either Party under this Agreement, including Termination Payments and Divestment Requirements, shall survive the Termination to the extent such survival is necessary for giving effect to such rights and obligations.

ARTICLE 31

DIVESTMENT OF RIGHTS AND INTEREST

31.1. Divestment Requirements

a. Upon expiry of the Concession Period or Termination of this Agreement, as the case may be, the Concessionaire shall comply with and conform to the following Divestment Requirements:

i. notify to the Authority forthwith the location and particulars of all Project Assets;

ii. deliver forthwith the actual or constructive possession of the Project including all equipment, free and clear of all Encumbrances, save and except to the extent set forth in the Substitution Agreement;

iii. cure all Project Assets, so that the Project is compliant with the Maintenance Requirements; provided that in the event of Termination during the Construction Period, all Project Assets shall be handed over on 'as is where is' basis after bringing them to a safe condition;

iv. deliver and transfer relevant records, reports, Intellectual Property and other licenses pertaining to the Project and its design, engineering, construction, operation and maintenance, including all programmes and manuals pertaining thereto, and complete 'as built' Drawings as on the Transfer Date. For the avoidance of doubt, the Concessionaire represents and warrants that the Intellectual Property delivered hereunder shall be adequate and complete for the design, engineering, construction, operation and maintenance of the Project and shall be assigned to the Authority free of any Encumbrance;

v. transfer and/or deliver all Applicable Permits to the extent permissible under Applicable Laws;

vi. execute such deeds of conveyance, documents and other writings as the Authority may reasonably require for conveying, divesting and assigning all the rights, title and interest of the Concessionaire in the Project Assets, including manufacturers' warranties in respect of any plant or equipment and the right to receive outstanding insurance claims to the extent due and payable to the Authority, absolutely unto the Authority or its nominee; and

vii. comply with all other requirements as may be prescribed or required under Applicable Laws for completing the divestment and assignment of all rights, title and interest of the Concessionaire in the Project, free from all Encumbrances, absolutely unto the Authority or to its nominee.

b. Subject to the exercise by the Authority of its rights under this Agreement or under any of the Project Agreements to perform or procure the performance by a third party of any of the obligations of the Concessionaire, the Parties shall continue to perform their obligations under this Agreement, notwithstanding the issuance of any Termination Notice, until the Termination of this Agreement becomes effective in accordance with its terms.

31.2. Inspection and cure

Not earlier than 180 (one hundred and eighty) days prior to the expiry of the Concession Period by efflux of time, but not later than 90 (ninety) days prior to such date of expiry, the Independent Engineer shall verify, after giving due notice to the Concessionaire specifying the time, date and place of such verification and/or inspection, compliance by the Concessionaire with the Maintenance Requirements, and if required, cause appropriate tests to be carried out at the Concessionaire's cost for this purpose. Defaults, if any, in the Maintenance Requirements shall be cured by the Concessionaire at its cost and the provisions of Article 32 shall apply, mutatis mutandis, in relation to curing of defects or deficiencies under this Article 31.

31.3. Cooperation and assistance on transfer of Project

a. The Parties shall cooperate on a best effort basis and take all necessary measures, in good faith, to achieve a smooth transfer of the Project in accordance with the provisions of this Agreement so as to protect the safety of and avoid undue delay or inconvenience to other members of the public or the lawful occupiers of any part of the Site.

b. The Parties shall provide to each other, 9 (nine) months prior to the Transfer Date in the event of expiry of the Concession Period by efflux of time and immediately in the event of either Party conveying to the other Party its intent to issue a Termination Notice, as the case may be, as much information and advice as is reasonably practicable regarding the proposed arrangements for operation of the Project following the Transfer Date. The Concessionaire shall further provide such reasonable advice and assistance as the Authority, its concessionaire or agent may reasonably require for operation of the Project until the expiry of 6 (six) months after the Transfer Date.

31.4. Vesting Certificate

The divestment of all rights, title and interest in the Project shall be deemed to be complete on the date when all of the Divestment Requirements have been fulfilled, and the Authority shall, without unreasonable delay, thereupon issue a certificate substantially in the form set forth in Schedule-P (the "Vesting Certificate"), which will have the effect of constituting evidence of divestment by the Concessionaire of all of its rights, title and interest in the Project, and their vesting in the Authority pursuant hereto. It is expressly agreed that any defect or deficiency in the Divestment Requirements shall not in any manner be construed or interpreted as restricting the exercise of any rights by the Authority or its nominee on, or in respect of, the Project on the footing that all Divestment Requirements have been complied with by the Concessionaire.

31.5. Divestment costs

a. The Concessionaire shall bear and pay all costs incidental to divestment of all of the rights, title and interest of the Concessionaire in the Project Assets in favour of the Authority upon Termination, save and except that all stamp duties payable on any deeds or Documents executed by the Concessionaire in connection with such Divestment shall be borne by the Authority.

b. In the event of any Dispute relating to matters covered by and under this Article 31, the Dispute Resolution Procedure shall apply.

ARTICLE 32

DEFECTS LIABILITY AFTER EXPIRY AND HANDOVER OF PROJECT ASSETS

32.1. Liability for defects after expiry

The Concessionaire shall be responsible for all defects and deficiencies in the Project for a period of 120 (one hundred and twenty) days from the date of expiry of the Concession Period by efflux of time, and it shall have the obligation to repair or rectify, at its own cost, all defects and deficiencies observed by the Independent Engineer in the Project during the aforesaid period. In the event that the Concessionaire fails to repair or rectify such defect or deficiency within a period of 15 (fifteen) days from the date of notice issued by the Authority in this behalf, the Authority shall be entitled to get the same repaired or rectified at the Concessionaire's risk and cost so as to make the Project conform to the Maintenance Requirements. All costs incurred by the Authority hereunder shall be reimbursed by the Concessionaire to the Authority within 15 (fifteen) days of receipt of demand thereof, and in the event of default in reimbursing such costs, the Authority shall be entitled to recover the same from the funds retained in the Escrow Account under the provisions of Clause 32.2 or from the Performance Security provided thereunder. For the avoidance of doubt, the provisions of this Article 32 shall apply only upon expiry of this Agreement by efflux of time and shall not apply where this Agreement is terminated prior to such expiry.

32.2. Retention in Escrow Account

a. Notwithstanding anything to the contrary contained in this Agreement, but subject to the provisions of Clause 32.2.(c), a sum equal to 5% (five percent) of the total realisable revenue by sale of Bio-CNG and By-products for the year immediately preceding the Transfer Date shall be retained in the Escrow Account for a period of 120 (one hundred and twenty) days from the Transfer Date for meeting the liabilities, if any, arising out of or in connection with the provisions of Clause 32.1.

b. Without prejudice to the provisions of Clause 32.2.(a), the Independent Engineer shall carry out an inspection of the Project at any time between 210 (two hundred and ten) and 180 (one hundred and eighty) days prior to the expiry of the Concession Period by efflux of time and if it recommends that the status of the Project is such that a sum larger than the amount stipulated in Clause 32.2.(a) should be retained in the Escrow Account and for a period longer than the aforesaid 120 (one hundred and twenty) days, the amount recommended by the Independent Engineer shall be retained in the Escrow Account for the period specified by it.

c. The Concessionaire may, for the performance of its obligations under this Article 32, provide to the Authority a guarantee from a Bank for a sum equivalent to the amount determined under Clause 32.2.(a) or 32.2.(b), as the case may be, and for the period specified therein, substantially in the form set forth in Schedule-C (the "Performance Guarantee"), to be modified, mutatis mutandis, for this purpose, and the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate the required amounts from the Performance Guarantee for undertaking the repairs or rectification at the Concessionaire's risk and cost in accordance with the provisions of this Article 32. Upon furnishing of a Performance Guarantee under this Clause 32.2.(c), the retention of funds in the Escrow Account in terms of Clause 32.2.(a) or 32.2.(b), as the case may be, shall be dispensed with.

32.3. Handing Over of the Project Assets

Upon the expiry of the Concession by efflux of time and in the normal course, the Concessionaire shall at the end of the Concession Period, hand over encumbrance free and peaceful possession of the Project Assets in working conditions including Project Site/Facility including all equipment at no cost to the Authority.

32.4. Joint Inspection and Removal of Deficiency

The handing over process shall be initiated at least 6 (six) months before the actual date of expiry of the Concession Period by a joint inspection by the Independent Engineer and the Concessionaire. The Independent Engineer shall, within 15 (fifteen) days of such inspection prepare and furnish to the Concessionaire a list of works/jobs/additions/alterations, if any, to be carried out to bring the Project to the prescribed level of service condition at least 3 (three) months prior to the date of expiry of the Concession Period. In case the Concessionaire fails to carry out the above works within the stipulated time period, the Authority shall be at liberty to have these works executed by any other Person at the risk and cost of the Concessionaire and any cost incurred by Authority in this regard shall be reimbursed by the Concessionaire to Authority within 15 (fifteen) days of receipt of demand.

For this purpose, Authority shall without prejudice to any other right/remedy available to it, under this Agreement, have the right to appropriate the Performance Security and/or to set off any amounts due, if any, and payable by Authority to the Concessionaire to the extent required/ available and to recover deficit amount, if any, from the Concessionaire.

32.5. First Right of Refusal

a. Prior to the end of term of the Agreement, the Authority may decide to either operate the Project itself or may re-bid the Project by suitably re-defining or re-structuring the Project parameters at its sole discretion. In the event of re-bidding, if the Concessionaire chooses to participate in the re-bidding process and does not emerge as the Highest Bidder (H1 Bidder), the Authority shall provide the Concessionaire time period of 15 (fifteen) days following the date of bid opening to present such offer to decide whether to match the financial quote of Highest Bidder or to better the financial offer of Highest Bidder. Provided however, this right shall be given to the Concessionaire of this Agreement only subject to the condition that the Concessionaire is not in default in respect of its obligations under the Agreement and its performance is considered good by the Authority.

b. Negotiations: If the Authority does not receive said offer within said 15-days period, or if both the Authority and the Concessionaire fail to negotiate an offer better than the Highest Bidder and/or do not enter into a legally binding, written agreement in respect of the re-bidded project within 30- days period from the date of said offer, the Authority shall be free to accept the bid of the original Highest Bidder and enter into an agreement with the Highest Bidder on terms and conditions of the bid documents issued by the Authority as a part of re-bidding process.

ARTICLE 33

ASSIGNMENT AND CHARGES

33.1. Restrictions on assignment and charges

a. Subject to Clauses 33.2 and 33.3, this Agreement shall not be assigned by the Concessionaire to any person, save and except with the prior consent in writing of the Authority, which consent the Authority shall be entitled to decline without assigning any reason.

b. Subject to the provisions of Clause 33.2, the Concessionaire shall not create nor permit to subsist any Encumbrance or otherwise transfer or dispose of all or any of its rights and benefits under this Agreement or any Project Agreement to which the Concessionaire is a party, except with prior consent in writing of the Authority, which consent the Authority shall be entitled to decline without assigning any reason.

33.2. Permitted assignment and charges

The restraints set forth in Clause 33.1 shall not apply to:

a. liens arising by operation of law (or by an agreement evidencing the same) in the ordinary course of business of the Project;

b. mortgages/pledges/hypothecation of goods/assets other than Project Assets and their related documents of title, arising or created in the ordinary course of business of the Project, and as security only for indebtedness to the Lenders under the Financing Agreements and/or for working capital arrangements for the Project. For the avoidance of doubt, the Lenders would be entitled to create a lien on the Escrow Account, subject to and without prejudice to the rights of the Authority under this Agreement;

c. assignment of rights, interest and obligations of the Concessionaire to or in favour of the Lenders' Representative as nominee and for the benefit of the Lenders, to the extent covered by and in accordance with the Substitution Agreement as security for financing provided by Lenders under the Financing Agreements; and

d. Liens or encumbrances required by any Applicable Law.

33.3. Substitution Agreement

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

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

33.4. Assignment by the Authority

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

ARTICLE 34

CHANGE IN LAW

34.1. Costs

Any increase in costs or reduction in net after tax return or other financial burden, due to Change in Law shall be borne by the respective Parties. Provided however, if the resultant Material Adverse Effect is such that this Agreement is frustrated or is rendered illegal or impossible of performance, the Change in Law shall be deemed to be a Political Event, whereupon the provisions with respect thereto shall apply.

34.2. No claim

Notwithstanding anything to the contrary contained in this Agreement, the Authority shall not in any manner be liable to reimburse to the Concessionaire any sums on account of a Change in Law.

ARTICLE 35

LIABILITY AND INDEMNITY

35.1. General indemnity

a. The Concessionaire shall indemnify, defend, save and hold harmless the Authority and its officers, servants, agents, Government Instrumentalities and Government owned and/or controlled entities/enterprises, (the "Authority Indemnified Persons") against any and all suits, proceedings, actions, demands and claims from third parties for any loss, damage, cost and expense of whatever kind and nature, whether arising out of any breach by the Concessionaire of any of its obligations under this Agreement or any related agreement or on account of any defect or deficiency in the provision of services by the Concessionaire to the Authority or to any User, or from any negligence of the Concessionaire under contract or tort or on any other ground whatsoever, except to the extent that any such suits, proceedings, actions, demands and claims have arisen due to any negligent act or omission, or breach or default of this Agreement on the part of the Authority Indemnified Persons.

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

35.2. Indemnity by the Concessionaire

a. Without limiting the generality of Clause 35.1, the Concessionaire shall fully indemnify, hold harmless and defend the Authority and the Authority Indemnified Persons from and against any and all loss and/or damages arising out of or with respect to:

    i. failure of the Concessionaire to comply with Applicable Laws and Applicable Permits;

ii. payment of taxes required to be made by the Concessionaire in respect of the income or other taxes of the Concessionaire's contractors, suppliers and representatives; or

iii. non-payment of amounts due as a result of materials or services furnished to the Concessionaire or any of its contractors which are payable by the Concessionaire or any of its contractors.

b. Without limiting the generality of the provisions of this Article 35, the Concessionaire shall fully indemnify, hold harmless and defend the Authority Indemnified Persons from and against any and all suits, proceedings, actions, claims, demands, liabilities and damages which the Authority Indemnified Persons may hereafter suffer, or pay by reason of any demands, claims, suits or proceedings arising out of claims of infringement of any domestic or foreign patent rights, copyrights or other intellectual property, proprietary or confidentiality rights with respect to any materials, information, design or process used by the Concessionaire or by the Concessionaire's Contractors in performing the Concessionaire's obligations or in any way incorporated in or related to the Project. If in any such suit, action, claim or proceedings, a temporary restraint order or preliminary injunction is granted, the Concessionaire shall make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the revocation or suspension of the injunction or restraint order. If, in any such suit, action, claim or proceedings, the Project, or any part thereof or comprised therein, is held to constitute an infringement and its use is permanently enjoined, the Concessionaire shall promptly make every reasonable effort to secure for the Authority a license, at no cost to the Authority, authorizing continued use of the infringing work. If the Concessionaire is unable to secure such license within a reasonable time, the Concessionaire shall, at its own expense, and without impairing the Specifications and Standards, either replace the affected work, or part, or process thereof with non-infringing work or part or process, or modify the same so that it becomes non-infringing.

c. Concessionaire agrees to indemnify and hold indemnified the Authority against all cost, expenses, and penalties arising out of:

i. Operations of the Project Facility under this Agreement.

ii. Compliance with all labour laws and all possible claims and employment related liabilities of its staff employed in relation with the Project.

35.3. Notice and contest of claims

In the event that either Party receives a claim or demand from a third party in respect of which it is entitled to the benefit of an indemnity under this Article 35 (the "Indemnified Party") it shall notify the other Party (the "Indemnifying Party") within 15 (fifteen) days of receipt of the claim or demand and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim or demand, it may conduct the proceedings in the name of the Indemnified Party, subject to the Indemnified Party being secured against any costs involved, to its reasonable satisfaction.

35.4. Defence of claims

a. The Indemnified Party shall have the right, but not the obligation, to contest, defend and litigate any claim, action, suit or proceeding by any third party alleged or asserted against such Party in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified hereunder, and reasonable costs and expenses thereof shall be indemnified by the Indemnifying Party. If the Indemnifying Party acknowledges in writing its obligation to indemnify the Indemnified Party in respect of loss to the full extent provided by this Article 35, the Indemnifying Party shall be entitled, at its option, to assume and control the defence of such claim, action, suit or proceeding, liabilities, payments and obligations at its expense and through the counsel of its choice; provided it gives prompt notice of its intention to do so to the Indemnified Party and reimburses the Indemnified Party for the reasonable cost and expenses incurred by the Indemnified Party prior to the assumption by the Indemnifying Party of such defence. The Indemnifying Party shall not be entitled to settle or compromise any claim, demand, action, suit or proceeding without the prior written consent of the Indemnified Party, unless the Indemnifying Party provides such security to the Indemnified Party as shall be reasonably required by the Indemnified Party to secure the loss to be indemnified hereunder to the extent so compromised or settled.

b. If the Indemnifying Party has exercised its rights under Clause 35.3, the Indemnified Party shall not be entitled to settle or compromise any claim, action, suit or proceeding without the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

c. If the Indemnifying Party exercises its rights under Clause 35.3, the Indemnified Party shall nevertheless have the right to employ its own counsel, and such counsel may participate in such action, but the fees and expenses of such counsel shall be at the expense of the Indemnified Party, when and as incurred, unless:

i. the employment of counsel by such party has been authorized in writing by the Indemnifying Party;

ii. the Indemnified Party shall have reasonably concluded that there may be a conflict of interest between the Indemnifying Party and the Indemnified Party in the conduct of the defence of such action;

iii. the Indemnifying Party shall not, in fact, have employed independent counsel reasonably satisfactory to the Indemnified Party, to assume the defence of such action and shall have been so notified by the Indemnified Party; or

iv. the Indemnified Party shall have reasonably concluded and specifically notified the Indemnifying Party either:

A. that there may be specific defence available to it which are different from or additional to those available to the Indemnifying Party; or

B. that such claim, action, suit or proceeding involves or could have a material adverse effect upon it beyond the scope of this Agreement:

Provided that if Sub-clauses (ii), (iii) or (iv) of this Clause 35.4.(c) shall be applicable, the counsel for the Indemnified Party shall have the right to direct the defence of such claim, demand, action, suit or proceeding on behalf of the Indemnified Party, and the reasonable fees and disbursements of such counsel shall constitute legal or other expenses hereunder.

35.5. No consequential claims

Notwithstanding anything to the contrary contained in this Article 35, the indemnities herein provided shall not include any claim or recovery in respect of any cost, expense, loss or damage of an indirect, incidental or consequential nature, including loss of profit, except as expressly provided in this Agreement.

35.6. Limitation of Liability

Notwithstanding anything to the contrary in this Agreement, the liability of one Party towards the other Party for any damages or compensation of any nature whatsoever under this Agreement, save and except where amounts exceeding the Total Project Cost are specifically prescribed in this Agreement as Termination Payment, shall not exceed the Total Project Cost.

The limitation hereunder shall not apply to any or all liabilities in respect of third parties. The Parties agree that the Concessionaire's liability will be uncapped in case of any liabilities arising due to: (a) any amount payable as indemnity to the Authority due to its acts or omissions or fraud, gross negligence and wilful misconduct; (b) breach of any Applicable Laws or any Applicable Permits; (c) any claims or loss on account of Intellectual Property rights violation by the Concessionaire; (d) any personal bodily injury or death of any person caused by, arising out of or in connection with its performance of this Agreement; or (e) any loss of or physical damage to property of the Authority or any third part.

35.7. Survival on Termination

The provisions of this Article 35 shall survive Termination.

ARTICLE 36

RIGHTS AND TITLE OVER THE SITE

(To be read with the Land Use and Authorization Agreement under Schedule S of the Concession Agreement)

36.1. Licensee rights

For the purpose of this Agreement, the Concessionaire shall have rights to the use of the Site as sole licensee subject to and in accordance with this Agreement, and to this end; it may regulate the entry and use of the Project by third parties in accordance with and subject to the provisions of this Agreement.

36.2. Access rights of the Authority and others

The Concessionaire shall allow free access to the Site at all times for the authorized representatives and vehicles of the Authority, Lenders, and the Independent Engineer, and for the persons duly authorized by any Government Instrumentality to inspect the Project and to investigate any matter within their authority, and upon reasonable notice, the Concessionaire shall provide to such persons, reasonable assistance necessary to carry out their respective duties and functions.

36.3. Property taxes

All property taxes on the Site shall be payable by the Authority as owner of the Site; provided, however, that any such taxes payable by the Concessionaire under Applicable Laws for use of the Site shall not be reimbursed or payable by the Authority. For the avoidance of doubt, the Parties agree that stamp duties, if any, due and payable on the grant of license comprising this Agreement shall be paid by the Concessionaire.

36.4. Restriction on sub-leasing

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

ARTICLE 37

DISPUTE RESOLUTION

37.1. Dispute resolution

a. Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties and so notified in writing by either Party to the other Party (the "Dispute") shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 37.2.

b. The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non-privileged records, information and data pertaining to any Dispute.

37.2. Conciliation

In the event of any Dispute between the Parties, either Party may call upon the Independent Engineer to mediate and assist the Parties in arriving at an amicable settlement thereof. Failing mediation by the Independent Engineer or without the intervention of the Independent Engineer, either Party may require such Dispute to be referred to the Commissioner of the Authority and the Chairman/Director of the Concessionaire for amicable settlement, and upon such reference, the said persons shall meet no later than 7 (seven) days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 7 (seven) days period or the Dispute is not amicably settled within 15 (fifteen) days of the meeting or the Dispute is not resolved as evidenced by the signing of written terms of settlement within 30 (thirty) days of the notice in writing referred to in Clause 37.1.(a) or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to tribunal in accordance with the provisions of Clause 37.3.

37.3. Adjudication by a tribunal

In the event of constitution of a statutory tribunal or other forum with powers to adjudicate upon disputes between the Concessionaire and the Authority, all Disputes arising after such constitution shall, be adjudicated upon by such tribunal or other forum in accordance with Applicable Laws and all references to Dispute Resolution Procedure shall be construed accordingly.

ARTICLE 38

DISCLOSURE

38.1. Disclosure of Specified Documents

The Concessionaire shall make available for inspection by any person, copies of this Concession Agreement, the Maintenance Manual, the Maintenance Program, the Maintenance Requirements and the Safety Requirements (hereinafter collectively referred to as the "Specified Documents"), free of charge, during normal business hours on all working days at the Site and the Concessionaire's Registered Office. The Concessionaire shall prominently display at a suitable place in its office and at the Site, public notices stating the availability of the Specified Documents for such inspection and shall provide copies of the same to any person upon payment of copying charges on a 'no profit no loss' basis.

38.2. Disclosure of Documents relating to safety

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

38.3. Withholding disclosure of Protected Documents

Notwithstanding the provisions of Clauses 38.1 and 38.2, the Authority shall be entitled to direct the Concessionaire, from time to time, to withhold the disclosure of Protected Documents (as defined herein below) to any person in pursuance of the aforesaid Clauses.

Explanation:

The expression Protected Documents shall mean such of the Specified Documents or documents referred to in Clauses 38.1 and 38.2, or portions thereof, the disclosure of which the Authority is entitled to withhold under the provisions of the Right to Information Act, 2005.

ARTICLE 39

MISCELLANEOUS

39.1. 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 Tirunelveli shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

39.2. Waiver of immunity

Each Party unconditionally and irrevocably:

a. agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;

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

c. waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and

d. consents generally in respect of the enforcement of any 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).

39.3. Depreciation

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

39.4. Delayed payments

a. The Parties hereto agree that payments due from one Party to the other Party under the provisions of this Agreement shall be made within the period set forth therein, and if no such period is specified, within 30 (thirty) days of receiving a demand along with the necessary particulars. Unless otherwise specified in this Agreement, in the event of delay beyond such period, the defaulting Party shall pay interest for the period of delay calculated at a rate equal to Bank Rate prevailing at the time plus 3%, and recovery thereof shall be without prejudice to the rights of the Parties under this Agreement including Termination thereof.

b. Unless otherwise specified, any interest payable under this Agreement shall accrue on a daily outstanding basis and shall be compounded on the basis of quarterly rests.

39.5. Waiver

a. Waiver, including partial or conditional waiver, by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement:

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

    ii. shall not be effective unless it is in writing and executed by a duly authorized representative of the Party; and

    iii. shall not affect the validity or enforceability of this Agreement in any manner.

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

39.6. Liability for review of Documents and Drawings

Except to the extent expressly provided in this Agreement

a. no review, comment or approval by the Authority or the Independent Engineer of any Project Agreement, Document or Drawing submitted by the Concessionaire nor any

observation or inspection of the construction, operation or maintenance of the Project nor the failure to review, approve, comment, observe or inspect hereunder shall relieve or absolve the Concessionaire from its obligations, duties and liabilities under this Agreement, Applicable Laws and Applicable Permits; and

b. The Authority shall not be liable to the Concessionaire by reason of any review, comment, approval, observation or inspection referred to in sub-clause (a) above.

39.7. Exclusion of implied warranties etc.

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

39.8. Survival

a. Termination shall:

i. Not relieve the Concessionaire or the Authority, as the case may be, of any obligations hereunder which expressly or by implication survive Termination hereof; and

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

b. All obligations surviving Termination shall only survive for a period of 3 (three) years following the date of such Termination.

39.9. Entire Agreement

This Agreement and the Schedules together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn. For

the avoidance of doubt, the Parties hereto agree that any obligations of the Concessionaire arising from the Request for Proposals, shall be deemed to form part of this Agreement and treated as such.

39.10. Severability

If for any reason whatsoever, any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties 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 the Dispute Resolution Procedure set forth under this Agreement or otherwise.

39.11. No partnership

This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, or to impose any partnership obligation or liability upon either Party, and neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

39.12. Third parties

This Agreement is intended solely for the benefit of the Parties and their respective successors and permitted assigns, and nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a party to this Agreement.

39.13. Successors and assigns

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

39.14. Notices

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall:

a. in the case of the Concessionaire, be given by facsimile or e-mail and by letter delivered by hand to the address given and marked for attention of the person set out below or to such other person as the Concessionaire may from time to time designate by notice to the

Authority; provided that notices or other communications to be given to an address outside the Tirunelveli may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by facsimile or e-mail to the number as the Concessionaire may from time to time designate by notice to the Authority.

{Attention:
Designation:
Address:
Fax No:
Email ;}

b. in the case of the Authority, be given by facsimile or e-mail and by letter delivered by hand at the address given below and be addressed to the person named below with a copy delivered to the Authority Representative or such other person as the Authority may from time to time designate by notice to the Concessionaire; provided that if the Concessionaire does not have an office in the Tirunelveli it may send such notice by facsimile or e-mail and by registered acknowledgement due, air mail or by courier.

{Name:
Designation:
Address:
Fax No:
Email :}; and

c. any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post it ought to have been delivered and in all other cases, it shall be deemed to have been delivered on the actual date and time of delivery; provided that in the case of facsimile or e-mail, it shall be deemed to have been delivered on the working day following the date of its delivery.

39.15. Language

All notices required to be given by one Party to the other Party and all other communications, Documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

39.16. Counterparts

This Agreement may be executed in two 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 DAY, MONTH AND YEAR FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED For
and on behalf of THE AUTHORITY by:

(Signature)
(Designation)
(Name)
(Address)
(Fax No.)
(e-mail)

SIGNED, SEALED AND DELIVERED For
and on behalf of THE CONCESSIONAIRE
by:

(Signature)
(Designation)
(Name)
(Address)
(Fax No.)
(e-mail)

In the presence of:

1. 2.

SCHEDULES

SCHEDULE A

SITE OF THE PROJECT

The Site

1. Site of the Project shall include the land, buildings, structures and road works as described in this Schedule.

2. An inventory of the Site including the land, buildings, structures, roadworks, trees and any other immovable property on, or attached to, the Site shall be prepared jointly by Authority Representative and the Concessionaire, and such inventory shall form part of this Schedule A.

3. Map of the Land for Bio-CNG facility is as shown below: [map to be inserted]

4. Inventory of the Site [to be filled at the time of granting concession]

SCHEDULE B

APPLICABLE PERMITS

1.1. 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 the Agreement:

S.No.	Approval/Clearance	Concerned Authority
1.	Approval for layout and building	Directorate of Town & Country Planning (DTCP)
2.	Consent to Establish & Consent to Operate (CTE & CTO)	Tamil Nadu Pollution Control Board (TNPCB)
3.	Explosive substance license	Petroleum and Explosives Safety Organization (PESO)
4.	Factory License	Chief Inspector of Factories
5.	Labour License	Department of Labour
6.	NOC from Fire Department	State Fire and Emergency Services
7.	Certificate of Manufacture of Organic manure	Department of Agriculture
8.	Power Connection	TNPDCL
9.	Water Supply	Municipal Authority

1.2. The Authority shall on a best effort (upon request of the Concessionaire in respect thereof) facilitate the Concessionaire in obtaining, as required under Applicable Laws and the Applicable Permits detailed in clause 1.1 above. It is however clarified that the responsibility of obtaining all the Applicable Permits, in terms hereof, shall vest with the Concessionaire. It is further clarified that the Concessionaire shall not hold the Authority responsible for procurement/ non- procurement of any of the Applicable Permits.

1.3. Further, if there are any other approvals required for the project from time to time, obtaining of the same will be the responsibility of the Concessionaire.

SCHEDULE C

PERFORMANCE SECURITY

To,
Tirunelveli City Municipal Corporation
S.N. High Road, Tirunelveli – 627 001

WHEREAS:

A. Tirunelveli City Municipal Corporation (the "Authority") has issued Letter of Acceptance to ..……(the "Concessionaire") for undertaking the establishment of 50 TPD Municipal Solid Waste based Bio-CNG Plant at Tirunelveli under PPP Mode on Design, Build, Finance, Operate and Transfer Basis.

B. As per clause 3.2.8 of the RFP, the Selected Bidder has to furnish a Performance Security to the Authority for a sum of Rs.90,00,000/- (Rupees Ninety Lakhs Only) (the "Guarantee Amount") as security for due and faithful performance of its obligations, under and in accordance with the Concession Agreement (the "Agreement") to be signed between the Authority and the SPV formed by the Selected Bidder (the "Concessionaire") for the Project.

C. We, _____through our Branch at _____ (the "Bank") have agreed to furnish this Bank Guarantee by way of 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 Tirunelveli City Municipal 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 fulfilment, 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 3 (three)months after the expiry of Concession Period 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 and effect for the entire Concession period 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 D

PROJECT COMPLETION SCHEDULE

1. Project Construction Completion Schedule

   During Construction Period, the Concessionaire shall comply with the requirements set forth in this Schedule-D for each of the Project Milestones and the Scheduled Completion Date (the "Project Completion Schedule"). Within 15 (fifteen) days of the date of each Project Milestone, the Concessionaire shall notify the Authority of such compliance along with necessary particulars thereof.

2. Project Milestone-I

   2.1 Project Milestone-I shall occur on the date falling on the [120th (One hundred and twentieth)] day from the Appointed Date (the "Project Milestone-I").

   2.2 Prior to the occurrence of Project Milestone-I, the Concessionaire shall have commenced construction of the Project and expended not less than 30% (thirty percent) of the Total Project Cost set forth in the Financial Package.

3. Project Milestone-II

   3.1 Project Milestone-II shall occur on the date falling on the [240th (Two hundred and fortieth)] day from the Appointed Date (the "Project Milestone-II").

   3.2 Prior to the occurrence of Project Milestone-II, the Concessionaire shall have expended not less than 70% (Seventy percent)] of the Total Project Cost set forth in the Financial Package.

4. Scheduled Completion Date

   4.1 The Scheduled Completion Date shall be the [365th (Three hundred and Sixty Fifth] day from the Appointed Date.

   4.2 On or before the Scheduled Completion Date, the Concessionaire shall have completed the Project in accordance with this Agreement.

5. Extension of period

Upon extension of any or all of the aforesaid Project Milestones or the Scheduled Completion Date, as the case may be, under and in accordance with the provisions of this Agreement, the Project Completion Schedule shall be deemed to have been amended accordingly.

SCHEDULE E

DRAWINGS

1. Drawings

   In compliance of the obligations set forth in Clause 12.2 of this Agreement, the Concessionaire shall furnish to the Independent Engineer, free of cost, all Drawings as listed below:

   1.1 General layout and construction details such as fencing /boundary wall, building sectional view, etc
   1.2 Plantation and green belt area with species details
   1.3 Facilities drawing like internal roads, machinery, weighbridges, manoeuvring of vehicles, Waste to CBG plant
   1.4 Process Flow Diagrams, Piping & Instrumentation Drawings, Hydraulic Flow Diagrams & Mass Balance
   1.5 Utilities drawing such as security arrangement, restroom, etc.
   1.6 Electric supply, water supply, storm water drainage, leachate treatment, Effluent Treatment Plant etc.
   1.7 Any additional facilities drawing provided by Concessionaire such as rainwater harvesting, solar power etc

   Note: Drawing - mean all of the drawings including working drawings for the Project Facility, designs, calculations and documents pertaining to the Project in accordance with the Construction and O&M Requirements based on the Design Input.

2. Additional drawings

   If the Independent Engineer determines that for discharging its duties and functions under this Agreement, it requires any drawings other than those listed in above, it may by notice require the Concessionaire to prepare and furnish such drawings forthwith. Upon receiving a requisition to this effect, the Concessionaire shall promptly prepare and furnish such drawings to the Independent Engineer, as if such drawings formed part of this Schedule-E.

SCHEDULE F

TESTS

1. Schedule for Tests

1.1 The Concessionaire shall, no later than 30 (thirty) days prior to the likely completion of the Project, notify the Independent Engineer and the Authority of its intent to subject the Project to Tests, and no later than 7 (seven) days prior to the actual date of Tests, furnish to the Independent Engineer and the Authority detailed inventory and particulars of all works and equipment forming part of the Project.

1.2 The Concessionaire shall notify the Independent Engineer of its readiness to subject the Project to Tests at any time after 7 (seven) days from the date of such notice, and upon receipt of such notice, the Independent Engineer shall, in consultation with the Concessionaire, determine the date and time for each Test and notify the same to the Authority who may designate its representative to witness the Tests. The Independent Engineer shall thereupon conduct the Tests itself or cause any of the Tests to be conducted in accordance with Article 14 and this Schedule-F.

2. Tests

2.1 In pursuance of the provisions of Clause 14.1.(b) of this Agreement, the Independent Engineer shall conduct, or cause to be conducted, the Tests specified in this Paragraph 2.

2.2 **Visual and physical Test:** The Independent Engineer shall conduct a visual and physical check of the Project Facility to determine that all works and equipment forming part thereof conform to the provisions of this Agreement.

2.3 **Trial run:** The Independent Engineer shall require the Concessionaire to carry out or cause to be carried out a trial run of all equipment, facilities and systems to determine that the Project Facility is in conformity with the provisions of this Agreement.

2.4 **Tests for equipment:** The Independent Engineer shall conduct or cause to be conducted Tests, in accordance with Good Industry Practice, for determining the compliance of all systems and equipment comprising the Project Facility.

2.5 **Other Tests:** The Independent Engineer may require the Concessionaire to carry out or cause to be carried additional Tests, in accordance with Good Industry Practice, for determining the compliance of the Project with Specifications and Standards.

2.6 **Environmental audit:** The Independent Engineer shall carry out a check to determine conformity of the Project with the environmental requirements set forth in Applicable Laws and Applicable Permits.

2.7 **Safety review:** Safety audit of the Project shall have been undertaken by the Independent Engineer as set forth in Schedule-L, and on the basis of such audit, the Independent Engineer shall determine conformity of the Project with the provisions of this Agreement.

3. Agency for conducting Tests

All Tests set forth in this Schedule shall be conducted by the Independent Engineer or such other agency or person as it may specify in consultation with the Authority.

4. Completion/Provisional Certificate

Upon successful completion of Tests, the Independent Engineer shall issue the Completion Certificate or the Provisional Certificate, as the case may be, in accordance with the provisions of Article 14.

5. Tests during construction

Without prejudice to the provisions of this Schedule-F, tests during construction shall be conducted in accordance with the provisions of Clause 13.3.(a).

SCHEDULE G

COMPLETION CERTIFICATE
(See Clause 14.2 & 14.3)

1. Completion Certificate

I/We, _____ (Name of the Independent Engineer), acting as Independent Engineer, under and in accordance with the Concession Agreement dated _____(the "Agreement"), for establishment of 50 TPD Municipal Solid Waste based Bio-CNG Plant at Tirunelveli under PPP Mode on Design, Build, Finance, Operate and Transfer Basis, through _____(Name of Concessionaire), hereby certify that the Tests specified in Article 14 and Schedule-F of the Agreement have been successfully undertaken to determine compliance of the Project with the provisions of the Agreement, and I/We am/are satisfied that the Project can be safely and reliably placed in commercial service.

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
INDEPENDENT ENGINEER by:

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

2. Provisional Certificate

I/We,…… (Name of the Independent Engineer), acting as Independent Engineer, under and in accordance with the Concession Agreement Dated _____(the "Agreement"), for establishment of 50 TPD Municipal Solid Waste based Bio-CNG Plant at Tirunelveli under PPP Mode on Design, Build, Finance, Operate and Transfer Basis, through _____(Name of Concessionaire), hereby certify that the Tests specified in Article 14 and Schedule-F of the Agreement have been undertaken for the Project/section _____ of the Project to determine compliance thereof with the provisions of the Agreement.

Construction Works / installation of equipment forming part of the Project/section 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/section…….. of the Project, pending completion thereof.

In view of the foregoing, I/We am/are satisfied that the Project/section of the Project can be safely and reliably placed in commercial service thereof, and in terms of the Agreement, the Project/section of the Project is hereby provisionally declared fit for entry into commercial operation on this the ____ day of _____ 20_____

ACCEPTED, SIGNED, SEALED AND DELIVERED	SIGNED, SEALED AND DELIVERED
FOR AND ON BEHALF OF CONCESSIOANIRE by:	FOR AND ON BEHALF OF INDEPENDENT ENGINEER by:
(Signature) (Name and Designation) (Address)	(Signature) (Name and Designation) (Address)

SCHEDULE H

SPECIFICATIONS AND STANDARDS

The Concessionaire shall adhere to all applicable rules, regulations, acts, guidelines, standards and laws which are applicable for this Project. Some of these important rules, regulations, acts, guidelines, standards, etc are as follows:

1. All applicable rules, regulations, acts, guidelines, standards and laws of Government of India and the State Government
2. All applicable Indian Standards (IS)
3. All applicable standards by the Bureau of Indian Standard (BIS)
4. All norms of the Indian Road Congress (IRC)
5. All norms of the National Building Code (NBC)
6. SWM Rules,2026
7. Environment (Protection) Act,1986
8. Environment (Protection) Rules,1986
9. EIA Notification,2006 and amendments
10. Guidelines and recommendation of Central Public Health & Environmental Engineering Organisation (CPHEEO), MoUD, GoI
11. Electricity Rules,2005
12. Electricity Act, 2003
13. Guidelines of the State Electricity Regulatory Commission
14. All applicable norms of the Central Electricity Authority (CEA)
15. All applicable rules, regulations, acts, guidelines, standards of Central Pollution Control Board (CPCB) and State Pollution Control Board (SPCB)
16. Labour Laws–Minimum Wages, Contract Labour Abolition and Regulations

SCHEDULE I

OPERATION AND MAINTENANCE REQUIREMENTS
(See Clause 17.1)

1. Maintenance Requirements

1.1 The Concessionaire shall, at all times, operate and maintain the Project in accordance with the provisions of the Agreement, Applicable Laws and Applicable Permits. In particular, the Concessionaire shall, at all times during the Operation Period, conform to the maintenance requirements set forth in this Schedule-I (the "Maintenance Requirements").

1.2 The Concessionaire shall repair or rectify any defect or deficiency set forth in Paragraph 4 of this Schedule-I within the time limit specified therein and any failure in this behalf shall constitute a breach of the Agreement. Upon occurrence of any breach hereunder, the Authority shall be entitled to recover Damages as set forth in Clause 17.14 of the Agreement, without prejudice to the rights of the Authority under the Agreement, including Termination thereof.

2. General

In the design, planning and implementation of all works and functions associated with the operation and maintenance of the Project, the Concessionaire shall take all such actions and do all such things (including without limitation, organising itself, adopting measures and standards, executing procedures including inspection procedures, and engaging contractors, if any, agents and employees) in such manner, as will:

2.1 Ensure the safety of personnel deployed on and users of the Project or part thereof;

2.2 Keep the equipment and machinery employed for the Project from undue deterioration and wear;

2.3 Permit unimpaired performance of statutory duties and functions of any Party in relation to the Project;

2.4 The Project Facility shall be maintained in a hygienic and aesthetic conditions by taking proper measures as suggested by the Independent Engineer.

2.5 During the Concession Period, the Concessionaire shall, in respect of the Project, ensure that:

- Applicable and adequate safety measures are taken;
- Adverse effects on the environment and to the owners and occupiers of property and/or land in the vicinity of the Project components, due to any of its actions, does not arise;
- Any situation which has arisen or likely to arise on account of any accident or other emergency is responded to as quickly as possible and its adverse effects controlled/minimised;
- All materials used in the operation, maintenance of any of the Project component shall meet the Construction Requirements;
- The personnel assigned by the Concessionaire have the requisite qualifications and experience and are given the training necessary to enable the Concessionaire meet the O&M Requirements.

2.6 Cleaning and Maintenance Requirements

The Concessionaire shall plan and execute cleaning and maintenance procedures ensuring, that

- The buildings, structures, seeded and planted areas, paved and un-paved traffic areas etc. are maintained clean and proper without damages, that may impede their functionality or appearance.

- All moving or fixed equipment and machinery are maintained clean and in good working condition.

- All service facilities, e.g. outdoor sewage system, leachate management system, etc., are inspected regularly, cleaned and maintained.

- During dry periods dust emission shall be controlled by sprinkling the surfaces with water in connection with sweeping activities.

3. Operations & Maintenance Manual and Plans

The Concessionaire shall finalise the O&M Plan and the O&M Manual for the Project in the manner as set out below:

3.1 Prior to making application for the Completion Certificate for the Project the Concessionaire shall finalise, in consultation with the Independent Engineer:

- The O&M Manual (including the formats for the reports to be submitted during the Operations Period)
- The O&M Plan for the first five years of operations and shall be modified for subsequent years
- If applicable, the month-on-month maintenance schedule for each module of Waste to CBG plants for the first five years of the Concession Period.

3.2 Six weeks prior to the anniversary of COD each year, the Concessionaire shall submit to the Independent Engineer and the Authority an annual O&M Plan for the next year of operations.

4. Repair/rectification of defects and deficiencies

4.1 The obligations of the Concessionaire in respect of Maintenance Requirements shall include repair and rectification of the defects and deficiencies specified in herein below within the time limit set forth therein:

The Independent Engineer shall inspect the Project and make out an O & M Inspection Report setting forth an overview of the status, quality and safety of O&M including its conformity with the Maintenance Requirement, Specification and Standards and Safety Requirements. In a separate section of the O & M Inspection Report, the Independent Engineer shall describe in reasonable detail the lapses, defects or deficiencies observed by it in O&M of the Project and set out the reasonable time required to rectify the same.

The Concessionaire shall undertake the repairs/rectification of defects and deficiencies in the Project within the time specified in the O&M Inspection Report and as per Good Industry Practice.

4.2 The Concessionaire shall at all times maintain an adequate inventory of spares and consumables to meet the Maintenance Requirements.

4.3 The utilities and services like water supply, wastewater collection and treatment, lighting, green belt, etc. within the Project facility shall be attended immediately for any repairs and shall be maintained in good conditions.

5. Other defects and deficiencies

5.1 In respect of any defect or deficiency not specified in this Schedule-I, the Concessionaire shall undertake repair or rectification in accordance with Good Industry Practice and within the time limit specified by the Independent Engineer.

5.2 In respect of any defect or deficiency not specified in this Schedule-I, the Independent Engineer may, in conformity with Good Industry Practice, specify the permissible limit of deviation or deterioration with reference to the Specifications and Standards, and any deviation or deterioration beyond the permissible limit shall be repaired or rectified by the Concessionaire in accordance with Good Industry Practice and within the time limit specified by the Independent Engineer.

6. Extension of time limit

Notwithstanding anything to the contrary specified in this Schedule-I, if the nature and extent of any defect or deficiency justifies more time for its repair or rectification than the time specified herein, the Concessionaire shall be entitled to additional time in conformity the Good Industry Practice. Such additional time shall be determined by the Independent Engineer and conveyed to the Concessionaire and the Authority with reasons thereof.

7. Emergency repairs/restoration

Notwithstanding anything to the contrary contained in this Schedule-I, if any defect, deficiency or deterioration in the Project poses a hazard to safety or risk of damage to property, the Concessionaire shall promptly take all reasonable measures for eliminating or minimizing such danger.

8. Daily Inspection by the Concessionaire

The Concessionaire shall, through its engineer, undertake a daily visual inspection of the Project and maintain a record thereof in a register to be kept in such form and manner as the Independent Engineer may specify. Such record shall be kept in safe custody of the Concessionaire and shall be open to inspection by the Authority and the Independent Engineer at any time during office hours.

9. Divestment Requirements

All defects and deficiencies specified in this Schedule-I shall be repaired and rectified by the Concessionaire so that the Project conforms to the Maintenance Requirements on the Transfer Date.

10. Management of Labour and Prevention of Accidents

The Concessionaire shall comply with all the provisions of the laws regarding deployment of labour under the contract; the Abolition of Contract Labour Act, the Minimum Wages Act, The Workmen‘s Compensation Act.

It shall be the liability and responsibility of the Concessionaire to implement the provisions of these acts. In addition to;

10.1 The Concessionaire shall not employ, in connection with the work, any person who has not completed 18 years of age.

10.2 The Concessionaire shall keep all records desired under the said labour laws and submit periodical returns to the respective statutory authorities.

10.3 The Concessionaire shall in respect of labour employed by him comply with provisions of the various labour Laws and the Rules and Regulations as applicable to them in regard to matters provided therein and shall indemnify Authority in respect of all claims that may be raised against Authority for noncompliance thereof by the Concessionaire.

SCHEDULE J

OPERATIONAL PLAN

(To be submitted by the Concessionaire)

The operational plans should include the following key points:

a. Pre-processing and Processing Facilities

- Process flow diagram and description of the Approved Technology.
- Number and capacity of processing lines, including standby arrangements.
- Operational plan for receipt, segregation, pre-processing and processing of Acceptable Waste.
- Operating procedures for Bio-Gas generation, Bio-CNG purification, compression, storage and dispensing.
- List of major plant and machinery with their rated capacities.
- Operating parameters and process monitoring procedures.
- Preventive, predictive and breakdown maintenance programme for all plant and equipment.
- Inventory management plan for critical spares and consumables.

b. Environmental Management Plan

- Environmental monitoring programme in accordance with Applicable Laws and Applicable Permits.
- Odour, dust, leachate, noise and vector control measures.
- Operation and maintenance plan for pollution control systems.
- Storm water, wastewater and leachate management plan.
- Greenbelt and plantation maintenance programme.
- Occupational health and safety plan, including use of personal protective equipment and emergency medical arrangements.
- Environmental reporting and statutory compliance procedures.

c. Disaster Management and Emergency Response Plan

- Identification of potential hazards and risk assessment.
- Emergency response procedures for fire, gas leakage, explosion, equipment failure and other emergencies.
- Roles and responsibilities of key personnel.
- Evacuation procedures and emergency communication protocols.

- Coordination with local authorities, emergency services and hospitals.
- Periodic mock drills and training programme.

d. Maintenance Programme
   - Annual and month-wise preventive maintenance schedule for the Project Facility.
   - Scheduled shutdown programme, if any.
   - Breakdown maintenance procedures and response time.
   - Inspection and testing schedule for critical equipment.
   - Calibration schedule for weighbridge, gas flow meters, pressure vessels and other statutory equipment.

e. Operational Records and Reporting
   - Procedures for recording quantities of Acceptable Waste received, processed and disposed.
   - Monitoring of Bio-Gas generation, Bio-CNG production and product dispatch.
   - Maintenance of equipment logbooks and maintenance records.
   - Monthly operational reporting to the Authority and the Independent Engineer.

f. Review and Updating

   The Operational Plan shall be reviewed at least once every Contract Year and revised, wherever necessary, to reflect changes in the Project Facility, Applicable Laws, Applicable Permits, operational practices or Good Industry Practice. Any material revision to the Operational Plan shall be submitted to the Authority and the Independent Engineer for information and record.

SCHEDULE K

PERFORMANCE STANDARDS

The Concessionaire shall have the following specific requirements related to Operations and Maintenance of the Project Facility:

1. The Concessionaire shall ensure that the receipt, processing and disposal of Municipal Solid Waste is carried out in accordance with the Solid Waste Management Rules, 2026, Applicable Laws, Applicable Permits and the provisions of this Agreement.

2. The Concessionaire shall ensure that all Acceptable Waste received at the Project Facility is processed in accordance with the Approved Technology for production of Bio-CNG, and that the Bio-CNG produced is supplied to the Offtaker(s) in accordance with the applicable Offtake Agreement(s).

3. The Concessionaire shall ensure that the Project Facility is operated continuously in accordance with Good Industry Practice and that adequate measures are implemented to control odour, dust, flies, leachate, noise and other environmental nuisances, so as to comply with Applicable Laws and the conditions of Applicable Permits.

4. The Concessionaire shall comply with all applicable occupational health and safety requirements and maintain adequate safety measures for personnel, visitors and surrounding communities.

5. The Residual Inert Matter shall not be stored and shall be disposed of at the disposal point on day-to-day basis.

6. The Concessionaire shall ensure that the quality of manure/compost shall conform to FCO standards and shall not be stored more than the shelf life. The Concessionaire shall ensure that the off-take arrangement of the produced manure/compost is in place.

7. The Concessionaire shall install, operate and maintain all pollution control systems, environmental protection measures and monitoring equipment required under Applicable Laws, Applicable Permits and Good Industry Practice throughout the Concession Period.

8. Subject to the provisions of this Agreement, the Concessionaire shall be entitled to market and sell Bio-CNG, compost, organic manure, recyclables and any other by-

products recovered from the processing of Municipal Solid Waste, at such prices and through such marketing arrangements as it may determine.

9. The Concessionaire shall ensure that a calibration test of the weigh bridge is carried out twice in a year starting from the Appointed Date and a copy of the calibration test result is submitted to authorize representative immediately after the test.

10. The quantity of Residual Waste transported to the designated disposal point shall not exceed 20% (twenty percent) of the total quantity of Acceptable Waste received at the Project Facility, unless otherwise approved by the Authority or attributable to Force Majeure or Authority Default. Any exceedance shall attract Damages in accordance with this Agreement.

11. The Concessionaire shall maintain complete and accurate daily operational records and submit a Monthly Performance Report to the Authority and the Independent Engineer within five (5) Working Days from the end of each Month, including, but not limited to:

    - Quantity of Acceptable Waste received.
    - Quantity of Waste processed.
    - Quantity of Bio-Gas generated.
    - Quantity of Bio-CNG produced and supplied.
    - Quantity of compost or organic manure produced and sold.
    - Quantity of recyclables recovered.
    - Quantity of Residual Waste transported to the designated disposal facility.
    - Downtime of critical equipment, if any.
    - Any non-compliance with Applicable Laws or Applicable Permits.

    The Independent Engineer shall review and certify the Monthly Performance Report within five (5) Working Days of its submission.

12. With effect from the COD, the Concessionaire shall not suspend, at any time, receiving of Acceptable Waste at the Project Facility on any day during the Concession Period.

SCHEDULE L

SAFETY REQUIREMENTS

The Concessionaire is responsible for maintaining an incident/hazard free work environment. The Concessionaire shall comply with the following:

1. Concessionaire is expected to pre-plan all work to minimize the potential for personal injury and property damage.

2. Develop the plan in a Project specific nature, which is designed to anticipate and identify hazards before work begins. Know in advance what measures will be taken to eliminate hazards or adequately control the anticipated risks for each scope of work. This information shall include, but is not limited to scope of work, sequence of activities, site specific fall protection, high angle rescue procedures, safety control methods, training records, competent persons, lead abatement, asbestos abatement and excavations. The planning does not stop at the pre- planning stage but is a continuous process of assessment and evaluation. When changes occur or new hazards are identified during the course of the Project, the work should be suspended while the plan is revised.

3. Ensure all subcontractors, suppliers and vendors are informed of their obligations with regard to safety and of the Contractor Safety Requirements.

4. Plan and execute all work to comply with the stated objectives and safety requirements contained in the Contractor Safety Requirements, contract provisions, Central, state, and local laws and regulations, and standards.

5. If more than 25 employees are deployed on a single shift, the Concessionaire shall establish a fulltime position of a Safety Manager to perform safety inspections and training services. In the event that less than 25 employees are deployed, an onsite person who along with other concurrent duties shall serve as the Safety Representative be appointed.

6. Concessionaire shall maintain its own orientation program for its employees that shall include as a minimum a review of (1) hazards present in the area in which they will be working and (2) the personal protective equipment and apparel the workers will be required to use or wear as specified under applicable law.

7. Concessionaire shall provide and maintain a chemical and flammable material storage area. Be responsible for the control, availability and use of necessary safety equipment, including personal Protective equipment (PPE) and apparels for the Concessionaire employees.

8. Take an active part in all supervisory safety meetings, including the discussion of observed unsafe work practices or conditions and a review of any incidents and corrective actions. Additionally, encourage, solicit and follow up on safety related suggestions from Concessionaire employees.

9. Report all injuries and incidents in a timely manner in accordance with Central and/or state laws and regulations.

10. Analyze all incidents and implement immediate corrective action.

11. Implement safety-training programs for supervisors and employees applicable to their specific responsibilities.

12. Concessionaire will be responsible for providing a safety orientation training session for all workers before they are allowed to begin work.

13. At a minimum Contractor representative to adequately train its employees according to applicable safety standards. This training may include but is not limited to: fall protection, fire watch, scaffolds, forklifts, excavation, ladders, confined space entry, respiratory protection, grounding, shoring and traffic control etc.

14. In order to maintain a safe and healthy work environment in emergency situations, Concessionaire shall develop an emergency action plan to help safeguard employees. All employees shall be trained in the use of this plan and informed of their role in implementing it during their required safety orientation training. This policy is mandatory and must be strictly followed.

15. Concessionaire shall comply with the Applicable Laws and Applicable Permits latest relating to safety and shall provide adequate fire protection equipment as required.

16. Concessionaire is responsible for orienting employees on the specific safety rules that must be followed by all persons working on Project Facility. Other personal protective equipment (PPE) is also required in accordance with the appropriate safety standards and equipment as set by the manufacturer's specifications. A list of the minimum personal protective requirements is as follows:

The Contractor shall be responsible for providing and ensuring the use of required personal protective equipment for its employees.

a. Approved hard hats, shall be worn at all times while on the Site.

b. PPE shall be worn while travelling from the security gate, while travelling through the plants, working outside or otherwise engaged in work at each station, except in areas specifically designated as PPE not required.

c. Vendors and visitors will be required to meet these same standards.

17. It is the responsibility of Concessionaire to keep their work area clean. Concessionaire is responsible for clearing of trash and debris that is generated by their work.

SCHEDULE M

WASTE REPORTS

1. Daily waste report

Date:			
Total quantity of waste received			Tonnes
Less: Total quantity of waste rejected			Tonnes
Total Quantity of Acceptable Waste Received			Tonnes
Total Quantity of Waste Processed			Tonnes
Quantity of unprocessed waste at the processing plant			Tonnes
Quantity of waste transported to Disposal Point	Inert waste		Tonnes
	Process remnants		Tonnes
Reasons for waste rejection (if any)			

2. Monthly waste report

Month:			
Date from:		Date to:	
Total quantity of waste received			Tonnes
Less: Total quantity of waste rejected			Tonnes
Total Quantity of Acceptable Waste Received			Tonnes
Total Quantity of Waste Processed			Tonnes
Quantity of unprocessed waste at the processing plant			Tonnes
Quantity of waste transported to landfill	Inert waste		Tonnes
	Process remnants		Tonnes
Reasons for waste rejection			

SCHEDULE N

ROLES AND FUNCTIONS OF INDEPENDENT ENGINEER

1. Role and function of the Independent Engineer

   The role and functions of the Independent Engineer shall include the following:

   a. review of the Drawings and Documents as set forth in Paragraph 2;

   b. review, inspection and monitoring of Construction Works as set forth in Paragraph 3;

   c. conducting Tests on completion of construction and issuing Completion/ Provisional Certificate as set forth in Paragraph 3;

   d. review, inspection and monitoring of O&M as set forth in Paragraph 5;

   e. determining, as required under the Agreement, the costs of any works or services and/or their reasonableness;

   f. determining, as required under the Agreement, the period or any extension thereof, for performing any duty or obligation;

   g. Assisting the Parties in resolution of Disputes; and

   h. Undertaking all other duties and functions in accordance with the Agreement.

2. Development Period

   a. During the Development Period, the Independent Engineer shall undertake a detailed review of the Drawings to be furnished by the Concessionaire along with supporting data, including the geotechnical and hydrological investigations, characteristics of materials from borrow areas and quarry sites, topographical surveys and traffic surveys. The Independent Engineer shall complete such review and send its comments/observations to the Authority and the Concessionaire within 15 (fifteen) days of receipt of such Drawings. In particular, such comments shall specify the conformity or otherwise of such Drawings with the Scope of the Project and Specifications and Standards.

b. The Independent Engineer shall review any modified Drawings or supporting Documents sent to it by the Concessionaire and furnish its comments within 7 (seven) days of receiving such Drawings or Documents.

c. The Independent Engineer shall review the Drawings regarding Safety of the Project in accordance with Schedule-L and furnish its comments thereon to the Authority and the Concessionaire within 7 (seven) days of receiving such Drawings.

d. The Independent Engineer shall review the detailed design, construction methodology, quality assurance procedures and the procurement, engineering and construction time schedule sent to it by the Concessionaire and furnish its comments within 15 (fifteen) days of receipt thereof.

e. Upon reference by the Authority, the Independent Engineer shall review and; comment on the EPC Contract or any other contract for construction, operation and maintenance of the Project, and furnish its comments within 7 (seven) days from receipt of such reference from the Authority.

3. Construction Period

a. In respect of the Drawings and Documents received by the Independent Engineer for its review and comments during the Construction Period, the provisions of Paragraph 3 shall apply, mutatis mutandis.

b. The Independent Engineer shall review the monthly progress report furnished by the Concessionaire and send its comments thereon to the Authority and the Concessionaire within 7 (seven) days of receipt of such report.

c. The Independent Engineer shall inspect the Construction Works & installation of plant and equipment and the Project once every month, preferably after receipt of the monthly progress report from the Concessionaire, but before the 20th (twentieth) day of each month in any case, and make out a report of such inspection (the "Inspection Report") setting forth an overview of the status, progress, quality and safety of construction, including the work methodology adopted, the materials used and their sources, and conformity of Construction Works with the Scope of the Project and the Specifications and Standards. In a separate section of the Inspection Report, the Independent Engineer shall describe in reasonable detail the lapses, defects or deficiencies observed by it in the construction of the Project. The Independent Engineer shall send a copy of

its Inspection Report to the Authority and the Concessionaire within 7 (seven) days of the inspection.

d. The Independent Engineer may inspect the Project more than once in a month if any lapses, defects or deficiencies require such inspections.

e. For determining that the Construction Works conform to Specifications and Standards, the Independent Engineer shall require the Concessionaire to carry out, or cause to be carried out, tests on a sample basis, to be specified by the Independent Engineer in accordance with Good Industry Practice for quality assurance. The Independent Engineer shall issue necessary directions to the Concessionaire for ensuring that the tests are conducted in a fair and efficient manner, and shall monitor and review the results thereof.

f. The sample size of the tests, to be specified by the Independent Engineer under Paragraph 3.e, shall comprise 10% (ten percent) of the quantity or number of tests prescribed for each category or type of tests in the Quality Control Manuals; provided that the Independent Engineer may, for reasons to be recorded in writing, increase the aforesaid sample size by up to 10% (ten percent) for certain categories or types of tests.

g. The timing of tests referred to in Paragraph 3.e, and the criteria for acceptance/ rejection of their results shall be determined by the Independent Engineer in accordance with the Quality Control Manuals. The tests shall be undertaken on a random sample basis and shall be in addition to, and independent of, the tests that may be carried out by the Concessionaire for its own quality assurance in accordance with Good Industry Practice.

h. In the event that the Concessionaire carries out any remedial works for removal or rectification of any defects or deficiencies, the Independent Engineer shall require the Concessionaire to carry out, or cause to be carried out, tests to determine that such remedial works have brought the Construction Works into conformity with the Specifications and Standards, and the provisions of this Paragraph 3 shall apply to such tests.

i. In the event that the Concessionaire fails to achieve any of the Project Milestones, the Independent Engineer shall undertake a review of the progress of construction & installation of equipment / machineries and identify potential delays, if any. If the Independent Engineer shall determine that completion of the Project is not feasible within the time specified in the Agreement, it shall

require the Concessionaire to indicate within 15 (fifteen) days the steps proposed to be taken to expedite progress, and the period within which COD shall be achieved. Upon receipt of a report from the Concessionaire, the Independent Engineer shall review the same and send its comments to the Authority and the Concessionaire forthwith.

j. If at any time during the Construction Period, the Independent Engineer determines that the Concessionaire has not made adequate arrangements for the safety of workers and Users in the zone of construction or that any work is being carried out in a manner that threatens the safety of the workers and the Users, it shall make a recommendation to the Authority forthwith, identifying the whole or part of the Construction Works that should be suspended for ensuring safety in respect thereof.

k. In the event that the Concessionaire carries out any remedial measures to secure the safety of suspended works and Users, it may, by notice in writing, require the Independent Engineer to inspect such works, and within 3 (three) days of receiving such notice, the Independent Engineer shall inspect the suspended works and make a report to the Authority forthwith, recommending whether or not such suspension may be revoked by the Authority.

l. If suspension of Construction Works is for reasons not attributable to the Concessionaire, the Independent Engineer shall determine the extension of dates set forth in the Project Completion Schedule, to which the Concessionaire is reasonably entitled, and shall notify the Authority and the Concessionaire of the same.

m. The Independent Engineer shall carry out, or cause to be carried out, all the Tests specified in Schedule-F and issue a Completion Certificate or Provisional Certificate, as the case may be. For carrying out its functions under this Paragraph 3.m and all matters incidental thereto, the Independent Engineer shall act under and in accordance with the provisions of Article 14 and Schedule-F.

n. Upon reference from the Authority, the Independent Engineer shall make a fair and reasonable assessment of the costs of providing information, works and services as set forth in Article 16 and certify the reasonableness of such costs for payment by the Authority to the Concessionaire.

o. The Independent Engineer shall aid and advise the Concessionaire in preparing the Maintenance Manual.

4. Operation Period

a. In respect of the Drawings and Documents received by the Independent Engineer for its review and comments during the Operation Period, the provisions of Paragraph 2 shall apply, mutatis mutandis.

b. The Independent Engineer shall review the annual Maintenance Program furnished by the Concessionaire and send its comments thereon to the Authority and the Concessionaire within 15 (fifteen) days of receipt of the Maintenance Program.

c. The Independent Engineer shall review the monthly waste report furnished by the Concessionaire and send its comments thereon to the Authority and the Concessionaire within 7 (seven) days of receipt of such report.

d. The Independent Engineer shall inspect the Project once every month, preferably after receipt of the monthly waste report from the Concessionaire, but before the 20th (twentieth) day of each month in any case, and make out an O&M Inspection Report setting forth an overview of the status, quality and safety of O&M including its conformity with the Maintenance Requirements and Safety Requirements. In a separate section of the O&M Inspection Report, the Independent Engineer shall describe in reasonable detail the lapses, defects or deficiencies observed by it in O&M of the Project. The Independent Engineer shall send a copy of its O&M Inspection Report to the Authority and the Concessionaire within 7 (seven) days of the inspection.

e. The Independent Engineer may inspect the Project more than once in a month, if any lapses, defects or deficiencies require such inspections.

f. The Independent Engineer shall in its O&M Inspection Report specify the tests, if any, that the Concessionaire shall carry out, or cause to be carried out, for the purpose of determining that the Project is in conformity with the Maintenance Requirements. It shall monitor and review the results of such tests and the remedial measures, if any, taken by the Concessionaire in this behalf.

g. In respect of any defect or deficiency referred to in Paragraph 5 of Schedule- I, the Independent Engineer shall, in conformity with Good Industry Practice, specify the permissible limit of deviation or deterioration with reference to the Specifications and Standards and shall also specify the time limit for repair or rectification of any deviation or deterioration beyond the permissible limit.

h. The Independent Engineer shall determine if any delay has occurred in completion of repair or remedial works in accordance with the Agreement, and shall also determine the Damages, if any, payable by the Concessionaire to the Authority for such delay.

i. The Independent Engineer shall monitor and review the curing of defects and deficiencies by the Concessionaire as set forth in Clause 19.5.

j. In the event that the Concessionaire notifies the Independent Engineer of any modifications that it proposes to make to the Project, the Independent Engineer shall review the same and send its comments to the Authority and the Concessionaire within 15 (fifteen) days of receiving the proposal.

SCHEDULE O

ESCROW AGREEMENT
(See Clause 24.1)

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 Lenders' Representative) and having its registered office at **** acting for and on behalf of the Lenders as their duly authorized agent with regard to matters arising out of or in relation to this Agreement (hereinafter referred to as the "Lenders' Representative" which expression shall, unless repugnant to the context or meaning thereof, include its successors and substitutes);

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 Tirunelveli Municipal Corporation represented by Commissioner and having its principal office at S.N. High Road, Tirunelveli – 627 001 (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 setting up of 50 TPD Municipal Solid Waste based Bio-CNG Plant on Design, Build, Finance, Operate and Transfer (DBFOT) basis under PPP mode, and a copy of which is annexed hereto and marked as Annex-A to form part of this Agreement.

B. 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 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;

"Lenders' Representative" means the person referred to as the Lenders' Representative in the foregoing Recitals;

"Parties" means the parties to this Agreement collectively and "Party" shall mean any of the Parties to this Agreement individually;
"Payment Date" means, in relation to any payment specified in 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 Lenders' Representative shall, unless repugnant to the context or meaning thereof, mean references to the Lenders' Representative, acting for and on behalf of 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 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 Lenders' Representative and the Concessionaire, and applied in accordance with the terms of this Agreement. No person other than the Authority, the 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, 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 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 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 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 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 with the Nominated Company, pursuant to the Substitution Agreement, it shall be deemed for the purposes of this Agreement that the Nominated Company is a Party hereto and the Nominated Company 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 undertakes that it shall deposit into and/or credit the Escrow Account with:

a. All monies received in relation to the Project from any source, including the 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 revenues in respect of the project including sales realization of Bio-CNG & by-products and other revenues such as rentals, deposits or capital receipts, as the case may be;
d. All proceeds received pursuant to any insurance claims; 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 Lenders

The Lenders' Representative agrees, confirms and undertakes that the 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 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 Withdrawals during Concession Period

4.1.1 At the beginning of every month, or at such shorter intervals as the Lenders' Representative and the Concessionaire may by written instructions determine, the Escrow Bank shall withdraw amounts from the Escrow Account and appropriate them in the following order by depositing such amounts in the relevant Sub-Accounts for

making due payments, and if such payments are not due in any month, then retain such monies in such Sub-Accounts and pay out therefrom on the Payment Date(s):

a. all taxes due and payable by the Concessionaire for and in respect of the Project;
b. all payments relating to construction of the Project, subject to and in accordance with the conditions, if any, set forth in the Financing 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. License Fee due and payable to the Authority;
f. Monthly proportionate provision of Debt Service due in an Accounting Year;
g. All payments and Damages certified by the Authority as due and payable to it by the Concessionaire;
h. Monthly proportionate provision of debt service payments due in an Accounting Year in respect of Subordinated Debt;
i. Any reserve requirements set forth in the Financing Agreements;
j. Balance, if any, in accordance with the instructions of the Concessionaire.

4.1.2 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 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 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. 90% of Debt Due excluding Subordinated Debt if required to be as per the terms of this Agreement;
c. Outstanding License Fee;

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 set forth in Article 32 of Concession Agreement;
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 31 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 30 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.

4.6 Retention post expiry of Concession Agreement

In case of expiry of the Concession Agreement due to efflux of time, a sum equal to 5% (five percent) of the total realisable revenue by sale of Bio-CNG and By-products for the year immediately preceding the Transfer Date, shall be retained in the Escrow Account for a period of 120 (one hundred and twenty) days after such expiry.

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 Lenders' Representative as to the relevant Payment Dates), the Escrow Bank shall notify the 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 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 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 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 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 Lenders' Representative, terminate this Agreement and appoint a new Escrow Bank, provided that the new Escrow Bank is acceptable to the Lenders' Representative and arrangements are made satisfactory to the 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 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 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 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 Lenders, acting through the 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

Any dispute, difference or claim arising out of or in connection with this Agreement shall be dealt with in accordance with the provisions of Article 38 of the Concession Agreement.

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 Tirunelveli 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.

SIGNED, SEALED AND DELIVERED
For and on behalf of THE CONCESSIONAIRE by:

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)
(E-mail address)

SIGNED, SEALED AND DELIVERED
For and on behalf of LENDERS by the Lender's representative:

(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)

SIGNED, SEALED AND DELIVERED
For and on behalf of THE AUTHORITY by

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)
(E-mail address)

In the presence of:

1

2

SCHEDULE P

VESTING CERTIFICATE
(See Clause 31.4)

1. The_____, Tirunelveli Municipal Corporation (the "Authority") refers to the Concession Agreement dated ******(the "Agreement") entered into between the Authority and ****** (the "Concessionaire") for setting up of 50 TPD Municipal Solid Waste based Bio-CNG plant on Design, Build, Finance, Operate and Transfer (DBFOT) basis under PPP mode.

2. The Authority hereby acknowledges compliance and fulfilment by the Concessionaire of the Divestment Requirements set forth in Clause 31.1 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, SEALED AND DELIVERED For and on behalf of CONCESSIONAIRE by:	AGREED, ACCEPTED AND SIGNED, SEALED AND DELIVERED for and on behalf of AUTHORITY by:
(Signature) (Name) (Designation) (Address)	(Signature) (Name) (Designation) (Address)
In the presence of: 1.	
	2.

SCHEDULE Q

SUBSTITUTION AGREEMENT

(See Clause 33.3.(a))

THIS SUBSTITUTION AGREEMENT is entered into on this the****day of****20**

AMONGST

1. Tirunelveli Municipal Corporation, represented by the _____ and having its principal office at S.N. High Road, Tirunelveli – 627 001, 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 Lenders' Representative) and having its registered office at *****, acting for and on behalf of the Lenders as their duly authorized agent with regard to matters arising out of or in relation to this Agreement (hereinafter referred to as the "Lenders' Representative", which expression shall unless repugnant to the context or meaning thereof include its successors and substitutes)

WHEREAS:

A. The Authority has entered into a Concession Agreement dated ***** with the Concessionaire (the "Concession Agreement") for setting up 50 TPD Municipal Solid Waste based Bio-CNG plant on Design, Build, Finance, Operate and Transfer (DBFOT) model under PPP mode and a copy of which is annexed hereto and marked as Annex-A to form part of this Agreement.

B. Lenders have agreed to finance the Project in accordance with the terms and conditions set forth in the Financing Agreements.

C. 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;

"Lenders' Representative" means the person referred to as the Lenders' Representative in the foregoing Recitals;

"Nominated Company" means a company, incorporated under the provisions of the Companies Act, 1956, including any re-enactment or amendment thereof, selected by the Lenders' Representative, on behalf of 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 Lenders' Representative shall, unless repugnant to the context or meaning thereof, mean references to the Lenders' Representative, acting for and on behalf of 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 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 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 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 Lenders' Representative in accordance with this Agreement. For the avoidance of doubt, the

Lenders or the 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 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 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 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 Article 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 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 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 Lenders' Representative of its intention to issue a Termination Notice and grant 15 (fifteen) days' time to the Lenders' Representative to make a representation, stating the intention to substitute the Concessionaire by a Nominated Company.

3.3.2 In the event that the 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 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 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 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 Lenders' Representative may, without prejudice to any of the other rights or remedies of the 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 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 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 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 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 Lenders' Representative, give a reasoned order after hearing the 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 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 Notwithstanding anything to the contrary contained in this Agreement or the Concession Agreement, the transfer of the Concession to a Nominated Company may be effected through the transfer of such equity in the Concessionaire as may be necessary to give effect to the substitution, subject to the applicable provisions of the Concession Agreement. Upon completion of such transfer, the Nominated Company shall be deemed to be the Concessionaire for all purposes under this Agreement and the Concession Agreement and shall assume all the rights, obligations and liabilities of the Concessionaire thereunder.

3.5 Selection to be binding

The decision of the 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 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 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 Lenders' Representative from effecting or causing the transfer by

substitution and endorsement of the Concession as requested by the 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 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 Article 30 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 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 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 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 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 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 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 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 by an arbitral tribunal constituted in accordance with clause 8.1.2. Such arbitration shall be held in accordance with the Rules of Arbitration of the Nani Palkhivala Arbitration Centre, Chennai (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. The place of such arbitration shall be Chennai, and the language of arbitration proceedings shall be English.

8.1.2 There shall be an arbitral tribunal comprising three arbitrators, of whom each Party shall select one, and the third arbitrator shall be appointed by the two arbitrators so selected and in the event of disagreement between the two arbitrators, the appointment shall be made in accordance with the Rules.

8.1.3 The arbitral tribunal shall make a reasoned award (the "Award"). Any award made in any arbitration held pursuant to this article shall be final and binding on the Parties as from the date it is made, and the Parties agree and undertake to carry out such Award without delay.

8.1.4 The Parties agree that an Award may be enforced against either of them, as the case may be, and their respective assets wherever situated.

8.1.5 This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder.

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 Tirunelveli 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

SIGNED, SEALED AND DELIVERED For and behalf of THE CONCESSIONAIRE by:	SIGNED, SEALED AND DELIVERED For and behalf of THE AUTHORITY by:
(Signature) (Name) (Designation) (Address) (Fax No.) (E-mail address)	(Signature) (Name) (Designation) (Address) (Fax No.) (E-mail address)

SIGNED, SEALED AND DELIVERED
For and on behalf of

LENDERS by Lenders' Representative:
(Signature)
(Name)
(Designation)
(Address)

(Fax No.)
(E-mail address)

In the presence of:

1. 2.

SCHEDULE R

SCOPE OF WORK

The broad scope of the Concessionaire during the construction period and operation period would inter-alia include the following:

1. Construction Period

1.1 The Concessionaire shall set-up the Bio-CNG plant along with all required machineries and civil works for processing 50 TPD wet waste into Bio-CNG in the site earmarked.

1.2 The Concessionaire shall adopt a technology, which should be in compliance to the SWM Rules 2026 notified by Ministry of Environment, Forest & Climate Change (MoEFCC), as amended from time to time and order/directions of Hon'ble Court(s)/ NGT.

1.3 All required support infrastructures covering yard, storage, water tank, drying area etc. shall be constructed by the Concessionaire as per the requirement while full-filling all the statutory norms.

1.4 Install weigh bridge facilities, laboratory and other necessary infrastructure required for the operations of the facility.

1.5 The Concessionaire shall be responsible for availing electricity connection and water provisions at the site earmarked. The expenses related to electricity and water shall be borne by the Concessionaire.

1.6 The Concessionaire shall be responsible for obtaining all requisite statutory approval and certifications as required for the regular operations of the plant.

1.7 There shall be a proper treatment and disposal mechanism as per statutory norms & maximum recycle of effluent from the operation of the Project Facility including no leachate runoff from the processing of Waste and mixing with and polluting any surface water, ground water, stream, pond, or other water body/source.

2. Operations and Maintenance Period

2.1 The Concessionaire shall undertake operation and maintenance of the plant for a period of 20 years from COD.

2.2 The Authority shall deliver the guaranteed wet waste at the project site.

2.3 The Concessionaire should process the wet waste scientifically and convert to Bio-CNG and solid/liquid fertilizers.

2.4 It shall be the responsibility of the Concessionaire to account for the quantity of wet waste processed and the quantity of Bio-CNG produced and solid fertilizers as part of conversion on daily basis. The Concessionaire should have a mechanism to scientifically weigh the quantity of wet waste, Bio-CNG produced and solid fertilizers. There should be an automated weighing provision for the quantity of waste received at the plant and also for produced Bio-CNG and solid fertilizer. This will have to be automatically fed into the designated software to be developed by the Concessionaire without any manual intervention.

2.5 A real-time online MIS needs to be created by the Concessionaire with full access to officials of the Authority.

2.6 The Concessionaire should identify the potential buyers for the Bio-CNG and Liquid / Solid manure and will sell the same to the buyers. The Authority will have no role in identifying the buyers, determining the selling price and the profit margin.

2.7 The Concessionaire shall ensure the Bio-CNG specifications as per latest Indian Standard Norms and the gas should be suitable to fill in the gas cylinders as per PESO Gas Cylinder Regulations. Necessary NOC from Fire and Rescue service Department and other statutory licenses should be obtained by the Concessionaire.

2.8 The Concessionaire shall ensure the entire process of conversion of wet waste to Bio-CNG takes place in a completely environment friendly process (including bottling and transportation of CNG) without causing any health hazard to people employed, people living in the nearby areas and the flora and fauna inhabited in the plant-set-up area.

2.9 Transport the Residual Inert Matter and/or Process rejects to the designated Disposal Point.

2.10 Deployment of required labour, technical staff and management staff and their costs shall be the responsibility of the Concessionaire. The labour wages and welfare schemes should be adhered to as per the existing statutory norms.

2.11 Sourcing of all required consumables and catalysts required for process shall be the responsibility of the Concessionaire.

2.12 The Water and Electricity charges shall be borne by the Concessionaire.

2.13 The maintenance and service requirements of the plant, machinery and support infrastructure shall be the responsibility of the Concessionaire. The service maintenance shall be planned in advance in accordance with the provision of this Agreement.

2.14 Transfer back the Project Facility in working conditions with technology at the end of the Concession Period.

3. Handling of Input Material

3.1 Handling & storage of all types of solid wastes should be in such a manner that leachates formed do not get mix with any natural water body or stream.

3.2 If solids have any fire hazard possibility, due fire extinguishing system should be set up.

3.3 Reject/undigested solids should be disposed in accordance with SWM Rules, 2026 & its amendments and shall not be mixed with digested slurry for disposal.

3.4 Digested solid/sludge shall be used for producing FOM or Bio-compost. In case of Bio compost, following shall be ensured:

- The composting facilities of adequate size may be designed through expert institutions in the field.

- The compost yard be provided with impermeable base with facility for collection of Leachate and surface water run-off into lined drains leading to a Leachate treatment and disposal facility.

- Necessary precaution shall be taken to minimize nuisance of odour, flies, rodents, bird menace and fire hazard.

- The windrow area shall be provided with impermeable base. Such a base shall be made of concrete or compacted clay of 50 cm thick having permeability coefficient less than 10–7 cm/sec. The base shall be provided with 1 to 2 percent slope and circled by lined drains for collection of Leachate or surface run- off.
- Leachate collection system shall be constructed. Leachate can be re-circulated in compost plant for moisture maintenance.

- The end product compost shall meet the standards prescribed under Fertilizer Control Order notified from time to time.

- The daily logbook record of the solid waste generated and bio-compost shall be maintained.

4. Handling of Solid Manure

4.1 Solid manure should be stored in Leachate-free way.

4.2 Solid manure may be converted to PROM (Phosphate Rich Organic Manure), Organic Potash fertilizer, organic silica fertilizer etc.

5. Handling of Liquid Manure (Fermented Organic Liquid Manure)

5.1 Digested slurry while producing Fermented Organic Liquid Manure should be separated for solids as much as possible.

5.2 Use decanter, screw press, filter media or drying pit for separation of solids.

5.3 Liquid manure should be stored in Leachate-free way.

5.4 Impermeable tank having total storage capacity of 15 days shall be provided for storing the liquid manure/ slurry.

5.5 In no case, the liquid manure/ effluent/ leachate shall not be discharged into the drain/nallah/surface water bodies/channels/rivers.

5.6 The liquid concentrated nutrient rich fertilizer product post processing shall be labelled and packed in containers for sale.

5.7 The daily logbook record of the Liquid manure produced by the unit shall be maintained.

6. General requirements

6.1 Disposal of sulphur recovered from the process should be sold / disposed off in an appropriate manner as per rule.

6.2 All waste streams coming from plant should be suitably treated &recycled/reused. In no case, effluent shall enter water body.

6.3 Exhaust gas being released to atmosphere in a safe manner.

6.4 Height of exhaust gas chimney to be raised to at least 3m above the roof level.

6.5 Iron filings, silica gel should be disposed of through certified vendors.

6.6 Membrane material disposal should be done through registered vendors only.

6.7 Effluent generated which is high in acids should be neutralized by using suitable method & then disposed off after meeting the notified effluent discharge norms.

7. Other requirements

7.1 Ambient air quality monitoring shall be regularly carried out as per applicable statutory norms.

7.2 Odour nuisance at down-wind direction on the boundary of processing plant shall also be checked regularly & accordingly necessary steps for its control shall be taken.

7.3 Use specialized civil works such as earthquake resistance for constructions.

7.4 Install DG sets as per requirement.

7.5 Install equipment lifting and handling arrangements.

7.6 Undertake plant lighting and landscaping of the Project Area.

SCHEDULE S

LAND USE AND AUTHORISATION AGREEMENT
(See Clause 10.2.(b))

THIS Land Use and Authorization Agreement (the "Land Use Agreement" or "Agreement") is made on this _____ day of Two Thousand Twenty _____ between the Tirunelveli City Municipal Corporation, acting through its Municipal Commissioner hereinafter referred to as "the Owner" (the Authority), which expression shall unless it be repugnant to the context and meaning thereof, mean and include its successors and assigns of the ONE PART;

and

M/s. _____, a Company incorporated and registered under the Companies Act, 2013 and having its Registered Office situated at _____, hereinafter referred to as the "Concessionaire" (which expression shall unless it be repugnant to the context and meaning thereof mean and includes successors and permitted assigns) of the OTHER PART.

The Owner and the Concessionaire are hereinafter referred to individually as the "Party" and collectively as the "Parties".

A. The Owner has executed a Concession Agreement dated _____ (the "Concession Agreement"), with the Concessionaire to perform, execute and implement the Project of "Setting-up of a _____TPD Municipal Solid Waste based Bio-CNG Plant on Design, Build, Finance, Operate and Transfer (DBFOT) model under PPP mode", under and in accordance with the terms and provisions of the Concession Agreement.

B. For the implementation of the Project and to discharge its obligations under the Concession Agreement, the Owner is required to hand over to the Concessionaire, land admeasuring _____ acres for constructing, operating and maintaining the Project Facility, in accordance with the Concession Agreement.

C. The Owner under the applicable provisions of the Concession Agreement has agreed to grant to the Concessionaire the right to use the Licensed Premises, commencing from the Appointed Date, including the construction period and the Concession Period (as defined in the Concession Agreement) in respect of the Licensed Premises more particularly delineated in Appendix A hereto attached.

D. By way of this Agreement, the Owner is providing Licensed Premises to the Concessionaire for the purposes of performing, executing and implementing the Project including on the terms and conditions and subject to the covenant and stipulations hereinafter contained.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS: -

1. The Owner has agreed to authorize, and the Concessionaire has agreed to take on the Licensed Premises on the terms and conditions stated herein.

2. This Agreement shall be coterminous with the Concession Agreement and shall be read together with the Concession Agreement for any interpretation; together with the provisions of the Concession Agreement, as amended from time to time.

3. The terms that are used but not defined in this Agreement shall have the same meaning as given to them in the Concession Agreement.

4. In consideration of the Concessionaire undertaking to implement the Project in accordance with the provisions of the Concession Agreement and undertaking to pay the Authorization Payment ("User Charges"/ "License Fee") stipulated in Clause 5 below; the Owner hereby grants a license to the Concessionaire, all those lands admeasuring _____acres (together with any physical structures existing thereon) which is described, delineated and shown in the Appendix A hereto (the "Licensed Premises"). To hold the said Licensed Premises in its possession, without interruption or interference together with the uninterrupted full and free right of way and passage and other rights in relation thereto for as long as the Concession Agreement does not lapse due to expiry of its term or is not terminated earlier in accordance with the provisions thereof. The Owner hereby agrees and authorizes the construction, operation and maintenance of Project Facility on the Licensed Premises in accordance with the terms of the Concession Agreement.

5. In consideration of the handover of the Licensed Premises under this Agreement, the Concessionaire shall pay to the Owner a License Fee as per Article 22.1 of the Concession Agreement.

6. The Licensed Premises is being vested with the Concessionaire under this Agreement, free from any encumbrances, whether legal or physical in nature. Further, the Owner shall not create any encumbrance over the land constituting part of the Licensed Premises or any part thereof. Notwithstanding the aforesaid, if at any time during the term of this Agreement if the Concessionaire discovers any encumbrances over the Licensed Premises, it shall notify the Owner, who shall, remove or cause to be removed such encumbrances within a

reasonable period of time.

7. The Licensed Premises are being vested with the Concessionaire, under this Agreement only for the purposes of implementation of the Project by the Concessionaire including for the purposes of constructing, operating and maintaining facilities thereon in accordance with the Concession Agreement.

8. The Owner hereby authorizes the Concessionaire, to construct, erect, own, operate and maintain any superstructures, facility or any movable or immovable structures for the Project Facility on the Licensed Premises in accordance with approved plans. The Owner hereby agrees that the construction, operations and maintenance of the Project Facility at the Licensed Premises and the receipt, storage and processing of Municipal Solid Waste at the Project Facility being undertaken pursuant to the Concession Agreement for the purposes of enabling the Concessionaire to discharge its obligations.

9. The Owner shall send copies of all notices under this Agreement, relating to defaults committed by the Concessionaire, any amendments thereto, breaches, variations, claims and disputes under this Agreement to the Lenders upon written request of the Lenders;

10. Upon the occurrence of an Event of Default by the Concessionaire under the Financing Agreements, including a Financial Default, the Lenders shall be entitled to exercise their rights in accordance with the Financing Agreements, the Substitution Agreement and the Concession Agreement. The Authority shall extend such cooperation as may be required for the implementation of the rights of the Lenders under the Substitution Agreement, provided that nothing contained herein shall affect or prejudice the Authority's ownership of the Licensed Premises.

11. The Owner hereby authorises the Concessionaire to create any Encumbrance over the Project Facility constructed on the Licensed Premises and the rights granted to the Concessionaire hereunder (excepting the Owner's ownership rights to the land constituting part of the Licensed Premises) and assign this Agreement, if required, in favour of the Lenders/Security Trustee only, for enabling financing of the construction, operation and maintenance of the Project. The Owner agrees that it shall have no objection for such assignment and mortgage of the right by the Concessionaire for Project (except the Licensed Premises) and creation of the Encumbrance required by the Lenders. The Owner shall at all times remain the owner of the land constituting part of the Licensed Premises and the assignment of rights in accordance with this Agreement shall not jeopardise/impact the Owner’s ownership rights in the lands in any manner.

12. Without prejudice to the terms of this Agreement, the Owner shall not be governed by the terms of any agreement that the Lenders may have entered into with the Concessionaire in respect of the Encumbrance over the Project Facility constructed on the Licensed Premises and the Authorization rights thereon, any assets of the Project and this Agreement, created in favour of the Lenders. It is explicitly understood and agreed that the Owner shall remain the owner of the land constituting part of the Licensed Premises and the Owner's ownership of lands shall not be impacted in any manner by way of assignment of authorization rights mentioned herein.

13. The Owner shall provide a recommendation letter in the name of the Concessionaire for connection to water and drainage networks up to the Licensed Premises during the tenure of this Agreement.

14. The Owner shall provide a recommendation letter in the name of the Concessionaire to obtain Electricity Supply/Connection.

15. The Owner hereby undertakes that:

    a. All the land constituting part of the Licensed Premises is earmarked, and the Concessionaire shall procure all necessary permissions and authorization for the Licensed Premises for purposes of establishment, construction, operation and maintenance of the Project Facility in accordance to the provisions of the Concession Agreement.
    b. The Site is free from any encroachment or encumbrances whatsoever and is not subject to any acquisition or other legal proceedings by any authority, body or government nor is any claim of any third party subsisting in respect thereof or relating thereto.
    c. The Owner is the lawful owner of the lands constituting part of the Licensed Premises and it shall, in that capacity defend or satisfy all actions or claims against the use of the Licensed Premises for the Project.
    d. It shall not interfere with or impede in any manner or otherwise limit, restrict or impose any conditions or restrictions on the complete, free and full enjoyment and use of the Licensed Premises and all rights in relation thereto, including the creation of security interest in favour of the Lenders in accordance with the provisions of the Concession Agreement except on the Licensed Premises.
    e. subject to the terms of the Concession Agreement, it shall not interfere in or impede in any manner or otherwise limit, restrict or impose conditions in relation: (i) to the construction, operation and maintenance of the Project Facility; (ii) the implementation of the Project by the Concessionaire and the possession, control and use by the Concessionaire of the Licensed Premises.
    f. there is no litigation, claim, demand or any proceedings (whether administrative, legal

or quasi-judicial) pending before any authority in respect of the Licensed Premises or its use for the purposes of Project Facility; and

g. The Concessionaire shall have complete, lawful, peaceful and uninterrupted possession, control and use of the Licensed Premises during the term.
h. the Owner shall bear the property tax, if applicable.

16. The Concessionaire hereby covenants with the Owner as follows:

a. That it shall implement the Project in accordance with the Concession Agreement and
b. That it shall observe and perform all terms, covenants, conditions and stipulations of this Agreement.

17. The Owner represents that it has lawful title, possession and control of all the lands constituting part of the Licensed Premises and has the requisite right and authority to Authorize the Concessionaire for the purposes of the Project on the terms and conditions of this Agreement and further that Concessionaire shall have full, free and uninterrupted peaceful possession, enjoyment/occupation and use of the Licensed Premises throughout the Concession Period, without any obstruction interference or disturbance or claim whatsoever from the Owner or from any person claiming through under or in trust for Owner or from any third person whomsoever. The Owner shall keep the Concessionaire fully indemnified for the Licensed Premises of ____ acres and harmless against any claims or demands from any Person claiming right, title or interest to or in the Licensed Premises for the Project or challenging the validity of the usage of the Licensed Premises for the Project or challenging the validity of this Agreement, as also against any actions, proceedings, damages, losses and expenses caused to the Concessionaire as a result or in consequence of any such claims or demands as aforesaid.

a. Subject to sub-Articles (b), (c) and (d) below, no assignment of this Agreement or any rights or duties hereunder shall be made in whole or in part to, by any Party without prior written consent of the other Party and in the event of any assignment the assignee shall assume the duties and liabilities of the assignor.

b. The Parties agree that in case of any transfer, sale or other disposition by the Owner of its ownership rights in the land constituting part of the Licensed Premises or assignment of the rights of the Owner under this Agreement, the Owner shall inform in advance to the Lenders.

c. The Owner hereby agrees that the Concessionaire shall not require any prior approval of the Owner for creating any Encumbrance, right, title or interest over the Project Facility, this Agreement and the authorization rights granted to the Concessionaire

hereunder and the Project Facility under its ownership in favour of the Lenders in accordance with the Financing Agreements provided that the Financing Agreement do not in any way impact the Owner's ownership right in the land forming part of the Licensed Premises.

d. The Owner confirms that the financing documents may include suitable rights in favour of the Lenders for taking over the Project Facility for management, in enforcement of their security upon the happening of an event of default under the Concession Agreement on the part of the Concessionaire.

18. The Owner hereby assures and represents to the Concessionaire that the rights of the Licensed Premises in favour of the Concessionaire under this Agreement shall be irrevocable for as long as the Concession Agreement remains in force and the Owner shall not terminate or seek to terminate this Agreement except upon the expiry or early termination of the Concession Agreement. The Parties hereby agree that on the expiry or termination of the Concession Agreement, the Licensed Premises shall be handed back to the Owner in accordance with the provisions of the Concession Agreement and that this Agreement shall be discharged only on the handing over of the Licensed Premises to the Owner in accordance with the terms of the Concession Agreement.

19. Any disputes and/or differences arising between the Parties, in relation to or under this Agreement shall be resolved in accordance with Article 37 of the Concession Agreement.

20. The stamp duty and registration charges, taxes, cess, if any, on these presents and its duplicate have been agreed to be borne and paid by the Concessionaire as per Applicable stamp duty and registration laws in force in the State of Tamil Nadu.

21. This Agreement signed between the Owner and the Concessionaire will be governed by and subjected to the Concession Agreement executed between the Owner and the Concessionaire on and any amendment thereto.

IN THE WITNESS WHEREOF the Parties have set their respective hand to this Agreement and it’s duplicating on the day and year first hereinabove written:

SIGNED, SEALED AND DELIVERED in the name and on behalf of the Owner: _____ Corporation through its Authorized Officer in the presence of:

1.

2.

SIGNED, SEALED AND DELIVERED in the name and on behalf of the Concessionaire: …… ……through its Authorized Signatory in the presence of:

1.

2.

Appendix A

Land details used for establishment of Bio- CNG (50 MT per day capacity) at _____ by _____ are provided below:

Village	-	
Taluk	-	
Survey No.	-	
Total Extent	-	_____Hec
Owner	-	
Allocation for Bio-CNG Project	_____Acres	

In total extent of _____ acres of corporation land, _____acres of land is licensed for Bio-CNG (map attached herewith).