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AURANGABAD MUNICIPAL CORPORATION

AND

AURANGABAD CITY WATER UTILITY COMPANY LIMITED

AURANGABAD WATER SUPPLY PROJECT

CONCESSION AGREEMENT



Dated September 22, 2011

Aurangabad City Water Utility Company Limited

R. S. Patil

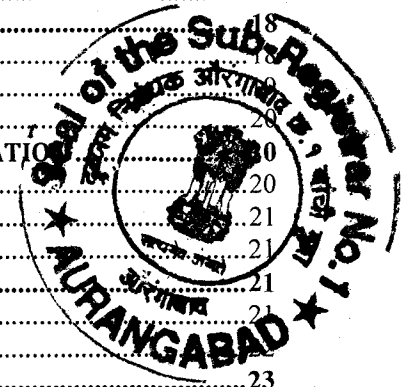
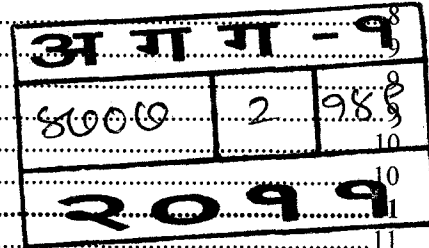
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Aurangabad City Water Utility Company Limited

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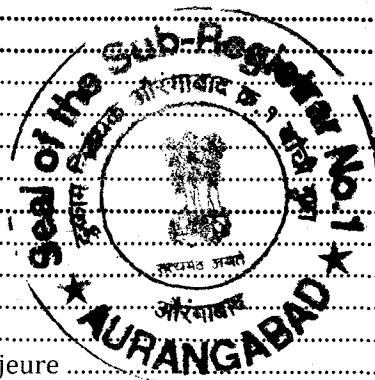
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Shankar

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Document (Nature of Document)	CONCESSION AGREEMENT
Registration Details	Registrable / Non Registrable If Registrable Name of R.P.O.
Property Description in brief	77421 AMC AURANGABAD
Consideration Amount	Rs. 792.20 crore.
Stamp Purchaser's Name	AURANGABAD CITY WATER UTILITY COMPANY LIMITED.
Name of the other Party	AURANGABAD MUNICIPAL CORPORATION
Through Name & Address	DHANDE K.P. (WATER SUPPLY) AURANGABAD MUNICIPAL CORPORATION
Stamp Duty Amt.	(Amount in Rs. FIVE LAKHS ONLY)
Signature of Person	<i>P. Dhanda</i>



CONCESSION AGREEMENT

This AGREEMENT is made on this 22nd day of September of Year 2011, at Aurangabad, Maharashtra, India.

BETWEEN

AURANGABAD MUNICIPAL CORPORATION, represented by Commissioner, (hereinafter referred to as 'AMC', which expression shall, unless the context otherwise requires, include its successors and permitted assigns);

AND

AURANGABAD CITY WATER UTILITY COMPANY LIMITED, represented by Mr. Rishabh Sethi and Mr. Venkataramana, a company incorporated under the Companies Act, 1956 having its registered office at 206 Marthanda Building, above Canara Bank, Dr Annie Besant Road, Worli Naka, Mumbai, India (hereinafter referred to as 'the **Concessionaire**', which expression shall, unless the context otherwise requires, include its successors and permitted assigns).

The AMC and Concessionaire are collectively referred to as the '**Parties**' and individually as a '**Party**'.

Aurangabad City Water Utility Company Limited
R. Sethi
 Authorized Signatory

P. Dhanda
 Commissioner
 Municipal Corporation
 Aurangabad
M. Venkataramana

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FRANKING DEPOSIT SLIP THE AKOLA URBAN CO-OP. BANK LTD. AKOLA

Customer Copy	
Deposit Br.	Aurangabad
Date	22/9/11
Pay to : The Akola Urban Co-op. Bank Ltd., Akola STAMP FR. A/c.	
Franking Value	Rs. 500 000/-
Service Charges	Rs. 10/-
Total	Rs. 500 010/-
Name of Stamp duty paying party : Aurangabad City Water Utility Co. Ltd.	
Paid by : <i>Kash</i>	
DD / Cheque No. :	
Drawn on Bank	
(For Bank Use only)	
Tran ID	77421
Franking Sr. No.	
Officer	<i>[Signature]</i>

Aurangabad City Water Utility Company Limited

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 Municipal Corporation
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RECITALS

WHEREAS:

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- A. AMC is a statutory body which came into being under the provisions of the Bombay Provincial Municipal Corporations Act, 1949 and which carries out statutory and discretionary functions as prescribed in the Bombay Provincial Municipal Corporations Act, 1949.
- B. AMC manages water supply services through 6 (six) administrative divisions with staff strength of 370 (Three hundred and seventy) employees. The water supply department is responsible for capital work, regular operation and maintenance of the system, water supply to the city of Aurangabad, and the related billing and collections.
- C. AMC presently draws about 156 (one hundred and fifty six) MLD of water at source level. Currently AMC charges flat yearly tariff to its customers, for about 100,000 (one lakh) water connections under its jurisdiction. AMC has computerised its water billing procedure, but the integration of the collection system and issuance of computerised receipts for the same have not been implemented. As per the water audit report dated July 2007 prepared by the technical consultant of AMC, the non-revenue water accounts for about 50% (fifty percent) of ex-treatment supply. The real losses are at about 33% (thirty three percent) (water losses in distribution) and apparent/ commercial losses are at about 17% (seventeen percent) (unauthorised consumption and free supply).
- D. In order to improve water availability and quality of services level, AMC has planned a comprehensive water supply project, being the Project for the city of Aurangabad. The objective of the Project is, amongst other, to:
- (i) Reduction of non-revenue water by reduction of technical losses through leakage management and reduction of commercial losses in water supply system through identification and regularization of illegal connections, metering and improvement in billing and collection systems; and
 - (ii) Refurbishment and expansion of transmission and distribution network, each in the manner, and to the extent set forth in this Agreement.
- E. AMC has launched a parallel water supply scheme and submitted the same to the Ministry of Urban Development for approval in the year 2006 under the Urban Infrastructure Development Scheme for Small and Medium Towns ("UIDSSMT"), a programme of Ministry of Urban Development (the "MoUD"). Accordingly, UIDSSMT sanctioned the parallel water supply scheme in year 2009. The Project has two sub-components: (i) Building a new bulk water pipeline with a water treatment plant; and (ii) Refurbishment of an existing distribution system in the city each in the manner, and to the extent set forth in this Agreement.
- F. In seeking to fulfil its statutory obligations under the Bombay Provincial Municipal Corporations Act 1949, and pursuant to section 66A of the said Act, AMC intends that the Project be undertaken with private sector participation on a public private partnership basis and has passed a General Body resolution vide subject number 554 dated August 18, 2009, among other things, to confirm such intention.
- G. On September 10, 2009, AMC initiated a competitive bidding process in accordance with Applicable Law. On April 08, 2011 the SPML Infra Limited and VA-Tech Wabag, and

Aurangabad City Water Utility Company Limited

R. S. M.

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National Water and Sewerage Corporation ("Consortium") was selected as the "Preferred Bidder" to implement the Project and accordingly the Consortium, being the Preferred Bidder, incorporated the Concessionaire as a special purpose vehicle to implement the Project.

- H. The Concessionaire has been established as a special purpose vehicle and registered under the Companies Act, 1956 to perform and deliver the services envisaged to be provided under this Agreement for the purposes of implementing the Project.
- I. This Agreement is being entered into between AMC and the Concessionaire in conformity with the provisions of the Bombay Provincial Municipal Corporations Act, 1949 pursuant to which the Concessionaire is to be engaged by AMC to undertake the Project in accordance with this Agreement.

NOW THEREFORE, in consideration of the mutual covenants, promises, assurances, representations and provisions set forth herein, the Parties hereto agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

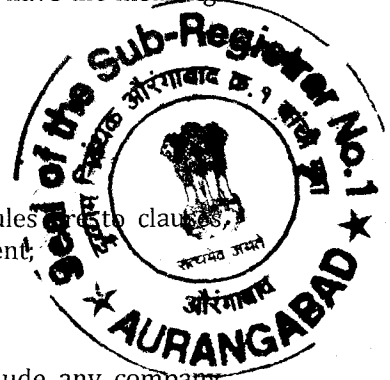
Terms and expressions used in this Agreement (including the Introduction) shall, unless otherwise provided under any specific provisions and/or Schedules, have the meanings set out in Schedule I.

1.2 Interpretation

In this Agreement, unless otherwise specified:

- (a) references to Clauses, Sub-Clauses, Paragraphs and Schedules shall mean clauses, sub-clauses and paragraphs of, and schedules to this Agreement;
- (b) use of any gender includes the other genders;
- (c) references to a 'company' shall be construed so as to include any company, corporation or other body corporate, wherever and however incorporated or established;
- (d) references to a 'person' shall be construed so as to include any individual, firm, company, government, state or agency of a state, local or municipal authority or government body or any joint venture, association or partnership (whether or not having separate legal personality);
- (e) a reference to any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted;
- (f) any reference to a 'day' (including within the phrase 'business day') shall mean a period of 24 (twenty four) hours running from midnight to midnight;
- (g) references to a 'business day' shall be construed as a reference to a day (other than a Sunday) on which Aurangabad Municipal Corporation is generally open for business;

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- (h) references to time is to Indian standard time;
- (i) a reference to any other document referred to in this Agreement is a reference to that other document as amended, varied, novated or supplemented from time to time;
- (j) all headings and titles are inserted for convenience only and are to be ignored in the interpretation of this Agreement; and
- (k) In the event of any inconsistency between the Bombay Provincial Municipal Corporations Act, 1949 and this Agreement, the Bombay Provincial Municipal Corporations Act, 1949 shall prevail.

1.3 Measurements and Arithmetic Conventions

All measurements and calculations shall be in the metric system and calculations done to 2 (two) decimal places, with the third digit of 5 (five) or above being rounded up and below 5 (five) being rounded down, except in money calculations where such amounts shall be rounded off to the nearest INR.

1.4 Ambiguities within Agreement

In case of ambiguities or discrepancies within this Agreement, the following principles will apply -

- (a) as between two Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration will prevail over those in a general Clause;
- (b) as between the provisions of this Agreement and the Schedules, this Agreement will prevail, save and except as expressly provided otherwise in this Agreement or the Schedules;
- (c) as between any value written in numerals and that in words, the value in words will prevail;
- (d) as between the DPR and the Mandatory Project Requirements (collectively referred to as "Project Specifications"), the Mandatory Project Requirements will prevail; and
- (e) The Recitals and the Schedules as set out in this Agreement will form integral part of this Agreement.

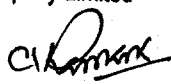
1.5 Priority of documents



This Agreement, including its Schedules, represents the entire agreement between the Parties as noted in Clause 38.10. If, in the event of a dispute as to the interpretation or meaning of this Agreement, it should be necessary for the Parties to refer to documents forming part of the bidding process leading to this Agreement, then such documents will be relied upon and interpreted in the following descending order of priority -

- (a) Any addendum/amendments to this Agreement
- (b) This Agreement along with the Schedules;

Aurangabad City Water Utility Company Limited

Rishu


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- (c) Letter of Award;
- (d) Clarifications issued by AMC dated September 22, 2010, November 03, 2010 and November 18, 2010;
- (e) Addendum / Corrigendum to the Request for Proposal (if any); and
- (f) Request for Proposal.

1.6 Actions at Execution of this Agreement

At the time of execution of this Agreement, the Concessionaire will

- (i) pay to AMC a sum of Rs. 92,04,000/- (Rupees Ninety Two Lakh and Four Thousand only) towards the expenses relating to India Infrastructure Project Development Fund;
- (ii) pay to AMC a sum of Rs. 82,46,000 (Rupees Eighty Two Lakh and Forty Six Thousand only) towards the expenses relating to Maharashtra Jeevan Pradhikaran; and

1.7 Actions Post Execution of this Agreement

Within 30 (thirty) days of signing of the Concession Agreement, AMC will allow the Concessionaire to have access to the Supply Area, and the Concessionaire and AMC will jointly undertake a service baseline exercise covering, amongst others, the daily average supply of Potable Grade Water to the End Users within the Supply Area, losses in the bulk supply system, frequency of breakdown in bulk supply system, coverage of supply within the Service Area, areas served with bore well within the Supply Area, areas served with water tankers within the Supply Area, the Existing Assets including the AMC water tankers, areas with history of frequent contaminations, high leakages, frequency of supply (supply timings) ward wise, frequency of breakdowns in the distribution system causing no supply of water in the affected areas, quality, quantity and pressure measured at agreed points (two points) within each ward from such date of access until the Appointed Date.

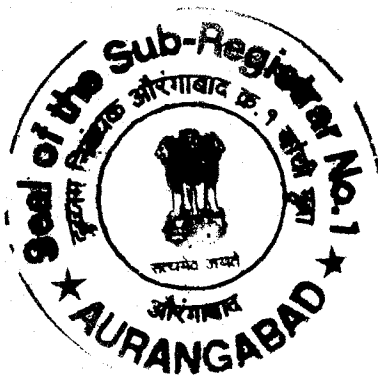
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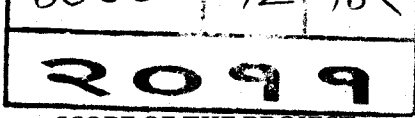
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2. SCOPE OF THE PROJECT

The activities described in Clauses 2.1 to 2.2 are collectively referred to as the 'Project'.

2.1 Construction and Rehabilitation Period Activities

- (a) To supply to the End Users within the Supply Area, Potable Grade Water as per the Central Public Health and Environmental Engineering Organisation ("CPHEEO") norms, in accordance with Service Level Requirements;
- (b) Rehabilitate the Existing Assets including the water treatment plants, Master Balancing Reservoir, elevated service reservoir and distribution system within the Supply Area, to the extent set forth under the Clause 1.1.13(B) (ii) (a), Clause 1.1.13(B) (ii) (b), Clause 1.1.13(B) (ii) (c), and Clause 1.1.13(B) (ii) (d) of the Request for Proposal volume -I document, in accordance with this Agreement;
- (c) Construction of a new parallel water pipeline, to the extent set forth under the Clause 1.1.13(B) (ii) (a) of the Request for Proposal volume -I document, from Jaikwadi dam to the designated point at Nakshtrawadi via Pharola as detailed in Schedule XII ("Master Balancing Reservoir");
- (d) Construction, operation and maintenance of new head works and approach bridge, new pumping machinery and electrical installation, water treatment plant including recirculation sump and new Master Balancing Reservoir / elevated service reservoir and ground service reservoir, each to the extent set forth under the Clause 1.1.13(B) (ii) (a), Clause 1.1.13(B) (ii) (b), Clause 1.1.13(B) (ii) (c), and Clause 1.1.13(B) (ii) (d) of the Request for Proposal volume -I document;
- (e) Construct and rehabilitate the transmission mains, trunk mains, feeder mains and distribution network including elevated service reservoir, to the extent set forth under the Clause 1.1.13(B) (ii) (a), Clause 1.1.13(B) (ii) (b), Clause 1.1.13(B) (ii) (c), and Clause 1.1.13(B) (ii) (d) of the Request for Proposal volume -I document;
- (f) Rehabilitate, operate and maintain the project under Harsool scheme;
- (g) Rehabilitation, operation and maintenance of existing head works, approach road / bridge, existing water treatment plant and recirculation sump(s), existing pumping machinery, electrical installation(s), distribution network(s), feeder main(s), trunk main(s), ground service reservoirs and elevated service reservoirs, each to the extent set forth under the Clause 1.1.13(B) (ii) (a), Clause 1.1.13(B) (ii) (b), Clause 1.1.13(B) (ii) (c), and Clause 1.1.13(B) (ii) (d) of the Request for Proposal volume -I document;
- (h) Undertaking metering, increasing the number of connections on behalf of the AMC, to the extent set forth under the Clause 1.1.13(B) (ii) (d) of the Request for Proposal volume -I document;
- (i) to regularise illegal connections subject to the Applicable Law;
- (i) To build computerized billing and collection system;

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To raise bi-monthly invoices on End Users on behalf of AMC;

To operate and maintain the water tankers owned by AMC, upon the Concessionaire being granted the right to use such water tankers, in accordance with the provisions of this Agreement;

- (k) To collect from the End Users, on behalf of AMC, the User Fees , and charges for each of the connections (including cost of consumer meters) as per the rates specified in Schedule IV;
- (l) To supply water to the area en-route the Supply Area, where AMC has already entered into agreement with the en-route customers detailed in Schedule II and collect all applicable charges for such supply in accordance with such agreements; and
- (m) To operate and maintain the Existing Assets (including the transmission and distribution system and the meters and computerized system) in accordance the terms of this Agreement.

2.2 Operation and Maintenance Period Activities

- (a) To supply within the Supply Area, Potable Grade Water, as per CPHEEO norms, in accordance with the Service Level Requirement;
- (b) To operate and maintain the Project Facilities (including the transmission and distribution system and the meters and computerized system) in accordance the terms of this Agreement;
- (c) Extend water supply coverage area within the municipal limits of AMC, as existing as on the date of this Agreement, as and when requested and required;
- (d) To connect, meter, and disconnect the Potable Grade Water supply to any premises within the Supply Area on behalf of AMC and in accordance with Water Bylaws annexed hereto in Schedule III;
- (e) To invoice End Users for the supply of Potable Grade Water, on monthly basis, and to recover such User Fees on behalf of AMC;
- (f) To supply water to the area en-route the Supply Area, where AMC has already entered into agreement with the en-route customers detailed in Schedule II and collect all applicable charges for such supply in accordance with such agreements; and
- (g) To collect from the End Users, on behalf of AMC, the User Fees and charges for each of the connections (including cost of consumer meters) as per the rates specified in Schedule IV.

3. CONCESSION

Subject to the terms and conditions of this Agreement and in exchange & consideration for undertaking the Works and implementing the Project on behalf of AMC, the Concessionaire will have the right by way of an exclusive license (in addition to any other rights granted to the Concessionaire in this Agreement) -

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- (a) to implement the Project in accordance with the terms of this Agreement;
 - (b) to use the Project Site in accordance with Clause 7;
 - (c) to use the Existing Assets in accordance with Clause 8;
 - (d) to receive the Water Payment from AMC in accordance with Clause 9;
 - (e) to receive all and any compensation in accordance with this Agreement;
 - (f) to receive relief in accordance with this Agreement;
 - (g) to supply the Potable Grade Water to the End Users within the Supply Area subject to the exclusivity obligation undertaken by AMC as set out in Clause 10.1(a);
 - (h) to sub-contract any of the Works with the consent of AMC, which consent shall not be unreasonably withheld, provided that the Project Contractor has the technical and financial capacity to discharge the obligations under this Agreement. Notwithstanding the foregoing, the Concessionaire will remain solely liable for the performance of its obligations in relation to the Project. It is agreed that the Concessionaire shall be entitled to subcontract any of the Works to any member of the Preferred Bidder without requiring any prior approval from AMC;
 - (i) To draw Raw Water in accordance with Clause 28 of this Agreement; and
 - (j) to carry out other such activities incidental to the foregoing or proper or desirable for the safe, efficient and economic operation of the Project.

4. PREPARATORY PERIOD AND CONCESSION PERIOD

- (a) The period commencing from the date of execution of this Agreement until the Appointed Date is referred to as the "**Preparatory Period**".
- (b) The concession period will commence on the Appointed Date and continue for a period of 20 (twenty) years, except where terminated in accordance with the provisions of this Agreement ("**Concession Period**").
- (c) The Concession Period will comprise 2 (two) phases:
 - (i) The period between the Appointed Date and the Commercial Operations Date ("**Construction and Rehabilitation Period**") which will be not more than 3 (three) years or other mutually extendable period; and
 - (ii) The period between the Commercial Operations Date and the last day of the Concession Period ("**Operation and Maintenance Period**").

For the avoidance of doubt, it is clarified that during the Construction and Rehabilitation Period, the Concessionaire will comply with the provisions set forth in Clause 2.2 hereof and the other provisions of this Agreement as applicable to the Concessionaire during such period.

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5. PROVISIONS OF THIS AGREEMENT TO COME INTO EFFECT

5.1 Provisions to take effect on the date of this Agreement

The provisions of Clause 1, Clause 2, Clause 4, Clause 5, Clause 6, Clause 7, Clause 9 Clauses 10.2(a), Clauses 10.2(b), Clauses 10.2(d), Clause 11 Clause12, Clause15, Clause 31, Clause 37 and Clause 38 will take effect on the date of this Agreement and will not be subject to any condition.

5.2 Provisions to take effect on the Appointed Date

This Agreement will (except for the provisions referred to in Clause 5.1, which provisions will already be in force) come into full force and effect on the Appointed Date subject to the fulfilment of conditions (“**Conditions Precedent**”) set forth in this Agreement including the following (unless waived in writing by the other Party in writing):

(a) **Conditions Precedent to be fulfilled by the Concessionaire –**

- (i) The Concessionaire will obtain at its own cost and expense, all Permits required for the implementation of the Project, and in conformity with, and as contemplated by, the Environmental and Social Assessment Report included as Schedule V and such other Permits required under Applicable Law;
- (ii) The Concessionaire will provide evidence to AMC that the Performance Security as furnished by the Concessionaire is in full force and effect.
- (iii) The Concessionaire will provide evidence in a manner reasonably acceptable to AMC that the Concessionaire has the funds available (whether by debt or equity) to undertake the Project. Such evidence may include, but not be limited to, an executed loan agreement or a letter of commitment from the Sponsors;
- (iv) The Concessionaire will deposit 50% (fifty percent) of the total annual fees to be paid to the Independent Engineer and the Independent Auditor (for the first year of their appointment) into an account with a nationalized bank in India having branch in Aurangabad as agreed by the Parties;
- (v) The Concessionaire will obtain, or caused to be obtained, the Project Insurances in accordance with Clause 12;
- (vi) The Concessionaire will execute all the Project Agreements including the Water Payment Reserve Account Agreement; and
- (vii) The Concessionaire will provide evidence in a manner reasonably acceptable to AMC that it has complied with and completed the Preparatory Period Obligations;

(Referred to collectively as the “**Concessionaire’s Conditions Precedent**”.); and

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(b) **Conditions Precedent to be fulfilled by AMC**

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- (i) AMC will execute the Water Payment Reserve Account Agreement;
- (ii) AMC will ensure that the Independent Engineer and the Independent Auditor have been appointed in accordance with Clause 24
- (iii) AMC will deposit 50% (fifty percent) of the total annual fees to be paid to the Independent Engineer and the Independent Auditor (for the first year of their appointment) into an account with the nationalised bank in India having branch in Aurangabad as agreed by the Parties;
- (iv) AMC will hand over right of way in respect of Portion A of the Project Site and delivered possession of Portion A of the Project Site;
- (v) AMC will receive the consent of the Deputation Employees to be deputed to the Concessionaire, for such deputation;
- (vi) AMC will procure from GoM its consent, for discharging its duties relating to supplying the Potable Grade Water within the Service Area, by the Concessionaire;
- (vii) AMC will terminate all the existing agreements with its sub-contractor of the water supply system except for works funded by Government of Maharashtra under sujal nirman of Rs 40 crores and emergency water supply system of Rs 4.27 crores;
- (viii) AMC will make available to the Concessionaire, water by-laws framed by AMC which will form integral part of this Agreement;
- (ix) AMC will have opened the Collection Account and Water Payment Reserve Account with a nationalized bank having branch in Aurangabad and shall have deposited an amount equivalent to 1.5 times the Annual Operational Support Grant into the Water Payment Reserve Account; and
- (ix) AMC will make available to the Concessionaire, details of End Users (defaulting End Users) where recovery of User Fee is poor.
- (x) AMC shall have complied with and satisfied all its Preparatory Period Obligations;

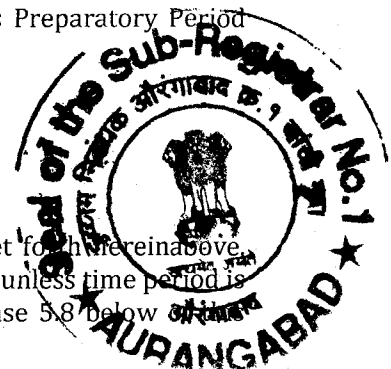
(Referred to collectively as "AMC's Conditions Precedent")

5.3 Time for fulfilment of Condition Precedent

The Parties will fulfil their respective Conditions Precedent as set forth hereinabove, within 6 (six) months from the date of execution of this Agreement, unless time period is extended in accordance with the provisions of Clause 5.7 or Clause 5.8 below of this Agreement.

5.4 Notification of fulfilment of Conditions Precedent to Appointed Date

- (a) The Concessionaire will notify AMC when it has fulfilled all of the Concessionaire's Conditions Precedent other than those that have been waived



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by AMC in accordance with Clause 5.9 (a).

- (b) AMC will notify the Concessionaire when it has fulfilled all of the AMC's Conditions Precedent other than those that have been waived by the Concessionaire in accordance with Clause 5.9 (b).
- (c) Following receipt of notification under Clause 5.4(a) and Clause 5.4(b), the receiving Party will provide the notifying Party with a notice confirming that it agrees that such Conditions Precedent have been fulfilled or waived as represented in such notice.

5.5 The Appointed Date

Subject to provisions contained in Clause 5.3 hereof, the Appointed Date ("Appointed Date") will be the date upon which:

- (a) the Concessionaire has received confirmation from AMC in accordance with Clause 5.4(c); and
- (b) AMC has received confirmation from the Concessionaire in accordance with Clause 5.4(c),

whichever occurs later.

5.6 Actions to procure Appointed Date

Each Party will take all such action as is available to it including entering into, or procuring the entry into by persons under its control and influence, of any agreements referred to in Clause 5.2 and the granting of Permits referred to in Clauses 10.2(a) and Clause 10.2(b) to ensure that the Appointed Date occurs as soon as possible after the date of execution of this Agreement but not later than 6 (six) months from the date of execution of this Agreement, unless such time limit is extended in accordance with Clause 5.7 or Clause 5.8 below of this Agreement.

5.7 Non-fulfilment of the Concessionaire's Conditions Precedent

- (a) In the event that the Concessionaire's Conditions Precedent have not been fulfilled within 6 (six) months from the date of execution of this Agreement other than for reasons of:
 - (i) Force Majeure;
 - (ii) non-satisfaction of AMC's Conditions Precedent;
 - (iv) AMC's breach of its obligations under this Agreement (including without limitation, AMC's obligations under Clauses 10.2(a) and 10.2(b)); and
 - (v) AMC's waiver of the Concessionaire's obligations in accordance with Clause 5.9(a),



then, subject to AMC having satisfied the AMC Conditions Precedent, AMC will have the right to elect to either -

- (A) extend the time for the Concessionaire to fulfil the

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Concessionaire's Conditions Precedent and encash the Bid Security at a rate of 1% (one percent) of the Performance Security per week, or part thereof, for the period of delay; or

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- (B) immediately terminate this Agreement and appropriate the entire Bid Security.
- (b) If the Concessionaire has not fulfilled the Concessionaire's Conditions Precedent by the extended time period as described in (A) above, then subject to AMC having satisfied the AMC Conditions Precedent, AMC will have the right to immediately terminate this Agreement and encash the balance of the Bid Security.

5.8 Non-fulfilment of AMC's Conditions Precedent

- (a) If AMC's Conditions Precedent are not been fulfilled within 6 (six) months from the date of execution of this Agreement, other than for reason of -
 - (i) Force Majeure; and/or
 - (ii) Concessionaire's waiver of AMC's obligations in accordance with Clause 5.9(b);then the Concessionaire will have the right to immediately terminate this Agreement.
- (b) On the Concessionaire terminating this Agreement in accordance with Sub-Clause (a) above, AMC will immediately -
 - (i) return the Bid Security to the Concessionaire; and
 - (ii) if the Performance Security has been encashed pursuant to Clause 5.7(a)(A), AMC will reimburse the Concessionaire for any amount that has been encashed.

5.9 Waiver of Conditions Precedent

- (a) The AMC may at its sole discretion waive, in writing, the performance by the Concessionaire of any of the Concessionaire's Conditions Precedent.
- (b) The Concessionaire may at its sole discretion waive, in writing, the performance by AMC of any of the AMC's Conditions Precedent.



6. PERFORMANCE SECURITY

6.1 Value and validity of Performance Security until Commercial Operations Date

On or prior to the Appointed Date, the Concessionaire will provide AMC with a performance security comprising an irrevocable bank guarantee with a value of INR 79,22,00,000 (Rupees Seventy Nine Crores and Twenty Two Lakhs) ("C&R Performance Security") which should be valid till the Commercial Operation Date.

6.2 Value and validity of Performance Security during Operation and Maintenance

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On the Commercial Operation Date, the Concessionaire will provide AMC with a performance security comprising an irrevocable bank guarantee (valid for a period on not less than 12 (twelve) months) equivalent to Annual Operational Support Grant applicable to the first year after Commercial Operations Date, which shall be renewed every year, during the Concession Period for an amount equivalent to the then applicable Annual Operational Support Grant. ("O&M Performance Security")

6.3 Performance Security and replenishment

- (a) The Performance Security (or part thereof) may be appropriated by AMC in accordance with Clause 32.
- (b) Following any appropriation pursuant to Clause 32 and where this Agreement has not been terminated, such Performance Security will be replenished by the Concessionaire within 15 (fifteen) days of such appropriation.

6.4 Performance Security to be released

Except in the case of encashment of C&R Performance Security or the O&M Performance Security, as the case maybe, AMC will return the -

- (a) C&R Performance Security (or remaining part thereof) to the Concessionaire within 30 (thirty) days from the Commercial Operation Date; and
- (b) O&M Performance Security (or remaining part thereof) to the Concessionaire, within 6 (six) months from the expiration of the Concession Period, or its earlier termination.

7. PROJECT SITE

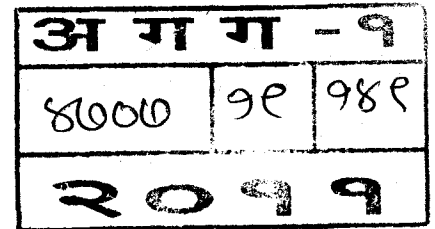
7.1 General provisions relating to the Project Site

- (a) AMC will hand over possession of identified parts of Portion B of the Project Site, in accordance with Land Delivery Schedule as set out in Schedule VI, but not later than 24 (twenty four) months from the date of execution of this Agreement unless extended by the Concessionaire at the request of AMC, which extension will not be more than 6 (six) months. AMC will also grant a license and right of way to the Concessionaire, over Portion B of the Project Site as described in Land Delivery Schedule set out in Schedule VI;
- (b) In the event AMC fails to deliver Portion B of the Project Site in accordance with the Land Delivery Schedule as set out in Schedule VI, AMC will be liable to compensate to the Concessionaire, in accordance with the formula specified below.

$$d = p \times \frac{EIRR}{100} \times t$$

where

d= compensation payable to the Concessionaire;



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p= equity invested by the Concessionaire at the time of calculation of d and such sums being the amount as certified by the Independent Engineer

E-IRR= being Equity IRR; and

t = delay in years to deliver Portion B of the Project Site

By way of an illustration if AMC defaults on its land delivery obligation for Portion B of the Project Site by more than 6 (six) months from the Land Delivery Schedule set out in Schedule VI, and if Concessionaire has invested an amount of INR 30,00,00,000 (Rupees Thirty crores) as an equity in the Project, then the total penalty would be INR 2,32,50,000 (Rupees two crore thirty two lakhs and fifty thousand) (INR 30,00,00,000 x 15.5%/2)

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- (c) AMC will (at its own cost and expense and in accordance with Applicable Law and the Environmental and Social Assessment Report) evacuate, relocate, rehabilitate and resettle residents, close or divert roads and take other similar action within its authority that may be reasonably necessary or appropriate to enable the Concessionaire to carry out the Project.
- (d) The Concessionaire will, from the date Portion B of the Project Site has been handed over pursuant to Clause 7.1(a) above, on a best efforts basis, ensure that the Project Site is kept free from encroachment and AMC will support the Concessionaire in fulfilling this obligation.
- (e) The AMC will be liable to pay all or any property taxes or any cess, tax, duties or imposts in relation to the Project Site and Project Assets.
- (f) Except as permitted by the AMC in writing, the Concessionaire will use the Project Site only for the purposes of implementing the Project as contemplated under this Agreement.

7.2 Other provisions in relation to the Project Site

Except as expressly provided in Clauses 7.3 of this Agreement, the condition of the Project Site will be the sole responsibility of the Concessionaire at all times, from the date of handover of the relevant portion of the Project Site. Accordingly (without prejudice to any other obligation of the Concessionaire under this Agreement), the Concessionaire will be deemed to have -

- (a) inspected and examined the Project Site and its surroundings and (where applicable) any existing structures or works on, over or under the Project Site, including the Existing Assets;
- (b) satisfied itself as to the nature of the Site Conditions, the ground and the subsoil, the form and nature of the Project Site, the load bearing and other relevant properties of the Project Site, the risk of injury or damage to persons or property affecting the Project Site, the nature of the materials (whether natural or otherwise) to be excavated and the nature of the design, work and materials necessary for the execution of the Works;
- (c) satisfied itself as to the adequacy of the rights of access to and through the Project Site and any accommodation it may require for the purposes of fulfilling

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its obligations under this Agreement (such as additional land or building outside the Project Site);

- (d) satisfied itself as to the possibility of interference by persons of any description whatsoever (other than AMC), with access to or use of, or rights in respect of, the Project Site, with particular regard to the owners or occupiers of any land adjacent to the Project Site; and
- (e) satisfied itself as to the precautions, times and methods of working necessary to prevent any nuisance or interference, whether public or private, being caused to any third parties.

7.3 Unforeseen adverse Site Conditions

- (a) Notwithstanding the provisions set out in Clause 7.2, to the extent that any adverse Site conditions ("**Unforeseen Adverse Site Conditions**") and/or Contamination exists in any parts of the Project Site which could not have been reasonably foreseeable by an experienced contractor, chosen by mutual consent of AMC and the Concessionaire, and acting in accordance with Good Industry Practice, the Concessionaire will not be responsible for the Unforeseen Adverse Site Conditions or Contamination if the Concessionaire brings to the attention of AMC, the Unforeseen Adverse Site Condition and/or Contamination relating to -
 - (i) Portion A of the Project Site before the Appointed Date; and
 - (ii) Portion B of the Project Site (which has not been acquired by AMC before the Appointed Date) before the expiry of 6 (six) months from the date of handing over of such part of the Portion B of the Project Site.
- (b) AMC agrees to indemnify the Concessionaire for any reasonable costs that it incurs in ensuring that the Site Conditions are in accordance with Applicable Law.
- (c) For the avoidance of doubt it is expressly clarified that AMC will have no liability whatsoever to compensate the Concessionaire for any Unforeseen Adverse Site Conditions and/or Contamination if the Concessionaire brings to the attention of AMC, the Unforeseen Adverse Site Condition and/or Contamination relating to -
 - (i) Portion A of the Project Site after the Appointed Date; and
 - (ii) Portion B of the Project Site (which has not been acquired by AMC before the Appointed Date), after the expiry of 6 (six) months from the date of handing over of such part of the Portion B of the Project Site.

8. EXISTING ASSETS, DISPOSAL OF EXISTING ASSETS & DEPRECIATION

8.1 Right to Use Existing Assets

From the Appointed Date until the end of the Concession Period, the Concessionaire has the right by way of an exclusive license to use the Existing Assets towards performing its obligations under this Agreement and towards the Project.

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8.2 Depreciation

Subject to Applicable Law, during the Concession Period the Project Assets representing the capital investment made by the Concessionaire in the Project will be deemed to be acquired and owned by AMC however, AMC will not claim any benefit of the depreciation of such Project Assets and The Concessionaire shall have the right to claim benefits of the depreciation of such Project Assets.

8.3 Disposal of Assets

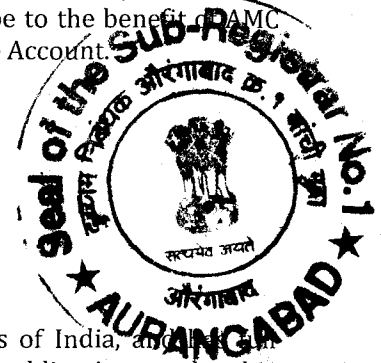
During the Concession Period, some of the equipment used in the Project may require replacement or is no longer necessary for the Project. For the avoidance of doubt it is expressly clarified that the Concessionaire is not entitled to retain the proceeds of any sale or trade of the Project Assets. If any equipments or assets of the Project, are sold, whether for scrap or otherwise, the proceeds of such sale will be to the benefit of AMC and such proceeds will be transferred to Water Payment Reserve Account.

9. REPRESENTATIONS AND WARRANTIES

9.1 Representations and warranties of the Concessionaire

The Concessionaire represents and warrants to AMC that -

- (a) it is duly organised and validly existing under the laws of India, and has the power and authority to execute, deliver and perform its obligations under this Agreement and the other Project Agreements and to carry out the transactions contemplated hereby and thereby;
- (b) it has taken all necessary corporate and other actions under Applicable Law to authorise the execution, delivery and performance of this Agreement and the other Project Agreements;
- (c) it will have the financial standing and capacity to undertake the Project in accordance with the terms of this Agreement and the other Project Agreements;
- (d) this Agreement and the other Project Agreements have, or will, when executed, have been, duly executed by it and constitute, or when executed will constitute, its legal, valid and binding obligations, enforceable against it in accordance with the terms hereof and thereof, and its obligations under this Agreement and the other Project Agreements will be legally valid, binding and enforceable obligations against it in accordance with the terms hereof and thereof;
- (e) the information furnished in the Bid Documents and as updated on or before the date of this Agreement is to the best of its knowledge and belief true and accurate in all material respects as at the date of this Agreement;
- (f) the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of 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;



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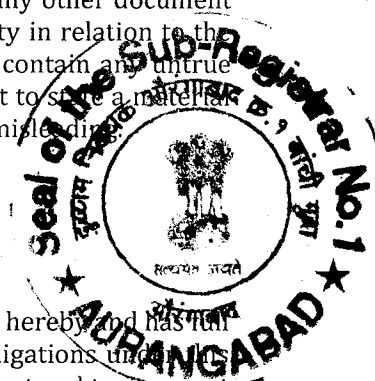
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- (g) there are no actions, suits, proceedings, or investigations pending or, to the best of its knowledge and belief, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome 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 material obligations under this Agreement;
 - (h) it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any 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;
 - (i) it has complied with Applicable Law 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;
 - (j) 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 in relation to the Project or for securing the concession or entering into this Agreement or for influencing or attempting to influence any officer or employee of AMC or any other Government Instrumentality in connection therewith; and
 - (k) no representation or warranty by it contained herein or in any other document furnished by it to AMC or to any Government Instrumentality in relation to the Project (including with respect to 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.

9.2 Representations and warranties of AMC

AMC represents and warrants to the Concessionaire that -

- (a) it has full power to grant the licenses and Concession granted hereby and has full power and authority to execute, deliver and perform its obligations under this Agreement and the Water Payment Reserve Account Agreement and to carry out the transactions contemplated herein and therein and that it has taken, or will take, all actions necessary to execute these agreements, exercise its rights and perform its obligations under these agreements and to carry out the transactions contemplated hereby and thereby;
- (b) it has the financial standing and capacity to perform its obligations under this Agreement and the Water Payment Reserve Account Agreement;
- (c) this Agreement and the Water Payment Reserve Account Agreement, have been or will be, duly executed by it and constitute, or when executed, will constitute, a legal, valid and binding obligation enforceable against it in accordance with the terms hereof and thereof;
- (d) the execution, delivery and performance of this Agreement and the Water Payment Reserve Account Agreement will not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any



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Applicable Law 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;

- (e) 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 authority, 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 impairment of its ability to perform its material (including any payment) obligations under this Agreement;
- (f) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on AMC's 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;
- (g) it has complied with Applicable Law in all material respects;
- (h) to the best of its knowledge that all information written in the Request for Proposal, Letter of Intent and Letter of Award is true and accurate in all material respects; and
- (i) as on the date of handover of the Project Site described in detail in Schedule VI, to the Concessionaire, it will have good and valid right and title to the Project Site, and will have power and authority to grant a licence in respect thereto in favour of the Concessionaire, in accordance with the terms and conditions set out in this Agreement.

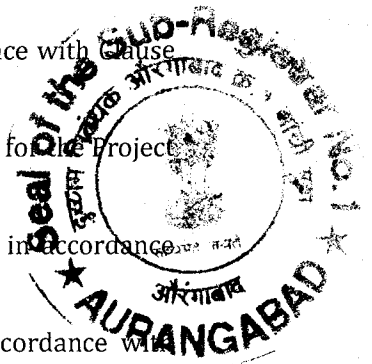
10. GENERAL UNDERTAKINGS

10.1 General undertakings of AMC

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Without prejudice to or limiting any other undertakings or obligations of AMC under this Agreement -

- (a) AMC will not supply or engage the services of any third party to supply Potable Grade Water to the End Users within the Supply Area, during the term of this Concession Period;
- (b) AMC will pay the Concessionaire the Water Payment in accordance with Clause 26;
- (c) AMC will comply with Clause 27 in relation to sourcing electricity for the Project or part thereof;
- (d) AMC will provide relief and/or compensate the Concessionaire in accordance with Clause 18.6, Clause 19.2, and Clause 35;
- (e) AMC will establish the Water Payment Reserve Account in accordance with Clause 25;



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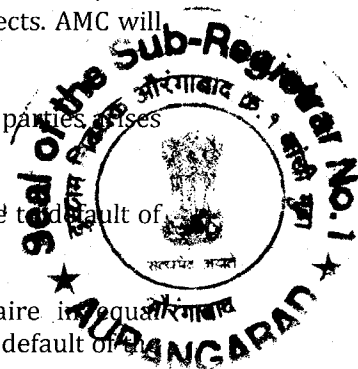
- (f) AMC will comply with the terms of the Water Payment Reserve Account Agreement;
- (g) If empowered by Applicable Law to so permit, prior to permitting any person to construct, build, lay pipes or plant trees or any other activity where such activities may materially and adversely affect the Project Site, AMC will consult with the Concessionaire and on a best efforts basis ensure that such activity is appropriately modified;
- (h) In the event of any action or suit to prevent, prohibit or otherwise challenge the procedural or substantive validity of this Agreement and/or the Water Payment Reserve Account Agreement, or any of the activities contemplated hereunder or there under, AMC may, if requested in writing by the Concessionaire, at the Concessionaire's cost take such reasonable action as is available to it to challenge and to mitigate such effects;
- (i) In the event of any act or omission by any third party (excluding its sub contractors) which may, materially and adversely affect the Works, the Project Assets, the implementation of the Project or the enjoyment by the Concessionaire of its rights and benefits under this Agreement and the Water Payment Reserve Account Agreement, AMC may, if requested by the Concessionaire in writing and to the extent permitted by Applicable Law, take such action as is available to it to challenge and mitigate such effects. AMC will take such action:

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at the cost of the Concessionaire if such action of the third parties arises due to default of the Concessionaire;

at its own cost if such action of the third parties arises due to default of AMC; and

at the cost to be borne by AMC and the Concessionaire in equal proportion, if such action of the third parties arises due to default of the Concessionaire and as well as AMC;



- (j) Upon the Concessionaire performing the covenants herein, AMC will not at any time during the term hereof, interfere with peaceful exercise of the rights and discharge of the obligations by the Concessionaire except as in accordance with this Agreement and Applicable Law;
- (k) Subject to the terms of this Agreement and so long as the Concessionaire is in compliance with its obligations under this Agreement, in particular the obligations set out in Clause 15.4, the Concessionaire will receive the Project Grant in accordance with Schedule VII;
- (l) AMC will be responsible for the repayment of the debt, if any, obtained by it prior to the Appointed Date in relation to the Existing Assets;
- (m) AMC undertakes to pay the Concessionaire the incentives set out in Schedule VIII on account of collection of water arrear from End Users which are due to AMC for the period prior to the Appointed Date; and
- (n) AMC undertakes not to claim any benefit received by the Concessionaire on account of exemption of excise duty relating to the Project

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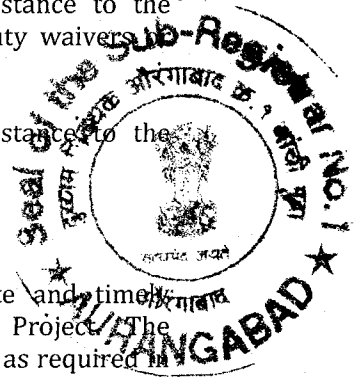
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10.2 AMC Actions in Support of the Concessionaire

- (a) Subject to the Concessionaire complying with the eligibility criteria for the grant of Permits applied for on a non-discriminatory basis, AMC will, upon the Concessionaire's request, grant all the Permits which are in its authority to grant and necessary for the implementation of the Project at the appropriate stages of the Project (including those Permits required in order for the Concessionaire to fulfil the Concessionaire's Conditions Precedent to Appointed Date);
- (b) AMC will assist the Concessionaire on a best efforts basis to obtain Permits from any Government Instrumentality (other than AMC) required for the implementation of the Project from time to time (including those Permits required in order for the Concessionaire to fulfil the Concessionaire's Conditions Precedent to Appointed Date);
- (c) AMC reserves the right to consider and approve any Change in Scope of the Works as proposed by the Concessionaire from time to time in accordance with Clause 20;
- (d) AMC will (subject to any duty or obligation of confidentiality) share information (as available with AMC) with the Concessionaire, as is necessary and appropriate for the implementation of the Project;
- (e) AMC will, on the best efforts basis, extend all possible assistance to the Concessionaire in relation to obtaining any tax exemptions, duty waivers, other similar dispensations as per the Applicable Law; and
- (f) AMC will, on the best efforts basis, extend all possible assistance to the Concessionaire in achieving Financial Closure of the Project.



10.3 General undertakings of the Concessionaire

- (a) The Concessionaire will at its own cost make full, complete and timely applications for all Permits required in relation to the Project. The Concessionaire will maintain such Permits in full force and effect as required in order for the Concessionaire to perform its obligations under this Agreement and the other Project Agreements;
- (b) The Concessionaire will construct and rehabilitate the Works in accordance with the Construction and Rehabilitation Work Plan pursuant to Clause 15.2 and Good Industry Practice;
- (c) The Concessionaire will ensure at its own cost and expense that the construction, rehabilitation and operation and maintenance of the Project Facilities is in accordance with Good Industry Practice and in accordance with Applicable Law such that the construction, rehabilitation and operation and maintenance of the Project Facilities is in compliance with the Service Level Requirements;
- (d) The Concessionaire will ensure that the respective holding of each member of the Consortium conforms to the representation made by the Consortium and accepted by AMC as part of the Bid Documents and that all members of the Consortium will enter into appropriate agreements promising to hold such

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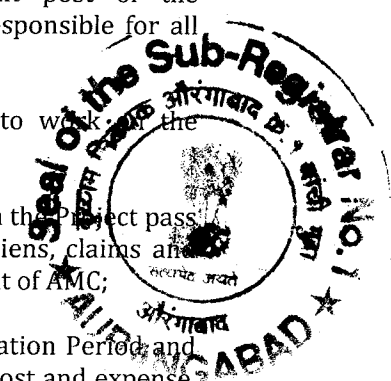
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equity in accordance with Clause 11;

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- (e) The Concessionaire will use its best efforts to ensure that each member of the Consortium 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;
- (f) The Concessionaire will use its best efforts to ensure that each member of the Consortium is duly organised and validly existing under the laws of the jurisdiction of its incorporation;
- (g) The Concessionaire will clearly designate an employment post of the Concessionaire to deal directly with AMC and who will be responsible for all exchanges of information with AMC with respect to the Project;
- (h) The Concessionaire will engage the Deputation Employees to work on the Project in accordance with Clause 16;
- (i) The Concessionaire will ensure that all its rights and interests in the Project pass and vest in AMC 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 AMC;
- (j) The Concessionaire will during the Construction and Rehabilitation Period and also during the Operation and Maintenance Period, at its own cost and expense, prepare and submit to AMC an environmental status report for the Project in such form and manner as may be prescribed by AMC;
- (k) The Concessionaire will operate and maintain the Project Facilities and maintain the Project Assets in accordance with the Good Industry Practice and the technical specifications as set forth in this Agreement. The Concessionaire will at its own costs and expense, forthwith repair any damage as may be caused to the Project Facilities such that the Project Facilities are in good-working condition at all times, subject to normal wear and tear;
- (l) The Concessionaire may request AMC to take suitable action against any person, which in the reasonable opinion of the Concessionaire is responsible for any damage caused to the Project Assets. Upon receipt of such request from the Concessionaire, and subject to such requisition being forwarded to AMC with all relevant documents as may be required by AMC, AMC may in its sole discretion, initiate appropriate legal action against such person(s) or may choose not to initiate any legal action. For avoidance of doubt, it is clarified that AMC will not be liable to the Concessionaire or any third party on account of non-initiation of any action pursuant to a request of the Concessionaire.
- (m) The Concessionaire will ensure that no sums, in cash or kind, will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for influencing or attempting to influence any officer or employee of AMC or any other Government Instrumentality in connection therewith.
- (n) The operation and maintenance of Project Assets will be undertaken by the Concessionaire.



11. SHAREHOLDING OF MEMBER OF THE CONSORTIUM IN THE CONCESSIONAIRE

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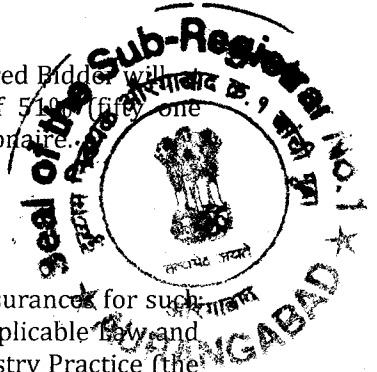
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- (a) The Concessionaire confirms and undertakes that the Lead Consortium Member will, at all times during the Concession Period,
- (i) hold a minimum of 26% (twenty six percent) of the equity and paid-up share capital in the Concessionaire; and
 - (ii) continue to be the single largest shareholder in the Concessionaire.
- (b) Each member of the Consortium, other than the Lead Consortium Member will, at all times during the Concession Period, hold a minimum of 10% (ten percent) of the equity and paid-up share capital in the Concessionaire
- (c) In the event the Concessionaire is not a Consortium, the Preferred Bidder will all times during the Concession Period, hold a minimum of 51% (fifty one percent) of the equity and paid-up share capital in the Concessionaire.

12. INSURANCE

- (a) The Concessionaire will effect and maintain at its own cost, insurance for such sums as may be required under the Financing Agreements, Applicable Law and as may be necessary or prudent in accordance with Good Industry Practice (the "Insurance Cover") and provide to AMC, evidence of the Insurance Cover so obtained.
- (b) During the Construction and Rehabilitation Period, such insurance will include but not be limited to:
- (i) contract works insurance for the works executed or in the course of execution, materials, equipment, spares and plant and other properties relating to the Project, including Existing Assets created by AMC prior to this Agreement. The sum insured will not be less than the cost of construction or replacement, as the case may be, of the property insured;
 - (ii) comprehensive third party liability insurance, including insurance against legal liability to third parties for bodily injury or damage to property arising out of the activities carried out by or on behalf of the Concessionaire; and
 - (iii) worker's compensation insurance including insurance of workers employed and engaged for the Project.
- (c) During the Operation and Maintenance Period, such insurance will include but not be limited to (i) comprehensive third party liability insurance, including insurance against legal liability to third parties for bodily injury or damage to property arising out of the activities carried out by or on behalf of the Concessionaire; and
- (ii) worker's compensation insurance including insurance of workers employed and engaged for the Project.
- (d) The Concessionaire will also effect and maintain such insurances as may be necessary for mitigating the risks that may devolve on AMC as a consequence of



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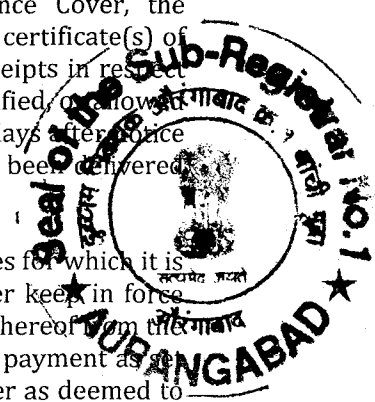
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any act or omission of the Concessionaire during the Concession Period. For the avoidance of doubt, the level of insurance to be maintained by the Concessionaire after repayment of Debt Due in full will be determined on the same principles as applicable for determining the level of insurance prior to such repayment of Debt Due under the Financing Documents.

- (e) By the end of the Preparatory Period the Concessionaire will by notice furnish to AMC, in reasonable detail, information in respect of the insurances that it proposes to effect and maintain it in accordance with this Clause 12. Within 30 (thirty) days of receipt of such notice, AMC will 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 set out in Clause 37 will apply.
- (f) All insurances obtained by the Concessionaire in accordance with this Clause 12 will be maintained with insurers on terms consistent with Good Industry Practice. Within 15 (fifteen) days of obtaining any Insurance Cover, the Concessionaire will furnish to AMC notarised true copies of the certificate(s) of insurance, copies of insurance policies and premia payment receipts in respect of such insurance, and no such insurance will be cancelled, modified or allowed to expire or lapse until the expiration of at least 45 (forty five) days after notice of such proposed cancellation, modification or non-renewal has been delivered by the Concessionaire to AMC.
- (g) If the Concessionaire fails to effect and keep in force all insurances for which it is responsible pursuant hereto, AMC will 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 as set out in Clause 34.4, treat an amount equal to the Insurance Cover as deemed to have been received by the Concessionaire.
- (h) All insurance policies in respect of the insurance obtained by the Concessionaire pursuant to this Clause 12 will include a waiver of any and all rights of subrogation or recovery of the insurers thereunder against, inter alia, AMC, 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.
- (i) The Concessionaire hereby further releases, assigns and waives any and all rights of subrogation or recovery against, inter alia, AMC 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.
- (j) The proceeds from all insurance claims, except life and injury, will be applied towards any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation of the Project, and the balance remaining,



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if any, will be applied in accordance with the provisions of the Agreements.



13. BUSINESS RISKS

The Concessionaire will bear all business risks that are inherent in the financing, development, construction, operation and maintenance of the Project Facilities and maintenance of the Project Assets/Project Facility. For the avoidance of doubt, such business risks include but are not limited to any risks in relation to foreign exchange borrowing and non-recovery of User Fees from End Users. It is clarified that AMC will not provide any revenue guarantee to the Concessionaire.

14. ENVIRONMENTAL AND SOCIAL ASSESSMENT REPORT

The Parties will at all times, comply with their respective obligations and the recommendations and mitigation measures as specified in the Environment and Social Assessment Report set out in Schedule V of this Agreement.

15. PREPARATORY PERIOD OBLIGATIONS

15.1 Preparatory Period Obligations

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For the avoidance of doubt it is expressly clarified that the obligations set out in this Clause 15.1 ("**Preparatory Period Obligations**") are in addition to the obligations of the Parties that commence on the date of execution of this Agreement.

- (a) By the end of Preparatory Period, the Concessionaire and AMC will jointly compile a detailed list of the Existing Assets of the Project and prepare an asset register of the Existing Assets. On the Appointed Date such list of Existing Assets will form part of Schedule IX this Agreement. Thereafter, the Concessionaire will, from time, as and when required, amend and update the asset register for the Concession Period.
- (b) By the end of Preparatory Period, AMC will prepare and deliver to the Concessionaire, Land Delivery Schedule for Portion B of the Project Site. On the Appointed Date such Land Delivery will form part of Schedule VI (Land Delivery Schedule) of this Agreement.
- (c) By the end of Preparatory Period, AMC will make available to the Concessionaire, list of debtors and data on arrears of payment of User Fee (as payable prior to the Appointed Date) from the End User. On the Appointed Date, such list of debtors and the data on arrears of payment of User Fee (as payable prior to the Appointed Date) from the End User will form part of Schedule X.
- (d) By the end of Preparatory Period, AMC will make available to the Concessionaire, Raw Water quality range that can be considered acceptable for the normal treatment of Raw Water. On the Appointed Date, the Raw Water quality range that can be considered acceptable for the normal treatment of Raw Water will form part of Schedule XI of the Agreement. (the "**Raw Water Quality Range**").

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- (e) By the end of the Preparatory Period, AMC and the Concessionaire shall have appointed the Independent Engineer and mutually agreed upon the terms of reference of such Independent Engineer.

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15.2 Construction and Rehabilitation Work Plan

- (a) By the end of Preparatory Period, the Concessionaire will, at its own cost, prepare and submit to the Independent Engineer and AMC, plans for the construction and rehabilitation of the Works, and operation and maintenance of the Project during the Construction and Rehabilitation Period. Such draft work plan will be implemented subject to the written approval of AMC, and the Concessionaire will provide -

- (i) Detailed design and drawings for all Project components;
- (ii) Detailed cost estimate for all Project components, source of the technology, procurement schedule;
- (iii) Quarterly project milestones in accordance with the principles set out in Clause 15.3;
- (iv) draft of the sub-contracts;
- (v) Plan for the regularisation of illegal water connections in accordance with the Applicable Law;
- (vi) Plan for the metering all consumer connections and production and distribution points;
- (vii) Plan for maintenance of all consumer and flow meters;
- (viii) Plan for a detailed household survey, covering entire Supply Area;
- (ix) Plan for putting in place a consumer complaint recording and monitoring system;
- (x) Plan for installing computerized billing and collection system;
- (xi) Plan for reduction of water loss in the system;
- (xii) Plan and measures to be undertaken to maintain the portability of supplied water;
- (xiii) Detailed plan to maintain appropriate pressure levels at pre-decided production and distribution points, to be determined between Concessionaire and AMC;
- (xiv) Plan to cover growing Supply Area in future either because of increase in the number of End User or on account of geographical area; and
- (xv) Detailed employee deployment plan.

- (b) Within 30 (thirty) days from the submission of the draft work plan, the

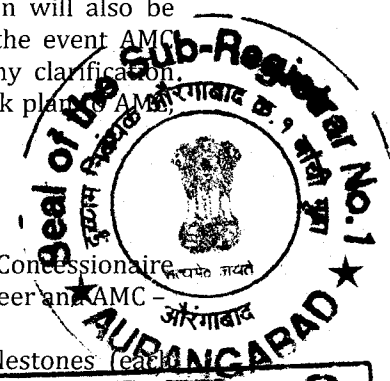


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Concessionaire, Independent Engineer, AMC and any consultant invited by AMC, if any, will meet to discuss and approve the draft work plan. AMC will be entitled to seek clarifications from the Concessionaire and the Concessionaire will respond to such requests within 7 (seven) days from the date on which the clarification is sought by AMC. In the event AMC is satisfied with the clarification received from the Concessionaire, AMC will, within 15 (fifteen) days from the date of receiving clarification from the Concessionaire, give its approval for the draft work plan, failing which the draft work plan shall be deemed approved by AMC. AMC's approval of the draft work plan will not be unreasonably withheld and such approved plan will be referred to as the "Construction and Rehabilitation Work Plan" and on the Appointed Date, the Construction and Rehabilitation Work Plan will form part of Schedule XII of this Agreement. The Concessionaire agrees that all notices issued to AMC under this Agreement in connection with the Construction and Rehabilitation Work Plan will also be issued to the Independent Engineer and AMC's consultant. In the event AMC does not meet to discuss the approved work plan nor seek any clarification within 30 (thirty) days from the date of submission of draft work plan, AMC will be deemed to have approved the draft work plan.



15.3 Project Milestones

- (a) As part of the draft construction and rehabilitation work plan the Concessionaire will, at its own cost, prepare and submit to the Independent Engineer and AMC -
 - (i) a draft plan for the 12 (twelve) quarterly physical milestones (each referred to as a "Project Milestone") to be completed during the Construction and Rehabilitation Period;
 - (ii) the funding required for each Project Milestone;
 - (iii) the contribution from the Concessionaire for each Project Milestone; and
 - (iv) a description of objectively verifiable criteria that would indicate both 85% (eighty five percent) completion and 100% (one hundred percent) completion of each Project Milestone.
- (b) Such plan for Project Milestones will form part of the draft Construction and Rehabilitation Work Plan and will be subject to the approval of AMC and on the Appointed Date will form part of Schedule XII of this Agreement.

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15.4 Project Specifications

The Concessionaire will implement the Project in accordance with Construction and Rehabilitation Work Plan, Project Milestones, and the Project Specifications and the other terms and conditions set forth in this Agreement.

15.5 Preparation and approval of Layout Drawings

- (a) The Concessionaire will, during the Preparatory Period, prepare or cause preparation at its own costs and expenses the layout drawings with respect to the new facilities ("Layout Drawings") and submit the same to the Independent Engineer and AMC for their respective review and comments.
- (b) In the event the Independent Engineer or AMC has any objection to the Layout

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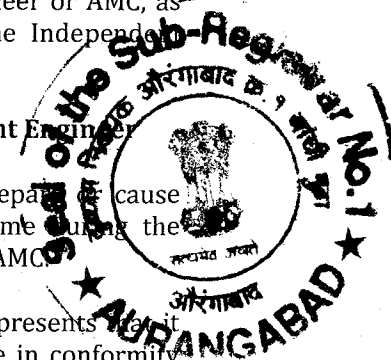
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Drawings or any part thereof, it will, within 10 (ten) days from the date of receipt of such Layout Drawings, notify the Concessionaire in writing of its objections, seek clarifications or suggest changes or modifications or corrections thereto. Thereupon, the Concessionaire will, within 10 (ten) days of such notification, provide necessary clarification to Independent Engineer and AMC, or re-submit revised Layout Drawings, as the case may be, after incorporating the changes, modifications or corrections suggested by the Independent Engineer or AMC. Thereafter, within 10 (ten) days of receipt of the re-submitted Layout Drawings or necessary clarifications, as the case may be, Independent Engineer and AMC may, subject to their objections or comments/queries being satisfactorily resolved, accord its approval to the Concessionaire. If the Independent Engineer, or AMC is not satisfied, then the process described above will be duly followed until comments of the Independent Engineer or AMC, as the case maybe, are duly addressed to the satisfaction of the Independent Engineer and AMC.

15.6 Preparation of Designs and Drawings and Review by the Independent Engineer

- (a) The Concessionaire will, at its cost, charges and expenses, prepare and cause preparation of the Designs and Drawings and submit the same during the Preparatory Period for review by the Independent Engineer and AMC.
- (b) By submitting the Designs and Drawings, the Concessionaire represents it has determined and verified that the Designs and Drawings are in conformity with Applicable Law and Good Industry Practice.
- (c) The Independent Engineer and AMC and if the AMC deems necessary, a consultant of the AMC will review the Designs and Drawings and specifications and calculations submitted by the Concessionaire and subject to the provisions of sub-Clause (d) below, communicate its comments within 30 (thirty) days from the date of the receipt of such Designs and Drawings.
- (d) If the Independent Engineer or AMC or AMC's consultant has any objection to the Designs and Drawings and specifications and calculations or any part thereof, it will, within 21 (twenty one) days and without any undue delay notify the Concessionaire of its objections, seek clarifications or suggest changes or modifications or corrections thereto. Thereupon, the Concessionaire will, within 14 (fourteen) days of such notification, provide necessary clarification and/ or re-submit the Designs and Drawings and/or specifications and calculations or part thereof, as the case may be, to Independent Engineer, AMC or AMC's consultant for their review, after incorporating the changes, modifications or corrections suggested by the Independent Engineer or AMC or AMC's consultant.
- (e) If the Independent Engineer, AMC or the AMC's consultant do not object to the Designs and Drawings and specifications and calculations re-submitted to it by the Concessionaire within 30 (thirty) days of submission as set out in (d) above, the Independent Engineer, AMC or the AMC's consultant will be deemed to have no further comments on such Designs and Drawings and the Concessionaire will be entitled to proceed with the Project accordingly.
- (f) Notwithstanding any comments from the Independent Engineer or AMC on the Designs and Drawings, the Concessionaire is be solely responsible and liable for any defect and/or deficiency in the Designs and Drawings relating to the Project or any part thereof and accordingly the Concessionaire will at all times remain



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responsible and liable for its obligations under this Agreement.

- (g) Any review conducted by AMC or the Independent Engineer shall be solely for the AMC's own information and that by conducting such review AMC does not accept any responsibility for the quality or workmanship of any civil or other engineering or soundness of the work relating to the Project done by the Concessionaire or any part thereof. AMC is not be responsible or liable in any manner for the accuracy, completeness or otherwise of the Design and Drawings or the construction and implementation of the Project by the Concessionaire on the basis thereof, irrespective of any perusal or review thereof or comments thereon by the Independent Engineer in consultation with AMC.
- (h) The Concessionaire will in no way represent to any Person that, as a result of any review by the Independent Engineer or AMC, AMC has accepted responsibility for the engineering or soundness of any work relating to the Project or part thereof carried out by the Concessionaire and the Concessionaire will, subject to the provisions of this Agreement, be solely responsible for the technical feasibility, operational capability and reliability of the Project or any part thereof.

16. DEPUTATION EMPLOYEES

16.1 Terms of Deputation and Remuneration

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- (a) Subject to the terms and duration of the employment of the Deputation Employees with AMC, the Deputation Employees will be deployed on the Project for the till their retirement from AMC or expiry of Concession Period or termination of this Agreement, whichever occurs earlier, and Parties agree that AMC will procure consents from each of the Deputation Employee to give effect to this Clause 16.
- (b) During this period the Deputation Employees will remain the employees of AMC, however the Concessionaire will pay each Deputation Employee an amount sufficient to cover all the employee benefits, including base salary as determined by AMC, provident fund, health care and any other benefits that may accrue to the Deputation Employee under Applicable Law that he or she would have been paid by AMC. Such payment will be in accordance with the Applicable Laws. In addition, any claims and other liabilities arising after the Appointed Date in relation to the Deputation Employees will be settled by the Concessionaire at its cost. For the avoidance of doubt it is clarified that any claims and other liabilities arising before the Appointed Date in relation to the Deputation Employees will be settled by the AMC at its cost. Annual increment, if any, in remuneration of the Deputation Employee will be borne by the Concessionaire as per the Applicable Law. It is clarified that any amounts payable to Deputation Employees as part of the employee benefits or compensation that relate to (or in their calculation include periods) prior to the Appointed Date shall be borne by the AMC and the Concessionaire shall only have liability in respect of payment relating to the period subsequent to Appointed Date, even if the amounts so payable accrue or are payable subsequent to the Appointed Date.
- (c) The Concessionaire will from time to time provide performance feedback of the Deputation Employees to the AMC, enabling the AMC to update employees'

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service book. In case of any incidence of indiscipline or negligence of the Deputation Employees leading to financial/operational liabilities, the Concessionaire will be allowed to recommend punitive action against such employee to AMC that it may find suitable and AMC may take appropriate action against such Deputation Employee.

- (d) The terms of employment for the Deputation Employees will be in accordance with the Applicable Law. Such laws include but are not limited to laws in relation to promotion, increment etc.
- (e) The Deputation Employees will work with the Concessionaire until their retirement from AMC or expiry of Concession Period or termination of this Agreement, whichever occurs earlier. Upon such retirement, the re-appointment or substitution of for such Deputation Employee will be at the discretion of the Concessionaire.
- (f) The Deputation Employees will have such roles and responsibilities as outlined in "Roles and Responsibilities of water department employees" prepared by the committee formed by Maharashtra Jeevan Pradhikaran Mandal on April 18, 1995" and as amended, modified or substituted from time to time.

16.2 Concessionaire Employment of Deputation Employees

For the avoidance of doubt it is expressly clarified that -

- (a) AMC has no objection to the Concessionaire offering employment to a Deputation Employee;
- (b) However, if a Deputation Employee takes up an offer of employment with the Concessionaire (i.e. discontinues to be a Deputation Employee) during the Concession Period, then such person will cease to be an employee of AMC;
- (c) The Deputation Employees are only those specific individuals listed in Schedule XIII; and

17. OBLIGATIONS DURING THE CONSTRUCTION & REHABILITATION PERIOD

17.1 Drawings

Within 90 (ninety) days of Commercial Operations Date, the Concessionaire will furnish to AMC, 3 (three) copies of "as built" drawings reflecting the facilities as actually designed, engineered and constructed (or rehabilitated), as the case may be.

17.2 Construction and rehabilitation obligations

The Parties will comply with the requirements of Clause 18 which apply to and govern the relationship between the Parties in relation to the construction and rehabilitation activities to be completed under this Agreement including inspections, completion certificates, variations, measurement, valuations and such other matters dealt with in Clause 18.

17.3 Pre-COD Service Level Requirements

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During the Construction and Rehabilitation Period, the Concessionaire will operate and maintain the Project to ensure that Potable Grade Water is supplied to the End Users within the Supply Area in accordance with the Pre-COD Service Level Requirements.

17.4 Pre-COD Testing requirements

During the Construction and Rehabilitation Period the Concessionaire will conduct such tests on water quality as set out in Schedule XIV.

17.5 Regularisation of Illegal Connections

Subject to Applicable Law, during the Construction and Rehabilitation Period, the Concessionaire will, to the extent practicable, regularise the illegal water connections in the Supply Area in accordance with the Construction and Rehabilitation Work Plan. Subject to Applicable Law, on request of the Concessionaire, AMC will provide all reasonable assistance in regularising such illegal connections.

17.6 Activities undertaken on behalf of AMC during Construction and Rehabilitation Period

- (a) During the Construction and Rehabilitation Period the Concessionaire will -
- (i) connect, disconnect and alter the supply of Potable Grade Water to any premise within the Supply Area in accordance with the Pre-COD Connection and Disconnection Procedure;
 - (ii) raise, on behalf of AMC, bi-monthly invoices to End Users on the basis of the Pre-COD Tariff and in the format supplied by AMC;
 - (iii) collect, on behalf of AMC, User Fees from the End Users in accordance with Clause 22.2;
 - (iv) collect, on behalf of AMC, water arrears from End Users due to AMC for the period prior to the Appointed Date;
- (b) The activities referred to in Clause 17.6 (a) above, will be undertaken by the Concessionaire on behalf of AMC, in accordance with the terms of this Agreement and Applicable Law. In the event of non-payment of User Fee, the Concessionaire shall act in accordance with the provisions of Water Bylaws. In relation to disconnection of a water connection, AMC will assist the Concessionaire in securing necessary police protection from the relevant Government Instrumentalities.

17.7 During the Construction and Rehabilitation Period, AMC will provide such incentive to the Concessionaire as detailed in Schedule VIII, in respect of the collection of water arrear from End Users due to AMC for the period prior to the Appointed Date.

18. CONSTRUCTION AND REHABILITATION OF THE WORKS

18.1 General

The Concessionaire will complete the construction and rehabilitation of the Project Facilities in accordance with the terms of this Agreement, the Construction and

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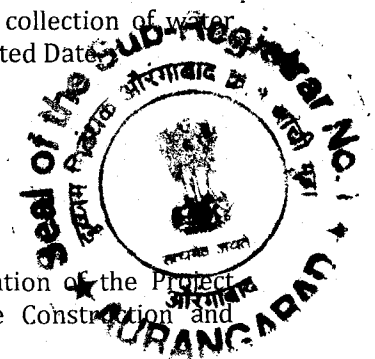
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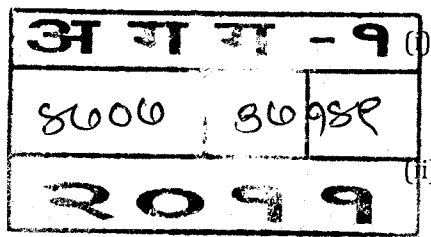
Rehabilitation Work Plan, Project Milestones, Project Specifications and the comments/observations of the Independent Engineer and AMC.

18.2 Monitoring and supervision during the Construction and Rehabilitation Period

During the Construction and Rehabilitation Period, the Concessionaire will submit to the AMC and the Independent Engineer a monthly progress report on the status of the construction and rehabilitation of Project Facilities.

18.3 Role of the Independent Engineer

- (a) The Independent Engineer will discharge its obligations as set out in this Agreement.
- (b) In accordance with this Agreement and the terms of reference agreed upon by the Concessionaire and AMC for the appointment of the Independent Engineer, the Independent Engineer will -



(i) inspect the Project Facilities every two weeks during the Construction and Rehabilitation Period, or at such other appropriate intervals otherwise determined by the Independent Engineer; and

(ii) evaluate whether the Project Milestones have been completed as per Construction and Rehabilitation Work Plan, Project Specifications, maintaining the quality and whether the operation of the Project Facilities meet the Service Level Requirements.

- (c) In order to evaluate the Project Facilities as contemplated by Clause 18.3(b)(ii) above, the Independent Engineer may, at the cost and expense of the Concessionaire, require the Project Facilities to be tested in order to ascertain whether a Project Milestone has been met.

18.4 Certification of the Project Facilities

- (a) The Concessionaire will be responsible for the rehabilitation, development and implementation, start-up, testing and commissioning of the Project Facilities in accordance with the Construction and Rehabilitation Work Plan, Project Milestones and Project Specifications.
- (b) Subject to (a) above, the Independent Engineer will issue a completion certificate in respect of each Project Milestone.
- (c) Certification of the Project Facilities will be in accordance with the procedures and timelines as set out in the Construction and Rehabilitation Work Plan and Project Milestones. Prior to commencement of the certification of the Project Facilities, the Concessionaire will give AMC and the Independent Engineer at least 30 (thirty) days prior written notice.

(d) The Concessionaire will procure and bear the costs of any consumables required for the testing and certification of the Project Facilities.

With the prior written consent of AMC, the Independent Engineer may at the request of the Concessionaire issue a functional certificate of completion certifying that whilst the Works have not been completed and/or the Project



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does not, at present, meet all Service Level Requirements, the Concessionaire will be permitted to perform its Operations and Maintenance Period obligations or part thereof. Such certification will be termed "Partial COD".

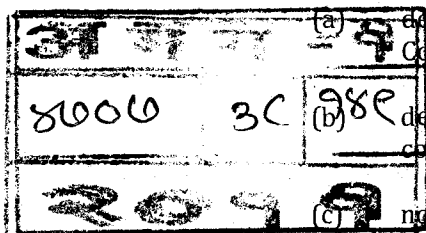
- (f) After all Project Milestones have been certified as complete, the Independent Engineer will issue a certificate of Commercial Operation Date.
- (g) When certifying Partial COD pursuant to Clause 18.4(e), the Independent Engineer will issue a list of outstanding items signed jointly by the Independent Engineer and the Concessionaire ("Punch List"). All Punch List items will be completed by the Concessionaire within 90 (ninety) days of the date of certification of Partial COD. Upon completion of all Punch List items to the satisfaction of the Independent Engineer, the Independent Engineer will issue the certificate of Commercial Operations Date to the Concessionaire.

18.5 Corrective measures in relation to the Works

At any time during the Construction and Rehabilitation Period, the Independent Engineer will have the right to recommend corrective measures in relation to the Project Facilities if they are being carried out in a manner that does not comply with the Construction and Rehabilitation Work Plan, Project Milestones, Project Specifications or the Service Level Requirements or are not in compliance with Applicable Law or Good Industry Practice. The Concessionaire will accept the recommendations from the AMC and / or Independent Engineer and implement such corrective measures.

18.6 Delay and extension of time for completing the Project Milestone

Extension of time for completing the Project Milestone on account of delay is permitted where an extension for completion of a Project Milestone has been agreed to in writing by both Parties or is caused by any of the following (and not directly due to the Concessionaire's Event of Default) -



(a) delay in the Concessionaire receiving Permits for reasons not attributable to the Concessionaire;

(b) delay in the shifting of utilities (such as gas pipes, telegraph poles) impeding construction or rehabilitation of the Project Facilities;

(c) non-provision or reduced provision of essential utilities for use as inputs in the Project;

(d) event of Force Majeure;

(e) breach by AMC of any of its obligations under this Agreement;

(f) suspension of the Works on the recommendation of the Independent Engineer for non-compliance with the Construction and Rehabilitation Work Plan or Project Specifications;

any delay that is attributable to the acts or omissions of AMC or any third party which adversely affects the Concessionaire's ability to access the Project Site;

(h) delay arising from an AMC step-in under Clause 35;



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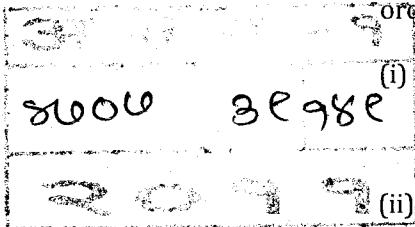
- (i) any delay arising from Unforeseen Adverse Site Conditions under Clause 7.3;
- (j) Change in Scope of the Works; or
- (k) Change in Law.

In such cases, the completion time for the relevant Project Milestone will be extended by a period that, in the reasonable opinion of the Independent Engineer, would put the Concessionaire in the same position as the Concessionaire would have been if the delay not occurred.

19. PROJECT GRANT AND ANNUAL OPERATION SUPPORT GRANT

19.1 General Principles of Project Grant

- (a) The Parties acknowledge that AMC is receiving a combined total sum of INR 3,99,53,00,000 (Rupees Three Hundred Ninety Nine Crore and Fifty Three Lakh only) funding for the Project (the "Project Grant") from the Government of India and the Government of Maharashtra. The Parties also acknowledge that in order for AMC to receive the Project Grants -



- (i) AMC must adhere to certain requirements imposed by the Government of India and the Government of Maharashtra. Such requirements maybe unrelated to the Project; and
- (ii) The Project must be implemented by the Concessionaire in accordance with Mandatory Project Requirements and the DPR.

- (b) Once AMC has received the Project Grant from the Government of India or the Government of Maharashtra, AMC will pay the Concessionaire the Project Grant, in instalments, in accordance with the timelines and amounts set out in Schedule VII. The payment of subsequent instalment of the Project Grant by AMC in accordance with the timelines and amounts set out in Schedule VII is subject to utilisation of at least 85% (eight-five percent) of the earlier instalment and delivery to AMC of a Project Grant utilization certificate, as certified by the Independent Engineer. The AMC undertakes to provide necessary 'utilisation certificates' to the Central Government and/or the State Government within 3 days of the certification by the Independent Engineer of utilisation of 70% of any instalment of the Project Grant.

AMC reserves the right to retain, on an interest free basis, 5% (five percent) of each instalment of the Project Grant as contingency reserve ("Contingency Reserve") until Commercial Operations Date.

- (d) Notwithstanding anything contained in this Agreement, if the Government of India or Government of Maharashtra withholds or delays release of the Project Grant, or part thereof, to AMC, because -
 - (i) AMC has failed to comply with the requirements as described in Clause 19.1(a) (i); or
 - (ii) the Concessionaire has deviated from the DPR when implementing the Project and such deviation is due to the Concessionaire following the Mandatory Project Requirements; or



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- (iii) of any reason attributable to the Government of India or the Government of Maharashtra, and is for reason that cannot be attributable to either, AMC or the Concessionaire,

then AMC will utilise the amount retained in the Contingency Reserve to meet such shortfall in Project Grant or part thereof. In the event the amount retained in the Contingency Reserve is not sufficient to meet such shortfall in Project Grant, the Concessionaire will raise the funds on its own to the extent of shortfall of the Project Grant and will be entitled to the relief referred to in Clause 19.2. On receipt of such delayed Project Grant, any funds disbursed from the Contingency Reserve to meet the shortfall in the Project Grant or part thereof, will be replace with an equivalent amount.

For the avoidance of doubt it is expressly clarified that if the Government of India or Government of Maharashtra withholds or delays disbursement of the Project Grant, or part thereof, because of the Concessionaire deviating from the DPR whilst implementing the Project and such deviation is not due to the Concessionaire following the Mandatory Project Requirements, then the Concessionaire is not entitled to any relief under this Agreement.

19.2 Relief for Delay or Non-Payment of Project Grant

- (a) If there is a delay in the disbursement of the Project Grant by AMC for reasons solely attributable to an act or omission on the part of AMC, then -

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(i) the Concessionaire is liable to arrange requisite funding at its own cost and expense so as to ensure the timely implementation of the Project;

(ii) AMC is liable to pay to the Concessionaire up to a maximum interest of 15% (fifteen) percent of per annum on such funds borrowed by the Concessionaire to bridge the shortfall of the Project Grant or part thereof. Such interest will be calculated from the date of such funds being drawn by way of debt by the Concessionaire

- (b) If there is a delay in the disbursement of the Project Grant by AMC beyond a period of 120 (one hundred and twenty) days from the due date of disbursement of the Project Grant or part thereof, for reasons attributable to an act or omission on the part of Government of India or Government of Maharashtra, then

(i) the Concessionaire is liable to arrange requisite funding at its own cost and expense so as to ensure the timely implementation of the Project;

(ii) AMC is liable to pay to the Concessionaire up to a maximum interest of 15% (fifteen) percent of per annum on such funds as borrowed by the Concessionaire to bridge the shortfall of the Project Grant or part thereof. Such interest will be calculated from the date of such funds being drawn by way of debt by the Concessionaire.

For avoidance of the doubt, it is clarified that if AMC manages to receive Project Grant from the Government of India or Government of Maharashtra and disburses the same to the Concessionaire within 120 (one hundred and twenty) days from the due date of disbursement of the Project Grant, then AMC is not liable to pay any interest to the Concessionaire on the funds borrowed by the

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(c) Concessionaire to bridge shortfall of the Project Grant or part thereof.

If there is a delay in the disbursement of the Project Grant by AMC beyond the Construction and Rehabilitation Period thus making the Project unavailable then AMC will ensure that the Concessionaire is compensated for such additional investment/funding, and that such compensation will be adequate to recover the principal amount invested/funded to bridge the shortfall of the Project Grant. Such manner of compensation may include but not be limited to -

- 
- (i) direct payment or payments by AMC to the Concessionaire;
 - (ii) change in User Fee (if such cost is able to be passed onto the End Users);
 - (iii) by any other method agreed by the Parties;
 - (iv) increase in the Concession Period by maximum period of 10 (ten) years; or
 - (v) a combination of (i), (ii), (iii) and (iv) above.

19.3 Release of the amount retained in the Contingency Reserve

On expiry of the Construction and Rehabilitation Period, AMC will release the amount retained in the Contingency Reserve in 4 (four) equal quarterly instalments to the Concessionaire.

19.4 General Principles of Annual Operation Support Grant

The AMC will disburse the Annual Operational Support Grant in accordance with Schedule XV.

20. CHANGE IN SCOPE

20.1 Definition of Change in Scope

- (a) AMC may require the provision of additional works which are not included in the scope of the Project as contemplated by this Agreement.
- (b) If the Concessionaire determines at any time that additional works are necessary for providing improved services to the End Users or to enhance the economic efficiency of the Project or for such other reason related to the performance of services or the Project, it will by notice in writing require AMC to consider the provision of such additional works.

(hereinafter referred to as "Change in Scope")

- (c) Any such Change in Scope will be made in accordance with the provisions of this Clause 20 and the resultant costs will be expended by the Concessionaire and reimbursed to it by AMC in accordance with this Clause 20.

20.2 Expansion of the jurisdiction of AMC as a deemed Change in Scope

Notwithstanding that throughout the Concession Period the Supply Area is defined by reference to the jurisdictional boundaries of AMC. If the jurisdictional boundaries of

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AMC increase beyond the jurisdictional boundary as at the date of execution of this Agreement, this will be deemed to be a Change in Scope and the process and method of compensation for the Concessionaire servicing such expanded area will be in accordance with this Clause 20.4, 20.5 and 20.6.

20.3 Procedure for Change in Scope

- (a) If AMC requires a Change in Scope in accordance with Clause 20.1(a) or AMC agrees to the Concessionaire's proposed Change in Scope in accordance with Clause 20.1(b), AMC will issue a notice to the Concessionaire and the Independent Engineer specifying in reasonable detail the works and services contemplated by such Change in Scope (the "Change in Scope Notice").
- (b) Upon receipt of a Change in Scope Notice, the Concessionaire will, with due diligence, provide to AMC and the Independent Engineer such information as is necessary, together with preliminary documentation in support of -

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(i) the impact, if any, which the Change in Scope is likely to have on the completion of the Project Milestones if the proposed works or services are required to be carried out during the Construction Period;

(ii) the cost to the Concessionaire of complying with such Change in Scope Notice (including, without limitation, material and labour cost in accordance with the then current schedule of rates for the Aurangabad region prepared by the Maharashtra Jeevan Pradhikaran); and

- (iii) the options suggested for implementing the proposed Change in Scope and the effect, if any. Every option will set out in sufficient detail, the costs and time required for the implementation thereof, including a detailed breakdown by work classification.

In the event the Change in Scope is initiated by AMC, the costs of providing the information and documentation referred to in Clause 20.3(b), will be reimbursed to the Concessionaire by AMC to the extent such costs are certified to be reasonable by the Independent Engineer.

Upon receipt of the information and documentation as set out in Clause 20.3(b), the Independent Engineer will, in consultation with the AMC and Concessionaire, verify and assess such request for Change in Scope (including the impact on the time schedule and the cost) and provide to AMC, its report on the proposed Change in Scope, within 90 (ninety) days from the date of receiving the information set out in sub-clause 20.3(b). In the event AMC decides to proceed with the Change in Scope, it will convey to the Concessionaire -

- (i) its preferred option as referred to pursuant to Clause 20.3(b)(iii); and
- (ii) in the case of additional works, its proposed manner of compensation for Change in Scope;
- (e) Subject to Clause 20.4, the Independent Engineer will determine the costs on the basis of the approved rates contained in the then current schedule of rates for the Aurangabad region as prepared by the Maharashtra Jeevan Pradhikaran. In the event items that require a Change in Scope do not fall under items listed in the current schedule of rates, the Independent Engineer will advise costs for

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such items on the basis the prevailing market rate.

(f) Upon determination of the preferred option as referred to pursuant to Clause 20.3(b)(iii) and compensation payable to the Concessionaire for completing the Change in Scope, AMC may issue an order (the "Change in Scope Order") requiring the Concessionaire to undertake the Change in Scope.

(g) A Change in Scope Order will be effective and binding upon the Parties. Notwithstanding a dispute regarding cost and time for implementation of such Change in Scope Order, the Concessionaire is to proceed with the performance of such Change of Scope Order. Pending resolution of any dispute, AMC will pay the Concessionaire upon completion of work pursuant to such Change of Scope Order, an amount equal to the costs that are certified by the Independent Engineer to be reasonable plus one-half the difference between the amount certified by the Independent Engineer and the amount claimed by the Concessionaire with final adjustments to be made in accordance with the resolution of the dispute under the dispute resolution procedure set out in Clause 37.

20.4 Compensation for Change in Scope

Notwithstanding Clause 20.3(e), the compensation that the Concessionaire is entitled to receive for undertaking a Change in Scope will be determined with the object of ensuring that such Change in Scope will not negatively affect the Equity IRR that the Concessionaire would otherwise have received but for such Change in Scope.

20.5 Reduction in Project Cost due to Change in Scope

In the event the Change in Scope results in reduction in Project Cost, the Concessionaire will return to AMC, the Project Grant in proportion to reduction in Project Cost (i.e. in the event the Project Cost reduces by 3% (three percent) as a result of Change in Scope, the Concessionaire will return the 3% (three percent) of the Project Grant to AMC by depositing the same into the Water Payment Reserve Account.

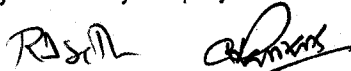
20.6 Compensation for Change in Scope

(a) For Changes in Scope, the manner in which AMC will compensate the Concessionaire will be agreed between the Parties in accordance with Clauses 20.3(e), 20.3(f) and 20.3(g), and in a manner that complies with the requirements of Clause 20.4. Such manner of compensation may include but not be limited to -

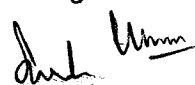
- (i) direct payment or payments by AMC to the Concessionaire;
- (ii) change in User Fee (if such cost is able to be passed onto the End Users);
- (iii) by any other method agreed by the Parties; or
- (iv) increase in the Concession Period by maximum period of 10 (ten) years; or
- (v) a combination of Clauses 20.6 (a)(i), (ii), (iii) and (iv).

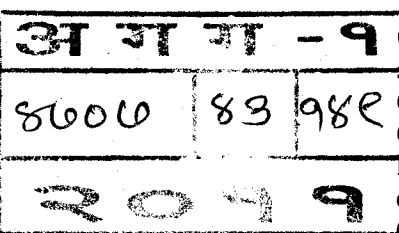
(b) AMC will ensure that the Concessionaire is compensated for Change in Scope in

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accordance with this Agreement under Clauses 20.3(e), 20.3(f) and 20.3(g), and that such compensation is adequate to comply with the principle of compensation as described in Clause 20.4.

- (c) The Concessionaire will, after completion of the Change in Scope, present to AMC a statement that the Works have been completed along with such documentation as is reasonably sufficient for AMC to determine the accuracy thereof.

21. OBLIGATIONS DURING THE OPERATION AND MAINTENANCE PERIOD

21.1 Maintenance and repairs

- (a) The Concessionaire will, during the Operation and Maintenance Period, operate and maintain the Project Facilities according to Good Industry Practice and in good working condition to ensure that they operate in accordance with the Service Level Requirements and to ensure that the Project Facilities transferred to AMC upon expiry of the Concession Period or earlier termination, are in good condition, normal wear and tear excepted having regard to their use, and in accordance with Clause 34.6.

- (b) The Concessionaire will, at its own cost, plan for replacement of equipment well ahead of the end of the useful life thereof and replace such equipment in accordance with Good Industry Practice. The Concessionaire will, at its own cost, promptly and diligently repair, replace or restore any portion of the Project Assets that may be lost, damaged or destroyed.

- (c) The Concessionaire will in order to monitor the water quality, at its own cost, sample and test the water samples at the source, at treatment and at the distribution system in accordance with the provisions of Schedule XIV.

21.2 Supply of Potable Grade Water during the Operation and Maintenance Period

On each day of the Operation and Maintenance Period, the Concessionaire will supply the Potable Grade Water to the End Users within the Supply Area in accordance with the Service Level Requirements. In the event of shortage of Potable Grade Water to the End Users within the Supply Area, the Concessionaire will give first priority to domestic supply.

21.3 Activities undertaken on behalf of AMC during the Operation and Maintenance Period

- (a) During the Operation and Maintenance Period the Concessionaire will –
- (i) connect, disconnect and alter the supply of Potable Grade Water to any premises within the Supply Area in accordance with the Connection and Disconnection Procedure;
 - (ii) invoice the End Users for the supply of Potable Grade Water on a monthly basis. The value of such invoice will be calculated in accordance with Schedule XVI.
 - (iii) collect User Fees from the End Users on behalf of AMC in accordance with Clause 22.2; and



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- (b) The activities referred to in Clause 21.3 (a) above, will be undertaken by the Concessionaire on behalf of AMC, in accordance with the terms of this Agreement and subject to the requirements of Applicable Law.
- (c) If requested by the Concessionaire, AMC will offer the Concessionaire all reasonable assistance when it is undertaking any disconnection activity. Such assistance will include but not be limited to the provision of security.

21.4 Invoice for Water Payments

Post Commercial Operation Date, the Concessionaire will raise a monthly invoice to AMC for the Water Payment in the manner set out in Schedule XVII.

21.5 Financial and Project information

The Concessionaire will, from time to time, deliver to the Independent Engineer, the Independent Auditor, and AMC and, at the direction of AMC to any of AMC's consultants, or in the case of Clause 21.5 (f), any applicable third party, the following documents and information at the intervals described below -

- (a) Financial information

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(i) annual audited accounts (in compliance with Applicable Law) of the Concessionaire delivered within 180 (one hundred eighty) days from the end of each of the Concessionaire's Financial Years;

(ii) unaudited quarterly financial statements (in compliance with Applicable Law) of the Concessionaire within 30 (thirty) days from the end of each such period covered by such financial statements;

- (iii) each invoice for Water Payment in accordance with Clause 21.4;
- (iv) notification of any material change in the financial condition of the Concessionaire and/or the Project promptly following such occurrence;
- (v) all reports, notifications and information, including construction progress reports with respect to the construction and rehabilitation of the Project Facilities as required in accordance with Clause 18.2; and
- (vi) all reports, notifications and information, including operations reports with respect to the performance of the operation and management of the Project Facilities as required in accordance with Schedule XVIII.

- (b) Additional information

The Concessionaire will provide AMC, the Independent Engineer and the Independent Auditor such further information as any of them may reasonably request in order for them to monitor the Project, subject to any duty of confidentiality.

- (c) Budgets

At the commencement of each of Financial Year, the Concessionaire will prepare



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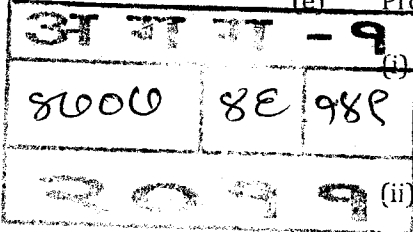
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and submit to AMC, the Independent Engineer and the Independent Auditor a statement confirming -

- (i) the expenditure incurred or committed by the Concessionaire for the last Financial Year; and
 - (ii) future expenditure anticipated to be made during the Financial Year.
- (d) Financial Year

The Concessionaire will not change its Financial Year without the prior written approval of AMC, which will not be unreasonably withheld or delayed.

- (e) Project Agreements and material agreements



(i) The Concessionaire will provide AMC a copy of each Project Agreement (other than this Agreement) within 10 (ten) days from the Appointed Date; and

(ii) The Concessionaire will provide AMC a copy of all agreements that are material to the Project within 10 (ten) days of the execution of such material agreement.

- (f) Environmental and Social Assessment Report

The Concessionaire will provide any documents required to be delivered to AMC or any third party in accordance with the Environmental and Social Assessment Report.

21.6 Redressal of public grievances and disclosure

- (a) Before the end of the second year of the Concession Period, the Concessionaire will under AMC's supervision maintain a public relations office and keep it open for public access at all times. At such office, the Concessionaire will open and maintain a register (the "Complaints Register") for recording of complaints by any person (the "Complainant") at any time of the day. It is clarified that during the first two years from the Appointed Date or before creating the public relations office, whichever is earlier, both AMC and the Concessionaire will jointly manage the existing system of redressal of public grievances.

The Complaints Register will be securely bound and kept in proper custody at the public relations office. Each page of the Complaints Register will be duly numbered and each complaint recorded therein will also be duly numbered. Within 24 (twenty four) hours of a complaint being registered, the Complainant will be given a receipt by such office stating the date and complaint number, which the Complainant may refer to in any subsequent correspondence or claim. The Complaints Register will have appropriate columns including but not limited to the complaint number and date, name and address of the Complainant, the complaint and the action taken by the Concessionaire thereon.

- (c) The Concessionaire will notwithstanding what has been contained in Clause 21.6 (e), inspect the Complaints Register on a daily basis and take prompt steps for redressal of the grievances stated in each complaint within 3 (three) days of the complaint date. The action so taken by the Concessionaire will be briefly noted

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in the "Action Taken" column of the Complaints Register and a suitable reply will also be sent to the Complainant.

- (d) The Concessionaire will develop and maintain a website supervised by AMC wherein customers will be able to access their account, invoicing and also register their complaints. The website will also contain all relevant details which may be of use to customers, including the Service Level Requirements.
- (e) The Concessionaire will intimate AMC of the complaints by sending a true photocopy of such pages of the Complaints Register on which any entries have been recorded of any complaint on the Concessionaire during the course of such month. AMC may in its discretion direct the Concessionaire to take such further reasonable action as AMC may deem appropriate for a fair and just redressal of any grievance.

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217. Concessionaire's other obligations

- (a) The Concessionaire will comply with Applicable Law and in accordance with the Good Industry Practice when performing its obligations under this Agreement.
- (b) The Concessionaire will provide reasonable access at reasonable times to Government Instrumentalities to discharge their duties, including access to the Project Site to review progress in construction, operation and maintenance and to ascertain compliance with any of the requirements of this Agreement and Applicable Law.
- (c) The Concessionaire will provide the Independent Engineer and the Independent Auditor with such assistance as they may each need to discharge their duties and obligations in relation to the Project.
- (d) The Concessionaire will be directly responsible to the authorities concerned for the payment of all charges for electricity, fuel, telephone, and other utilities used, except where otherwise provided for in this Agreement.

The Concessionaire may employ qualified and skilled personnel to operate and maintain the Project Facilities. The Concessionaire will be free to frame the terms of employment as it sees fit provided such terms are in compliance with Applicable Law. All such employees will be the responsibility of the Concessionaire.

- (f) The Concessionaire will comply with its obligations under the Financing Agreements.
- (g) The Concessionaire will ensure that each Project Agreement with a Project Contractor enables AMC or its nominee to substitute itself for the Concessionaire in the event of termination of this Agreement or of a Concessionaire's Event of Default under this Agreement.
- (h) The Concessionaire will not terminate or agree to the termination of the engagement and/or employment of (or the replacement of) any Project Contractor under the Project Agreements without, in each case, the prior written consent of AMC (such consent not to be unreasonably withheld or delayed),
- (i) The Concessionaire will make payment to the police department or any



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Government Instrumentality, if required, for provision of such services as are not provided in the normal course or as are available on payment.

- (j) The Concessionaire will not undertake or permit any form of commercial advertising, display or hoarding at any place on the Project Site without the prior written consent of AMC. All earnings from any such advertising will be apportioned in consonance with AMC's advertisement policies in force from time to time.

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22. USER FEES

22.1 Setting of User Fee

- (a) AMC will ensure that the User Fee for End Users is set in accordance with Schedule XVI.
- (b) In the event the user fee set by AMC is lower than the User Fee as agreed by AMC under Schedule XVI, AMC will pay the Concessionaire the difference between the actual user fee set by AMC and the User Fee agreed by AMC under Schedule XVI of this Agreement.

22.2 Collection of User Fees

The Concessionaire will ensure that User Fees collected from End Users and all relevant charges collected from en-route customers are deposited into the account designated by AMC for such purpose (the "Collection Account").

The Collection Account shall be an escrow account. All User Fees deposited in the Collection Account shall be used in the following manner:

- a) first, any amount payable to AMC, in respect to the increased User Fee above the level agreed in Schedule XVI.
- b) second, any amounts payable to AMC, in respect of payments towards Deputation Employees, electricity and raw water shall be paid from the Collection Account to AMC; and
- c) any remaining amounts shall be paid into such account as may be designated by the Concessionaire's Lenders.

23. SUPPLY BY TANKERS AND TO FIRE DEPARTMENT

- (a) The Concessionaire recognises that water is an essential commodity and will ensure that during any suspension of operation of the Project, breakdown of water supply system or part thereof, including in the case of an emergency, event of Force Majeure, the Concessionaire will, to the extent reasonably practicable, supply Potable Grade Water to the End Users within the Supply Area by tanker.
- (b) The Concessionaire will supply Potable Grade Water to all fire departments present in the Supply Area free of cost.
- (c) The Concessionaire will supply Potable Grade Water to all departments of the



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AMC or institutions owned by the AMC at AMC's costs.

- (d) In the event of any suspension of operation of the Project, breakdown of water supply system or part thereof, including in the case of an emergency, event of Force Majeure during the Operation and Maintenance Period, the Concessionaire will, to the extent reasonably practicable, supply Potable Grade Water to the End Users within the Supply Area by tanker at the rate specified in Schedule XIX.

24. INDEPENDENT ENGINEER AND INDEPENDENT AUDITOR

24.1 Appointment

- (a) AMC and the Concessionaire agree -

(i) to appoint Unity Consultants Private Limited to be the Independent Engineer;

(ii) to appoint a reputed firm of chartered accountants practicing in India as the Independent Auditor; and

(iii) to undertake and perform the duties, work, services and activities set forth in this Agreement and in accordance with the terms of reference for the Independent Engineer and Independent Auditor as agreed by AMC and the Concessionaire.

- (b) The appointment of the Independent Engineer and Independent Auditor will be done through a transparent competitive bidding process and an appointment agreement will be entered into between the Independent Engineer or Independent Auditor (as the case may be) and AMC and the Concessionaire.

The Independent Engineer and the Independent Auditor will report to AMC about their work, services, and activities pursuant hereto through regular periodic reports as the situation may warrant. Such reports of the Independent Engineer and the Independent Auditor will include such matters to ensure that AMC is regularly and appropriately informed of the status of the Project. All reports will be copied to the Concessionaire.

- (d) Except where it is stated that the decision of the AMC or Independent Engineer or the Independent Auditor is final, binding or conclusive, in the event that the AMC or Independent Engineer or the Independent Auditor provides a certification or makes a decision or determination with which a Party disagrees, then the Parties will in good faith meet, together with the AMC or Independent Engineer or the Independent Auditor, as the case may be, with a view to resolving the dispute. If the Parties cannot resolve the dispute within a period of not less than 30 (thirty) days from the first such meeting, then either Party may refer the matter to dispute resolution in accordance with Clause 37.

24.2 Term of appointment

The initial term of the Independent Engineer and Independent Auditor will be 3 (three) years. The Concessionaire or AMC may suggest replacement of the Independent Engineer or Independent Auditor in accordance with the appointment agreement for the Independent Engineer or Independent Auditor (as the case may be). The appointment of

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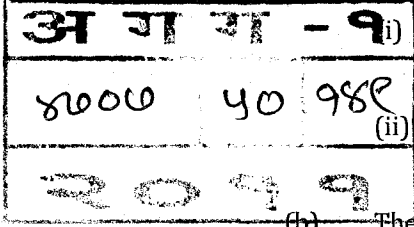
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any new Independent Engineer or Independent Auditor will be via a transparent competitive bidding process repeated after every term of an outgoing Independent Engineer or Independent Auditor and on the same or similar terms as the outgoing Independent Engineer or Independent Auditor.

24.3 Costs

- (a) The Concessionaire and AMC will equally bear all reasonable costs in relation to the engagement of the Independent Engineer which will be not more than -



2.35% (two point three five percent) of the Project Cost plus service tax during the Construction and Rehabilitation Period; and

0.25% (zero point two five percent) of the Project Cost plus service tax, per annum during the Operation and Maintenance Period.

- (b) The Concessionaire and AMC will equally bear all reasonable costs in relation to the engagement of the Independent Auditor which will be not more than 0.1% (zero point one percent) of the Project Cost plus service tax, per annum.

- (c) The Concessionaire and AMC will deposit annually, in advance, the agreed fees for the Independent Engineer and Independent Auditor in the account with a nationalised bank in India having branch in Aurangabad as agreed by the Parties. Any interest earned on the fee deposited in the aforesaid account will be utilised for fee payment in future and the contribution of the AMC and the contribution to be made by AMC will be adjusted accordingly.

25. WATER PAYMENT RESERVE ACCOUNT

- (a) Within 15 (fifteen) days from the Appointed Date, AMC will deposit an amount equal to 1.5 (one and a half) times the Annual Operational Support Grant into an escrow bank account held with a reputable bank in India ("Water Payment Reserve Account") and shall enhance such amount from time to time, such that the amounts in the Water Payment Reserve Account are equivalent to 1.5 times the then applicable Annual Operational Support Grant.

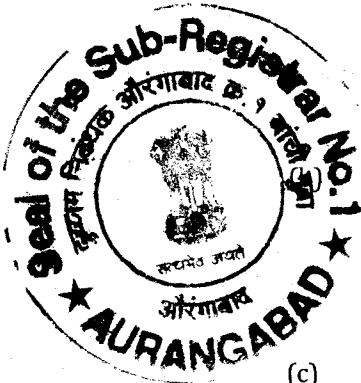
The Concessionaire will be entitled to draw on the Water Payment Reserve Account in accordance with the terms of the Water Payment Reserve Account Agreement as set out in Schedule XX. AMC will ensure that the terms of operation of such Water Payment Reserve Account will be in accordance with those set out in Schedule XX.

- (c) If the Concessionaire draws on the Water Payment Reserve Account in accordance with the Water Payment Reserve Account Agreement, AMC will replenish such Water Payment Reserve Account within 15 (fifteen) days from the date of such drawing.

26. CALCULATION OF WATER PAYMENT

26.1 Calculation of Water Payment

The Water Payment owing to the Concessionaire for each Contract Month shall be



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calculated in accordance with Schedule VIII.

26.2 Payment of Water Payment

AMC will pay to the Concessionaire the Water Payment as set out in and in accordance with Schedule VIII, by transferring the Water Payment from the Collection Account to the Account designated by the Concessionaire within 7 (seven) days from the end of each calendar month during the Concession Period.

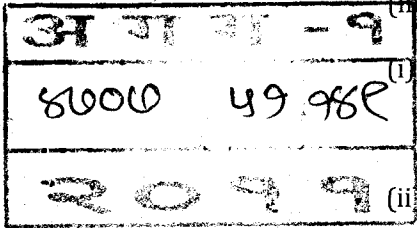
27. ELECTRICITY CHARGES AND CONNECTION

27.1 AMC's assistance in obtaining electricity for the Project

AMC will assist the Concessionaire on a best efforts basis in obtaining electricity for the Project on the most economical rates. Subject to Applicable Law, such assistance includes but not be limited to AMC taking (or maintaining) an electricity connection in its own name for the Project.

27.2 Electricity connections in the name of AMC

(a) If electricity supplied to the Project is via a connection in the name of AMC (instead of the Concessionaire) then -



within 8 (eight) days of AMC receiving an invoice for the electricity charges from an electricity distributing company/utility, AMC will provide the Concessionaire a copy of such invoice; and

in accordance with procedures agreed between the Parties, either -

(A) AMC will pay such invoice in accordance with the terms of such invoice and deduct the said amount from the Water Payment);

or

(B) the Concessionaire will pay such invoice directly.



It is clarified that AMC has no duty of representing the Concessionaire before Maharashtra State Electricity Regulatory Commission (MERC) or any other Governmental Instrumentalities.

Notwithstanding any agreed procedure between the Parties, in the event that AMC fails to pay the electricity distributing company/utility for any such electricity charges, the Concessionaire will be entitled to pay the electricity distributor directly on AMC's behalf.

(c) Notwithstanding that any Government Instrumentality may determine that any arrangement made between the Parties under this Clause 27 is invalid, and as a result of such determination the Concessionaire becomes liable to pay any damages, fees, costs (including any corrective invoices altering the tariff payable for a previous period), taxes, expenses or penalties whatsoever for the Concession Period, AMC will not be liable in any way whatsoever to compensate the Concessionaire for such damages, fees, costs, taxes, expenses or penalties so incurred.

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- (d) Subject to sub-clause (e) below, it is expressly agreed between the Parties that any risk that the Project will not receive a concessional rate for electricity supply is deemed to have been factored into the Annual Operational Support Grant, submitted by the Preferred Bidder at the time of submitting its Bid as a contingent liability.
- (e) Similarly, the risk of any increase in the cost of electricity (including a reduction in subsidy), upto 10 (ten) per cent per annum compounded annually, is deemed to have been factored into Annual Operational Support Grant submitted by the Preferred Bidder at the time of submitting its Bid as a contingent liability. Accordingly the Concessionaire will not be entitled to any relief, compensation, extension of Concession Period or have any kind of recourse whatsoever for any increase in the cost of electricity upto 10 (ten) per cent per annum compounded annually.
- (f) The AMC will determine the base rate for electricity in the year of signing of Concession Agreement and index it by 10 (ten) per cent per annum throughout the Concession Period. Any increase in the cost of electricity, above 10 (ten) per cent per annum, compounded annually, will be borne by AMC.
- (g) The Concessionaire will bear the electricity cost towards any other alternate water sources including Harsool, and Nahar-E-Ambri Scheme.

28. RAW WATER

28.1 Supply of Raw Water to the Project



- (a) AMC will ensure that the Concessionaire is entitled to draw up to 113.28 (one hundred thirteen point two eight) million metre cubes of Raw Water per year from Jayakwadi Project Reservoir for use in the Project in accordance with Schedule XXI. AMC will be, at all times during the Concession Period, responsible for renewal of agreement with Irrigation Department for drawing of Raw Water. For any such renewal of the agreement with the Irrigation Department, the necessary charges shall be borne by the AMC.

The Concessionaire will only draw up to 113.28 (one hundred thirteen point two eight) million metre cube of Raw Water from Jayakwadi Water Reservoir and only use such Raw Water in the Project. However, in the event the demand of water in the Supply Area increases beyond the allocated Raw Water, it would be the responsibility of AMC to arrange for additional Raw Water for the same, subject to compliance by the Concessionaire with respect to the Service Level Requirement.

28.2 Payment for Raw Water

- (a) If Raw Water is supplied to the Project in the name of AMC (instead of the Concessionaire) then -
- (i) within 8 (eight) days of AMC receiving an invoice for such Raw Water from the relevant third party, AMC will provide the Concessionaire a copy of such invoice; and
- (ii) in accordance with procedures agreed between the Parties, either -

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(A) AMC will pay such invoice in accordance with the terms of such invoice and deduct the said amount from the Water Payment;

or

(B) the Concessionaire will pay such invoice directly.

28.3 Change in Quality or Price

(a) AMC makes no representations as to the quality of the Raw Water supplied to the Concessionaire (except to the extent that the Raw Water shall comply with the Raw Water Quality Range) and subject to Clause 31, it is expressly agreed between the Parties that any risk of any adverse variation in the Raw Water quality within the Raw Water Quality Range is deemed to have been factored into the Annual Operational Support Grant submitted by the Preferred Bidder at the time of submitting its Bid as a contingent liability. Accordingly the Concessionaire will not be entitled to any relief, compensation, extension of Concession Period or have any kind of recourse whatsoever if the quality of the Raw Water (subject to the same being within the Raw Water Quality Range) requires the Concessionaire to make additional investments in the Project in order to maintain the Service Level Requirements.

(b) Similarly, the risk of any increase in the cost of the Raw Water (including increase in the cost of the Raw Water due to reduction in subsidy), upto 15 (fifteen) per cent per annum, compounded annually, is deemed to have been factored into the Water Payment and Annual Operational Support Grant submitted by the Preferred Bidder at the time of submitting its Bid as a contingent liability. Accordingly the Concessionaire will not be entitled to any relief, compensation, extension of Concession Period or have any kind of recourse whatsoever for any increase in the cost of Raw Water upto 15 (fifteen) per cent per annum compounded annually.

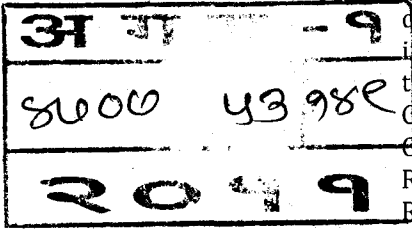
(c) The AMC will determine the base rate for the Raw Water in the year of signing of Concession Agreement and index it by 15 (fifteen) per cent per annum throughout the Concession Period. Any increase in the cost of Raw Water, above 15 (fifteen) per cent per annum, compounded annually, will be borne by AMC.

(d) The cost of local fund / water cess imposed by Maharashtra Pollution Control Board will be borne by the Concessionaire.

29. SUPPLY OUTSIDE THE SUPPLY AREA

(a) The Concessionaire will supply Raw Water or Potable Grade Water, as the case may be, to the en-route customers provided that the Concessionaire has first met the Service Level Requirements, Project Specifications and is in compliance with the terms of this Agreement. Such supply will be on terms and conditions as set out in agreements executed with the en-route customers.

(b) In addition to the Concessionaire's obligation to supply Raw Water or Potable Grade Water, as the case may be, to the en-route customers in accordance with Clause 29(a), the Concessionaire may, subject to Applicable Law and with the permission of AMC, supply Raw Water or Potable Grade Water to villages or



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customers adjacent to the Project Facilities but existing outside the Supply Area or to any other place outside the Supply Area so long as the Concessionaire continues to perform its obligations in accordance with the terms of this Agreement.

(c) In addition to the Concessionaire's obligation to supply Raw Water or Potable Grade Water, as the case may be, to the en-route customers in accordance with Clause 29(a) and villages and / or customers adjacent to the Project Facilities in accordance with Clause 29(b), AMC may require the Concessionaire to supply Raw Water or Potable Grade Water to any other place outside the Supply Area so long as the AMC makes water resources available to the Concessionaire to enable such water supply.

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30. CHANGE IN LAW

30.1 Increase in costs

If as a result of Change in Law, the Concessionaire suffers an increase in costs or reduction in net after-tax return or other financial burden, the aggregate financial effect of which exceeds 5% (five percent) of the total Project Cost, the Concessionaire may so notify AMC and propose amendments to this Agreement so as to place the Concessionaire in the same financial position in terms of Equity IRR under Clause 30.3 as it would have enjoyed had there been no such Change in Law resulting in the cost increase, reduction in return or other financial burden as aforesaid. Upon notice by the Concessionaire, the Parties will meet, as soon as reasonably practicable, but in any event no later than 30 (thirty) days from the date of notice and either agree on amendments to the Agreement or on any other mutually agreed arrangement.

If no agreement is reached within 90 (ninety) days of the aforesaid notice, the Concessionaire may by notice require AMC to pay an amount that would place the Concessionaire in the same financial position that it would have enjoyed had there been no such Change in Law, and within 15 (fifteen) days of receipt of such notice, along with particulars thereof, AMC will pay the amount specified therein to the Concessionaire; provided that if AMC disputes such claim of the Concessionaire, the same will be settled in accordance with the dispute resolution procedure as set out in Clause 37. For the avoidance of doubt, it is agreed that this Clause 30.1 will be restricted to Change in Law directly affecting the Concessionaire's costs of performing its obligations under this Agreement.

30.2 Reduction in costs

If, as a result of Change in Law, the Concessionaire benefits from a reduction in costs or increase in net after-tax return or other financial gains, the aggregate financial effect of which exceeds 5% (five percent) of the total Project Cost, AMC may so notify the Concessionaire and propose amendments to this Agreement so as to place the Concessionaire in the same financial position in terms of Equity IRR under Clause 30.3 as it would have enjoyed had there been no such Change in Law resulting in the decreased costs, increase in return or other financial gains as aforesaid. Upon notice by AMC, the Parties will meet, as soon as reasonably practicable, but no later than 30 (thirty) days from the date of notice, and either agree on such amendments to this Agreement or on any other mutually agreed arrangement.

If no agreement is reached within 90 (ninety) days of the aforesaid notice, AMC may by



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notice require the Concessionaire to pay an amount that would place the Concessionaire in the same financial position that it would have enjoyed had there been no such Change in Law, and within 15 (fifteen) days of receipt of such notice, along with particulars thereof, the Concessionaire will pay the amount specified therein to AMC; provided that if the Concessionaire will dispute such claim of AMC, the same will be settled in accordance with the dispute resolution procedure. For the avoidance of doubt, it is agreed that this Clause 30.2 will be restricted to Changes in Law directly affecting the Concessionaire's costs of performing its obligations under this Agreement.

30.3 Protection of the Equity IRR

Pursuant to the provisions of Clause 30.1 and Clause 30.2 and for the purposes of placing the Concessionaire in the same financial position as it would have enjoyed had there been no Change in Law affecting the costs, returns or other financial burden or gains, the Parties will rely on the Financial Model (as submitted by the Concessionaire) and make necessary adjustments in costs, revenues, compensation or other relevant parameters, as the case may be, to procure that the Equity IRR is the same as it would have been if no Change in Law had occurred.

30.4 Restriction on cash compensation

The Parties acknowledge and agree that the demand for cash compensation under this Clause 30.4 will be restricted to the effect of Change in Law during the respective Financial Year and will be made at any time after commencement of such year, but no later than one year from the close of such Financial Year. Any demand for cash compensation payable for and in respect of any subsequent Financial Year will be made after the commencement of the Financial Year to which the demand pertains, but no later than 2 (two) years from the close of such Financial Year.

31. FORCE MAJEURE

31.1 Force Majeure

The Concessionaire or AMC, as the case may be, will be entitled to suspend or excuse performance of its respective obligations under this Agreement to the extent that such performance is impeded by an event of force majeure ("**Force Majeure**").

31.2 Force Majeure events

(A) A Force Majeure event means any event or circumstance or a combination of events and circumstances referred to in this Clause, which -

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(a) is beyond the reasonable control of the affected Party;

(b) such Party could not have prevented or reasonably overcome with the exercise of reasonable skill and care;

(c) does not result from the negligence of such Party or the failure of such Party to perform its obligations under this Agreement;

(d) is of an incapacitating nature and prevents or causes a delay or impediment in performance.



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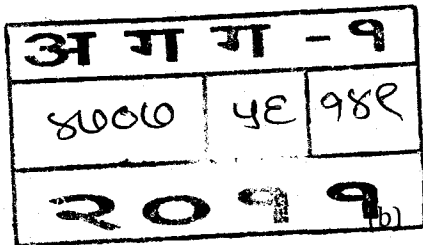
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(B) Such events include, without limitation -

(a) Non-Political Events

- (i) act of God, including earthquake, flood, inundation, landslide, exceptionally adverse weather conditions, storm, tempest, hurricane, cyclone, lightning, thunder, volcanic eruption, fire or other extreme atmospheric conditions;
- (ii) radioactive contamination or ionising radiation or biological contamination, except as may be attributable to the Concessionaire's use of radiation or radio-activity or biologically contaminating material;
- (iii) strikes, lockouts, boycotts, labour disruptions or any other industrial disturbances within the State of Maharashtra not arising on account of the acts or omissions of the Concessionaire and which affect the timely implementation and continued operation of the Project;
- (iv) in the event of a availability of Raw Water is below 50% (fifty percent) of the total allocation of Raw Water; or
- (v) any event or circumstances of a nature analogous to any of the foregoing.



(b) Political Events

- (i) Change in Law, other than any Change in Law for which relief is provided under this Agreement;
- (ii) expropriation or compulsory acquisition by the Government, the Government of Maharashtra, AMC or their respective agencies of any material assets or rights of the Concessionaire;
- (iii) unlawful or unauthorised revocation of, or refusal by the Government, the Government of Maharashtra, AMC or any of their agencies to renew or grant any clearance or Permit required by the Concessionaire to perform its obligations without valid cause, provided that such delay, modification, denial, refusal or revocation did not result from the Concessionaire's inability or failure to comply with any condition relating to grant, maintenance or renewal of such consents or Permits applied on a non-discriminatory basis;
- (iv) any judgment or order of any court of competent jurisdiction or statutory authority in India made against the Concessionaire in any proceedings for reasons other than failure of the Concessionaire to comply with Applicable Law or Permits or on account of breach thereof, or of any contract, or enforcement of this Agreement or exercise of any of its rights under this Agreement;
- (v) any requisition of the Project by the Government, the



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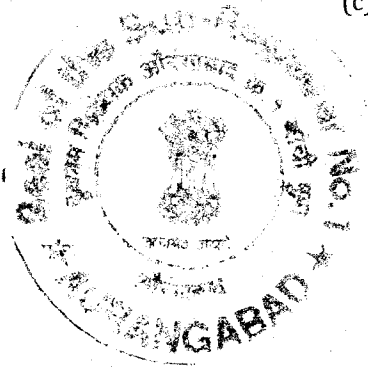
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Government of Maharashtra, AMC, any of their agencies or any other Governmental Instrumentality; or

For the avoidance of doubt, suspension of the Project in accordance with the provisions of this Agreement will not be considered a requisition for the purposes of Force Majeure event.

(c) Other Events

- (i) an act of war (whether declared or undeclared), hostilities, invasion, armed conflict or act of foreign enemy, blockade, embargo, prolonged riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage, for a continuous period exceeding 7 (seven) days.
- (ii) In the event the Raw Water quality is such that the same is beyond treatment.
- (iii) Non-availability of Raw Water for any reason whatsoever.



31.3 Exceptions to Force Majeure

The Concessionaire will not have the right to consider any of the following circumstances to be an event of Force Majeure -

- (a) late delivery of any equipment or materials where such late delivery is not attributable to Force Majeure events;
- (b) economic hardship including insufficiency of funds; or
- (c) general economic slowdown.

31.4 Notification procedure for Force Majeure

The affected Party will notify the other Party of a Force Majeure event within 7 (seven) days of the occurrence of such event. If the other Party disputes the claim for relief under Force Majeure, it will give the claiming Party written notice of such dispute within 30 (thirty) days of such notice. Such dispute will be dealt with in accordance with the dispute resolution mechanism in accordance with Clause 37. Upon cessation of the situation which led to the Party claiming Force Majeure, the relevant Party will within 7 (seven) days hereof notify the other Party in writing of the cessation and the Parties will as soon as practicable thereafter continue performance of all obligations under this Agreement.

31.5 Co-operation during an event of Force Majeure

During a Force Majeure event of any kind, if requested by AMC, the Concessionaire will provide reasonable assistance in providing Potable Grade Water to the End Users within the Supply Area. AMC will ensure that the Concessionaire will be adequately compensated for any and all such assistance provided during the Force Majeure Event.

31.6 Allocation of costs arising out of Force Majeure

- (a) Upon the occurrence of any Force Majeure Event prior to the Appointed Date,

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the Parties will bear their respective costs and no Party will 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 ("**Force Majeure Costs**") will be allocated and paid as follows -

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

(ii) upon occurrence of an Other Event of Force Majeure, all Force Majeure Costs attributable to such Other Event of Force Majeure, and not exceeding the Insurance Cover for such Other Event, will be borne by the Concessionaire and to the extent Force Majeure costs exceed such Insurance Cover, one half of such excess amount will be reimbursed by AMC to the Concessionaire; and

(iii) upon occurrence of a Political Event, all Force Majeure Costs attributable to such Political Event will be reimbursed by AMC to the Concessionaire.

(iv) The Force Majeure Costs may include interest payments on debt, operation and maintenance expenses, any increase in the cost of the Works on account of inflation and all other costs directly attributable to the Force Majeure Event, but will not include loss of revenues or debt repayment obligations and for determining such costs, information contained in the Financing Model may be relied upon to the extent that such information is relevant.

(v) Save and except as expressly provided in this Clause 31, neither Party will be liable in any manner whatsoever to the other Party in respect of any loss, damage, costs, 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 hereof.

31.8 Consultation and duty to mitigate

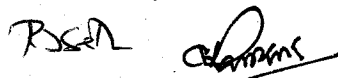
Except as otherwise provided in this Clause 31.8, the affected Party will, at its own cost, take all steps reasonably required to remedy and mitigate the effects of the Force Majeure event and restore its ability to perform its obligations under this Agreement as soon as reasonably practicable. The Parties will consult with each other to determine the reasonable measures to be implemented to minimise the losses of each Party resulting from the Force Majeure event. The affected Party will keep the other Parties informed of its efforts to remedy the effect of the Force Majeure event and will make reasonable efforts to mitigate such event on a continuous basis and will provide written notice of the resumption of performance hereunder.

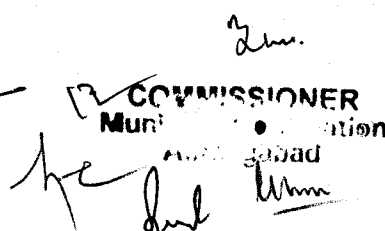
32. MATERIAL BREACH

32.1 Concessionaire's Material Breach during the Construction Period

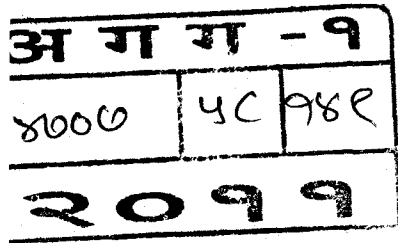
(a) During the Construction and Rehabilitation Period if the Concessionaire is in Material Breach (and AMC intends to seek compensation for such Material

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Breach), AMC will issue a notice to the Concessionaire detailing such Material Breach and provide a cure period of 90 (ninety) days.

- (b) Following such cure period, if the Concessionaire has not remedied such Material Breach, AMC will have the right to encash the Performance Security at the rate of 1% (one percent) per week or part thereof whilst such Material Breach continues.

For the avoidance of doubt it is expressly clarified that failure on the part of the Concessionaire to complete a Project Milestone within the time period stipulated in the Work Plan will not constitute a Material Breach on the part of the Concessionaire, however should the Concessionaire fail to achieve Commercial Operations Date within 36 (thirty six) months from the Appointed Date then the provisions in Clause 32.2 will apply.

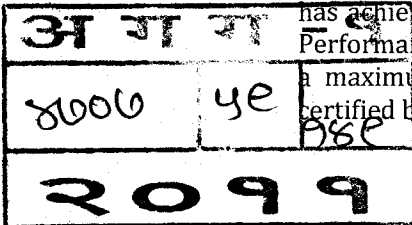


32.2 Delay in achieving Commercial Operations Date

If, on the later of -

- (a) the expiration of 36 (thirty six) months after the Appointed Date or other mutually extendable period; and
- (b) the expiration of any extended period of time for the completion of Project Milestones as provided in accordance with Clause 32.1,

the Independent Engineer acting reasonably has not certified that the Concessionaire has achieved Commercial Operations Date, then AMC will have the right to encash the Performance Security at the rate of 1% (one percent) per week or part thereof subject to a maximum of 10% (ten percent) until the Commercial Operations Date has been certified by the Independent Engineer in accordance with Clause 18.4(f)



32.3 Concessionaire's Material Breach during the Operations Period

- (a) If during the Operations and Maintenance Period the Concessionaire is in Material Breach (and AMC intends to seek compensation for such Material Breach), AMC will issue a notice to the Concessionaire detailing such Material Breach and providing a cure period of 90 (ninety) days.
- (b) Following such cure period, if the Concessionaire has not remedied such Material Breach, AMC will have the right to encash the Performance Security at the rate of 1% (one percent) per week or part thereof whilst such Material Breach continues.
- (c) In addition to the foregoing, the Concessionaire will be liable to compensate AMC for direct costs incurred due to the Concessionaire's Material Breach in excess of the Performance Security encashed.

32.4 AMC's Material Breach

- (a) Subject to Clause 25, if at any time during the Concession Period AMC is in Material Breach (and the Concessionaire intends to seek compensation for such Material Breach), the Concessionaire will issue a notice to AMC detailing such

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Material Breach and providing a cure period of 90 (ninety) days.

- (b) For the avoidance of doubt and without limitation, AMC will be in Material Breach of its obligations under this Agreement if it fails to pay the Water Payment in accordance with the time frames set out in Schedule VIII.

33. EVENTS OF DEFAULT

33.1 Concessionaire Events of Default

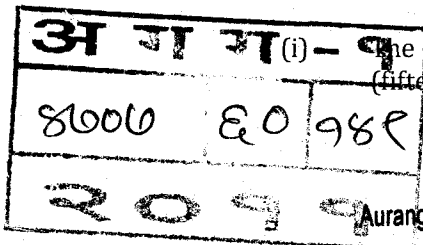
The following events and circumstances will constitute Events of Default of the Concessionaire ("**Concessionaire Events of Default**") -

- (a) a Material Breach by the Concessionaire of its obligations under this Agreement and/ or the Project Agreements which is not cured within a period of 90 (ninety) days from being given written notice by AMC in accordance with Clause 32.1, Clause 32.3, or, if such Material Breach is incapable of cure, immediately upon being given written notice by AMC;

a breach of any express representation or warranty by the Concessionaire where such breach is not remedied within 90 (ninety) days of receipt of written notice from AMC specifying such breach and requiring the Concessionaire to remedy the same or, if such breach is incapable of cure and such express representation and warranty is material, immediately upon being given written notice by AMC;

- (c) 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 AMC, a Material Adverse Effect;
- (d) repudiation of this Agreement by the Concessionaire;
- (e) the Concessionaire creates any encumbrance, charges or lien in favour of any person on the Project Assets save and except as otherwise expressly permitted under this Agreement;
- (f) the shareholding of any member of the Consortium falls below the minimum prescribed under the RFP and/or Clause 11 of this Agreement and the Concessionaire does not *suo moto* cure such default within 90 (ninety) days of its occurrence;
- (g) the transfer, pursuant to law of either (i) the rights and/or obligations of the Concessionaire under any of the Project Agreements, or (ii) all or material part of the assets or undertaking of the Concessionaire except where such transfer in the reasonable opinion of AMC does not affect the ability of the Concessionaire to perform, and the Concessionaire has the financial and technical capability to perform, its material obligations under the Project Agreements;
- (h) An event of default of the Concessionaire under any of the Financing Documents has occurred or any of the Lenders has recalled its loan under any of the Financing Documents;

(i) the Concessionaire abandons the operations of the Project for more than 15 (fifteen) consecutive days without the prior consent of AMC, provided that the



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Concessionaire will be deemed not to have abandoned such operation if such abandonment was (i) as a result of Force Majeure Event and is only for the period such Force Majeure is continuing, or (ii) is on account of a breach of its obligations by AMC;

(j) The Concessionaire suffers an execution being levied on any of its assets/ equipment causing a Material Adverse Effect on the Project and allows it to be continued for a period of 15 (fifteen) days; or

(k) The Concessionaire has delayed any payment that has fallen due under this Agreement if such delay exceeds 90 (ninety) days.

33.2 AMC Event of Default

The following events or circumstances will constitute Events of Default of AMC ("AMC Events of Default") -

(a) a Material Breach by AMC of its obligations, (other than the obligations specifically referred to in Sub-Clauses (c) and (d) of this Clause 33.2), which in each such case is not cured within a period of 90 (ninety) days from being given written notice by the Concessionaire as required under Clause 32.4 AMC's Material Breach, or, if such Material Breach is incapable of cure, immediately upon being given written notice by the Concessionaire as required under Clause 32.4;

(b) breach of any express representation or warranty by AMC where such breach is not remedied within 90 (ninety) days of receipt of written notice from the Concessionaire specifying such breach and requiring AMC to remedy the same or, if such breach is incapable of cure and such express representation and warranty is material, immediately upon being given written notice by the Concessionaire;

failure of AMC to establish the Water Payment Reserve Account within 15 (fifteen) days from the Appointed Date, which failure has not been cured within 15 (fifteen) days of the Concessionaire notifying the AMC in writing, of the same;

(d) failure of AMC to replenish the Water Payment Reserve Account within 15 (fifteen) days of the Concessionaire validly drawing on such account in accordance with this Agreement which failure has not been cured within 30 (thirty) days of the Concessionaire notifying the AMC in writing, of the same; and

(e) repudiation of this Agreement by AMC.

34. TERMINATION

34.1 Right to terminate for an Event of Default

(a) On the occurrence of Event of Default, the non-defaulting Party will have the right to issue a notice ("**Notice of Intention to Terminate**") to the other Party. Such notice will specify in reasonable detail the Event of Default giving rise to the Notice of Intention to Terminate.

(b) Following the issuance of such Notice of Intention to Terminate, the Parties will



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consult on a best efforts basis for a period of 30 (thirty) days, or such longer period as the Parties may agree in writing, as to what steps will be taken (including re-negotiation of this Agreement) with a view towards preventing termination of this Agreement and/or curing the relevant Event of Default.

Following the expiration of such consultation period, should the non-defaulting Party determine that such Event of Default cannot be remedied; the non-defaulting Party will have the right to terminate this Agreement by issuing a notice ("Termination Notice") to the defaulting Party for termination of this Agreement.

(d) If AMC issues a Notice of Intention to Terminate in accordance with Clause 34.1(a), it will deliver a copy of the same to the Account Bank.

34.2 Right to terminate for an event of Force Majeure

Either Party will have the right to terminate this Agreement for an Event of Force Majeure if such Event of Force Majeure materially affects the ability to perform its obligations for a continuous period of 6 (six) months.

34.3 Termination payments for Concessionaire Event of Default

If the termination is on account of a Concessionaire Event of Default, the AMC will be entitled to receive from the Concessionaire by way of termination payment an amount equal to the Debt Due less Insurance Cover. The AMC will be able to encash the Performance Security towards any termination payments due from the Concessionaire.

34.4 Termination payments for AMC Event of Default

If the termination is on account of an AMC Event of Default, the Concessionaire will be entitled to receive from AMC by way of termination payment an amount equal to -

- (a) the Debt Due less Insurance Cover;
- (b) Adjusted Equity; and
- (c) such amount so as to fulfil the Concessionaire's obligations to its employees or the employees of any Project Contractor to provide just and fair compensation for their termination of employment.

34.5 Termination payments in the event of Force Majeure

(a) If the Termination is on account of a Non Political Event of Force Majeure, the Concessionaire will be entitled to receive from AMC by way of termination payment an amount equal to the Debt Due less Insurance Cover.

(b) If the Termination is on account of a Political Event of Force Majeure, the Concessionaire will be entitled to receive from AMC by way of termination payment an amount equal to the Debt Due, less Insurance Cover, plus the Adjusted Equity.

(c) If the Termination is on account of any Other Event of Force Majeure, the Concessionaire will be entitled to receive from AMC by way of termination

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payment an amount equal to the Debt Due less Insurance Cover.

34.6 Handing over of the Project Facilities and defects liability

- (a) On the expiration of the Concession Period or its earlier termination, the Project Facilities will be such that they are fully operational as intended under this Agreement and require only a continuation of the programme of continuous maintenance, as performed regularly by the Concessionaire during the Concession Period, in order to maintain this fully operational condition.
- (b) The Independent Engineer will inspect the Project 3 (three) months prior to the expiration of the Concession Period to evaluate whether the Project Facilities are in fully operational condition.
- (c) Subsequent to such inspection and evaluation, the Independent Engineer may require that the Concessionaire undertake operation and maintenance /renewal work prior to the handing over of the Project in order to ensure that the Project Facilities satisfy the criterion prescribed in Clause 34.6(a).

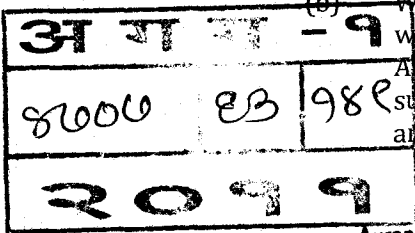
If the estimated cost of the operation, maintenance/renewal works is greater than the Performance Security, for a maximum of 3 (three) months prior to the expiration of the Concession Period, AMC may withhold Water Payments up to an amount equal to the shortfall until the operation, maintenance/renewal works have been completed to the reasonable satisfaction of the Independent Engineer.

- (e) If AMC withholds Water Payments pursuant to this Clause 34.6, the Concessionaire's right to draw on the Water Payment Reserve Account will be suspended until the Independent Engineer certifies that the operation, maintenance/renewal works have been completed in accordance with the requirements set out in this Agreement.
- (f) For the avoidance of doubt, should the amount of the Water Payment withheld under this Clause 34.6 and the appropriation of the Performance Security be inadequate to remediate the Project Facilities to the standard required, AMC will be entitled to direct the Concessionaire to make the Project Facilities operational as envisaged in this Agreement and if the Concessionaire fails to comply with the same within a reasonable timeframe, then AMC has the right to carry out repairs to bring them up to such condition and the Concessionaire will indemnify AMC for any such further costs (and any such further costs may be deducted from amounts payable to the Concessionaire).

34.7 Common terms relating to the transfer of the Project Site

- (a) On the expiration of the Concession Period or earlier termination, all the Project Assets, Project Facilities will be, at the discretion of AMC, handed over to AMC or its nominee on an "as is where is" basis and free from any encumbrances and each Party will execute the documents, if any, required to effect the same.

- (b) Within 10 (ten) days of either Party giving notice, AMC and the Concessionaire will meet and agree on detailed procedures for such handover of all the Project Assets, Project Facilities . At the time of such meeting, the Concessionaire will submit a detailed list of the structures, equipment, and items to be handed over and the names of its representatives in charge for such handover, and AMC will



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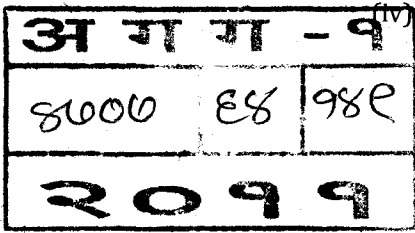
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inform the Concessionaire of the identity of its representatives in charge for such takeover.

Pursuant to such notice -

- (i) all designs, plans, manuals will be transferred to AMC and each Party will sign the relevant documents to affect the transfer.
- (ii) all costs in relation to stamp duty and registration shall be borne by AMC.
- (iii) the Concessionaire will assign to AMC or its nominee all unexpired guarantees and warranties and all Project Insurance policies if capable of assignment.



the Concessionaire will procure, the assignment or transfer of all contracts, equipment contracts, supply contracts and all other contracts in relation to the Project (including the Project Agreements), free from encumbrances and on the same terms and conditions, to AMC. The Concessionaire will procure, when negotiating and finalising the terms of these contracts and the Project Agreements, the inclusion of terms providing for such assignment or transfer.

34.8 Step in rights of Lenders

- (a) In case of a Concessionaire's Event of Default, the Lender(s) will have the right to step in to the Project under the provisions of the Substitution Agreement entered into in the form set out in Schedule XXII, subject to Clause 3.3 of the Substitution Agreement, and this Agreement.
- (b) In case of such substitution, AMC will render such assistance as the Lenders may require for exercising their rights under the Substitution Agreement to any substitute entity, provided that such substitute entity meets all requirements for such substitution, as specified under the Substitution Agreement.

35. STEP-IN RIGHTS OF AMC

35.1 AMC Step-In Event

The provisions of this Clause 35.1 will apply in the following circumstances ("AMC Step-In Events") -

- (a) the Concessionaire is in breach of this Agreement and AMC acting reasonably, considers that such breach may create an immediate and serious threat to the health or safety of the End Users (or any other person), or may result in a material interruption in the supply of Potable Grade Water; or
- (b) notwithstanding that the Concessionaire has complied with all its obligations under this Agreement, AMC acting reasonably considers that circumstances exist which constitute a public emergency, or scarcity, or that it is in the public interest for AMC (or its agent) to operate or take control of the Project or part thereof.

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35.2 Notice and steps to be taken by the Concessionaire

- (a) On the occurrence of an AMC Step-In Event, AMC acting reasonably may, by written notice, require the Concessionaire to take such steps as AMC considers necessary or expedient to mitigate or remedy such AMC Step-In Event. Such steps would include requiring the Concessionaire to take suitable actions in addition to the Concessionaire's obligations under this Agreement. For the avoidance of doubt it is expressly clarified that in acting reasonably in accordance with this Clause 35.2(a), AMC will have due regard as to whether the Concessionaire has the ability and sufficient time to comply with any such request.

Following receipt of such notice referred to in Clause 35.2(a) above, the Concessionaire will confirm receipt of such notice and use its best endeavours to comply with AMC's requirements as soon as reasonably practicable.

- (c) Any request made by AMC in accordance with this Clause 35.2 will be without prejudice to AMC's rights under Clause 33.1 or any other express right that it has under this Agreement.

35.3 Actions by AMC

In the event that -

- (a) the Concessionaire does not confirm, within 10 (ten) business days of a notice served pursuant to Clause 35.2(a) (or such shorter period as is appropriate in the case of an emergency), that it is willing to take such steps as are referred to in Clause 35.2(a);

the Concessionaire fails to take the steps notified to it by AMC pursuant to Clause 35.2(a) within such time as AMC, acting reasonably, will think fit; or

AMC if it considers in the circumstances of the particular AMC Step-In Event that the Concessionaire is not likely to be willing or able to take the necessary steps within the time frame required by AMC,

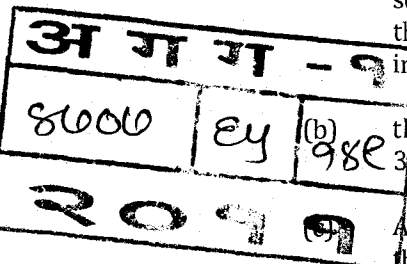
then AMC, acting reasonably, may itself take or engage others to take such steps as it considers appropriate, including such steps to ensure the continued supply of the Potable Grade Water to the standards required by this Agreement (or as close as possible to those standards as the circumstances permit).

35.4 Period of AMC Step-In

Where AMC considers it to be necessary or expedient to do so, the steps which AMC may take pursuant to this clause will include the partial or total suspension of the right and obligation of the Concessionaire to undertake the Project or part thereof, but only for so long as the AMC Step-In Event subsists.

35.5 Costs for AMC Step-In Event referred to in Clause 35.1(a)

If AMC either takes steps itself or requires the Concessionaire to take steps in accordance with this Clause 35.1 as a result of an AMC Step-In Event referred to in Clause 35.1(a) above -



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- (a) any costs or expenses incurred by the Concessionaire in taking such steps as are required by AMC pursuant to Clause 35.2(a) will be borne by the Concessionaire;
- (b) the Concessionaire will reimburse AMC for all reasonable costs, losses, expenses or damages incurred by it in relation to taking the steps, or engaging others to take the steps, referred to in Clause 35.3; and
- (c) AMC will be entitled to deduct any such amount from any amount payable to the Concessionaire under the provisions of this Agreement.

35.6 Costs for AMC Step-In Event referred to in Clause 35.1(a)

- (a) If AMC either takes steps itself or requires the Concessionaire to take such steps as AMC considers necessary or expedient to mitigate or remedy the AMC Step-In Event in accordance with this Clause 35.1(a) above -
 - (i) AMC will recover from the Concessionaire all additional direct reasonable costs, losses, expenses or damages suffered or incurred in relation to undertaking such steps over and above those that would otherwise have been incurred in the proper performance of the Concessionaire's obligations under this Agreement; and
 - (ii) any costs incurred by AMC in taking such steps or requiring the Concessionaire to take such steps will be borne by the Concessionaire.
- (b) Any costs payable by AMC pursuant to this Clause 35 will be invoiced by the Concessionaire as part of the Water Payment (in accordance with Schedule VIII) in the Contract Month following the month in which the costs were incurred.
- (c) Any costs payable to AMC pursuant to this Clause 35 will be appropriated from the Performance Security.

35.7 Dispute as to reasonableness of AMC Step-In

To the extent that the Parties will agree, or it will be finally determined pursuant to Clause 37, that AMC was not reasonable in requiring the Concessionaire to take such steps (or in taking such steps itself) as are referred to in this Clause 35, then AMC will pay the Concessionaire all costs, losses, expenses or damages (over and above those that would otherwise have been incurred by the Concessionaire in the proper performance of its obligations under this Agreement) that are directly and reasonably incurred by the Concessionaire in complying with those requirements of AMC as are agreed or determined not to be reasonable. For the avoidance of doubt, it is acknowledged that the Concessionaire has no right to require determination before taking any such action that AMC may specify; only subsequently may it refer any dispute for determination to determine if AMC was reasonable in requiring the Concessionaire to take such steps.

35.8 Entitlement to the Water Payment where the Concessionaire is not in breach

If the Concessionaire is not in breach of its obligations under this Agreement (including its obligation to comply with the notice issued pursuant to Clause 35.2(a), then for so long as and to the extent that the steps taken pursuant to Clause 35.3, prevent the Concessionaire from carrying out any of its obligations under this Agreement -

- (a) the Concessionaire will be relieved from such obligations; and



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- (b) in respect of the period in which steps are taken, and provided that the Concessionaire provides AMC with reasonable assistance (such assistance to be at the expense of AMC to the extent incremental costs are incurred), the Water Payment due from AMC to the Concessionaire will equal the amount the Concessionaire would receive if it were satisfying all its obligations in full over such period.

35.9 Entitlement to the Water Payment where the Concessionaire is in breach

If the Concessionaire is in breach of its obligations under this Agreement as referred to in Clause 35.1(a) above, then for so long as and to the extent that steps are taken pursuant to Clause 35.3 prevent the Concessionaire from carrying out any of its obligations under this Agreement -

- (a) the Concessionaire will be relieved from such obligations; and
- (b) in respect of the period in which such steps are taken, the Water Payment due from AMC to the Concessionaire will equal the amount the Concessionaire would have received if it had been satisfying all its obligations over such period less the amount referred to in Clause 35.5(c).

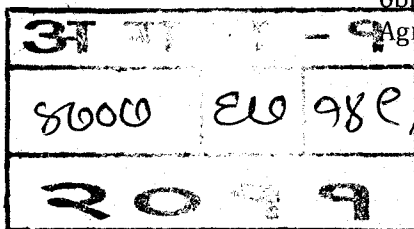
35.10 Provisions under the Project Agreements

The Concessionaire must ensure that any contracts entered into by it, including the Project Agreements contain similar clauses as this Clause 35 in order for AMC to exercise AMC's step-in rights as set out in this Clause 35.

36. INDEMNITY

36.1 General indemnity

- (a) The Concessionaire will indemnify, defend, save and hold harmless AMC and its officers, servants, agents, Government Instrumentalities and Government owned and/or controlled entities/enterprises, Independent Engineer and Independent Auditor ("AMC Indemnified Persons") against any and all suits, proceedings, actions, demands 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 any related agreement or on account of any defect or deficiency in the provision of services by the Concessionaire to any End User (including any services provided on behalf of AMC), except to the extent that any such suits, proceedings, actions, demands and claims have arisen due to any negligent act or omission, or breach of this Agreement on the part of AMC Indemnified Persons.
- (b) AMC will indemnify, defend, save and hold harmless the Concessionaire, Independent Engineer and Independent Auditor against any and all suits, proceedings, actions, demands and third party claims for any loss, damage, cost and expense of whatever kind and nature arising out of (i) defect in title and/or the rights of AMC in the land comprised in the Project Site, (ii) any breach of any AMC representations or warranties under this Agreement and the Water Payment Reserve Account Agreement and/or (iii) breach by AMC of any of its obligations under this Agreement and the Water Payment Reserve Account Agreement, which materially and adversely affect the performance by the



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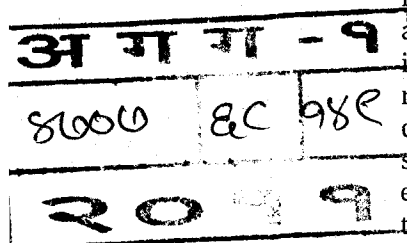
Concessionaire of its obligations under these agreements, including obligations in relation to rehabilitation and resettlement, save and except that where any such claim, suit, proceeding, action, and/or demand has arisen due to a negligent act or omission, or breach of any of its obligations under any provision of this Agreement and the Water Payment Reserve Account Agreement; and/or breach of its statutory duty on the part of the Concessionaire, its subsidiaries, affiliates, contractors, servants or agents, the same will be the liability of the Concessionaire.

36.2 Indemnity by the Concessionaire

(a) Without limiting the generality of Clause 36.1, the Concessionaire will fully indemnify, hold harmless and defend AMC and AMC 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 Law and 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 Clause 36.1, the Concessionaire will fully indemnify, hold harmless and defend AMC Indemnified Persons from and against any and all suits, proceedings, actions, claims, demands, liabilities and damages which AMC 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 Project 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 will 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 will promptly make every reasonable effort to secure for AMC a licence, at no cost to AMC, authorising continued use of the infringing work. If the Concessionaire is unable to secure such licence within a reasonable time, the Concessionaire will, at its own expense, and without impairing the Service Level Requirements, 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.



36.3 Notice and contest of claims

In the event that either Party receives a claim or demand from a third party in respect of which it is entitled to the benefit of an indemnity under this Clause 36, (the "Indemnified Party") it will notify the other Party (the "Indemnifying Party") within 15 (fifteen) days of receipt of the claim or demand and will not settle or pay the claim

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without the prior approval of the Indemnifying Party, which approval will 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.

36.4 Defence of claims

(a) The Indemnified Party will 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 will be indemnified by the Indemnifying Party. If the Indemnifying Party acknowledges in writing its obligation to indemnify the Indemnified Party in respect of loss to the full extent provided by this Clause 36, the Indemnifying Party will 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 will 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 will 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 36.3, the Indemnified Party will not be entitled to settle or compromise any claim, action, suit or proceeding without the prior written consent of the Indemnifying Party (which consent will not be unreasonably withheld or delayed).

(c) If the Indemnifying Party exercises its rights under Clause 36.3, the Indemnified Party will 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 will be at the expense of the Indemnified Party, when and as incurred, unless -

(i) the employment of counsel by such party has been authorised in writing by the Indemnifying Party;

(ii) the Indemnified Party will 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 will, in fact, have employed independent counsel reasonably satisfactory to the Indemnified Party, to assume the defence of such action and will have been so notified by the Indemnified Party; or

(iv) the Indemnified Party will have reasonably concluded and specifically notified the Indemnifying Party either -

(A) that there may be specific defences available to it which are different from or additional to those available to the

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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:

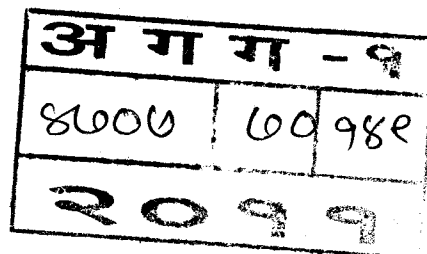
Provided that if Sub-clauses (ii), (iii) or (iv) of this Clause 36.4(c) will be applicable, the counsel for the Indemnified Party will have the right to direct the defence of such claim, demand, action, suit or proceeding on behalf of the Indemnified Party, and the reasonable fees and disbursements of such counsel will constitute legal or other expenses hereunder.

36.5 No consequential claims

Notwithstanding anything to the contrary contained in this Clause 36, the indemnities herein provided will 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.

36.6 Survival on Termination

The provisions of this Clause 36, will survive termination.



37. DISPUTE RESOLUTION

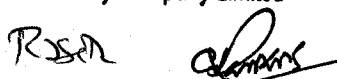
37.1 Amicable resolution



- (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") will, in the first instance, be attempted to be resolved amicably by the Parties within 30 (thirty) days from the date of the aforesaid notification. In order to assist in the amicable resolution of such a dispute either Party may call on the Independent Engineer and/or the Independent Auditor to be present during such attempts at resolution.
- (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.
- (c) If a dispute arises as to the amount of compensation payable in accordance with this Agreement, including compensation under Clause 19.2 and Clause 35, notwithstanding the specific rights and obligations provided in these clauses, the Parties agree to pay each other any amount not in dispute as an interim settlement pending final resolution of such dispute.

37.2 Arbitration

- (a) Any Dispute which is not resolved amicably, as provided in Clause 37.1, will be finally decided by reference to arbitration in accordance with Clause 37.2(b). Such arbitration will be subject to the provisions of the Arbitration and

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Conciliation Act 1996. The venue of such arbitration will be Aurangabad and the language of arbitration proceedings will be English and/or Marathi.

- (b) There will be a board of three arbitrators, of whom each Party will select one, and the third arbitrator will be appointed by the two arbitrators so selected.
- (c) The arbitrator(s) appointed under the provisions of Clause 37.2(b) will be a qualified engineer and have working knowledge of Applicable Law. The Cost of the arbitration, including but not limited to the fees of the arbitrators will be borne equally by the Parties.

The arbitrators will make a reasoned award (the "Award"). Any Award made in any arbitration held pursuant to this Clause 37 will be final and binding on the Parties as from the date it is made, and the Concessionaire and AMC agree and undertake to carry out such Award without delay.

- (e) The Concessionaire and AMC agree that an Award may be enforced against the Concessionaire and/or AMC, as the case may be, and their respective assets wherever situated.
- (f) This Agreement and the rights and obligations of the Parties will remain in full force and effect, pending the Award in any arbitration proceedings hereunder.

38. MISCELLANEOUS

38.1 Assignment and charges

Save as otherwise as expressly permitted under this Agreement, this Agreement will be binding on and enure for the benefit of each Party's successors in title. No Party will assign, or declare any trust in favour of a third party over all or any part of the benefit of, or its rights or benefits under, this Agreement.

38.2 Intellectual Property

- (a) The Concessionaire warrants to AMC that -

(i) the Concessionaire owns or has obtained licenses to use, or will own or will obtain licenses to use, at the relevant time, all Intellectual Property rights in any Proprietary Information provided by the Concessionaire and necessary for performance of the Concessionaire's obligations under this Agreement; and

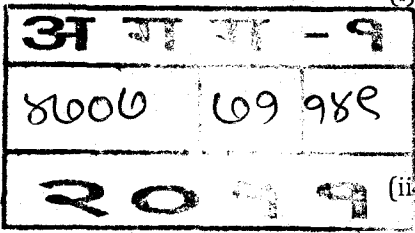
(ii) the performance of the Concessionaire's obligations under this Agreement will not infringe any other person's Intellectual Property rights.

- (b) This warranty survives the termination of this Agreement.
- (c) If the Concessionaire is in any way prevented from performing its obligations or exercising its rights under this Agreement as a direct or indirect consequence of any claim for the alleged breach of any Intellectual Property right, the Concessionaire must -

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- (i) inform AMC of that fact as soon as reasonably practicable; and
- (ii) at its sole cost take all steps necessary to defend the claim and secure the right to perform its obligations or exercise its rights in the manner intended.

(d) If the Concessionaire is unsuccessful in the proceedings referred to in Clause 38.2(c), or is otherwise unable to secure the right to perform its obligations or exercise its rights under this Agreement within the time required by AMC, the Concessionaire will take such steps or carry out such modifications, at no cost to AMC and to the full satisfaction of AMC, to ensure that the Concessionaire can perform its obligations and exercise its rights under this Agreement.

38.3 Governing law and jurisdiction

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

38.4 Waiver of immunity

AMC unconditionally and irrevocably -

- (a) agrees that the execution, delivery and performance by it of this Agreement and the matters contemplated hereby 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, no immunity (whether by reason of sovereignty or otherwise) from such proceedings will be claimed by or on behalf of AMC with respect to its assets, property or revenues;

(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).

38.5 Variation

This Agreement may only be varied in writing and signed by both Parties.

38.6 Delayed payments

The Parties agree that payments due from one Party to the other Party, excluding the Water Payments, will be made within 15 (fifteen) days of receiving a demand along with the necessary particulars, unless otherwise provided in this Agreement in relation to a particular payment or demand. In the event of delay beyond such period, the defaulting Party will pay interest for the period of delay calculated at a rate equal to 2% (two

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percent) above the Bank Rate, and recovery thereof will be without prejudice to the rights of the Parties under this Agreement including termination thereof.

38.7 Waiver

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 -

- (a) will 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) will not be effective unless it is in writing and executed by a duly authorised representative of the Party; and
- (c) will not affect the validity or enforceability of this Agreement in any manner.

38.8 Exclusion of implied warranties

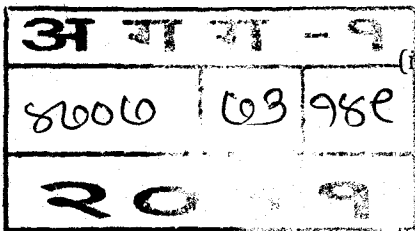
- (a) This Agreement expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties or any representation by either Party not contained in a binding legal agreement executed by both Parties.
- (b) Furthermore, subject to the express warranty provided in Clause 9.2(h), this Agreement expressly excludes any warranty, condition or other undertaking in relation to any information or representation made by either Party during any consultation process (whether formal or informal) during the bidding process for the Project.

38.9 Survival

- (a) Termination or expiration of the Concession Period will -
 - (i) not relieve the Concessionaire or AMC, as the case may be, of any obligations hereunder which expressly or by implication survive 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 expiration or arising out of such termination or expiration.
- (b) All obligations surviving termination or expiration of the Concession Period will only survive for a period of 1 (one) year following the date of such termination or expiration of the Concession Period.

38.10 Entire Agreement

This Agreement and the Schedules together with the any addendum/amendments to this Agreement, the Letter of Award; the Letter of Intent, the clarifications issued by AMC dated September 22, 2010, November 03, 2010 and November 18, 2010, the



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Amendment/Corrigendum to the Request for Proposal (if any) and Request for Proposal constitutes the complete and exclusive statement of the terms of this Agreement between the Parties on the subject hereof, and no amendment or modification hereto will 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.

38.11 Severability

(a) 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 will 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.

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Notwithstanding anything to the contrary contained elsewhere in this Agreement, the Parties agree that any failure to agree upon any such provisions will not be subject to the dispute resolution procedure set forth under this Agreement or otherwise.

38.12 No partnership

This Agreement will 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 will 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 except as expressly provided under the terms of this Agreement.

38.13 Third parties

This Agreement is intended solely for the benefit of the Parties and their respective successors and permitted assigns, and nothing in this Agreement will 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.

38.14 Successors and assigns

This Agreement will be binding upon, and inure to the benefit of, the Parties and their respective successors and permitted assigns.

38.15 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 will be in writing and will be given by hand delivery, recognised courier, registered post or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set forth below -

If to AMC:

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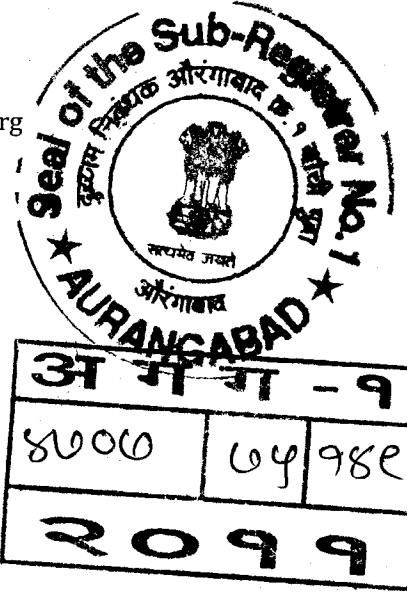
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Municipal Corporation
Aurangabad

The Commissioner
Aurangabad Municipal Corporation
Town Hall
Aurangabad 431001
Maharashtra, India
Phone: +91-240-2331194
Fax: +91-240-2331213
E-mail: contact@aurangabadmahapalika.org

If to Concessionaire:

Mr. Sushil Sethi
Managing Director,
SPML Infra Limited
Plot no. 65, Sector 32,
Gurgaon 122 001
Phone: +91-11-46861200
Fax No. +91-11-46861222
E-mail: info@spml.co.in



38.16 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 will be in writing and in the English and / or Marathi language.

38.17 Counterparts

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

38.18 Mitigation

Without prejudice to any express provisions of this Agreement on any mitigation obligations of the Parties, each of AMC and the Concessionaire will at all times take all reasonable steps to minimise and mitigate any loss for which the relevant Party is entitled to bring a claim against the other Party pursuant to this Agreement.

38.19 Removal of Difficulties

The Parties acknowledge that it is conceivable that the Parties may encounter difficulties or problems in the course of implementation of the Project and the transactions envisaged under this Agreement. The Parties agree and covenant that they will mutually discuss such difficulties and problems in good faith and take all reasonable steps necessary for removal or resolution of such difficulties or problems.

38.20 Stamp Duty

Notwithstanding anything to the contrary contained elsewhere in this Agreement, all charges and expenses including stamp duty and registration charge, if any, relating to this Agreement or arising in relation to this Agreement, or any amendment of this agreement or substitution agreement will be borne by Concessionaire or the selectee as the case may be.

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38.21 Security

It is agreed that the Concessionaire shall be entitled to create one or more encumbrances, charges or lien in favour of its Lenders, over all rights of the Concessionaire under the Project Agreements and receivables of the Concessionaire.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED

SIGNED, SEALED AND DELIVERED

For and on behalf of Aurangabad City Water Utility Company Limited by:

For and on behalf of AMC by:

Risha

Dr. Purushottam N. Bhapkar

(Signature)
RISHABH SETHI
DIRECTOR
206, MARTHANDA BUILDING,
ABOVE CANARA BANK,
DR. ANNIE BESANT ROAD,
WORLI NAKA, MUMBAI, INDIA
FAX NO: 022-24 944547

(Signature)
DR. PURUSHOTTAM N. BHAPKAR
COMMISSIONER
AURANGABAD MUNICIPAL CORPORATION
AURANGABAD
FAX NO: 0240 2331213

Common seal of Aurangabad municipal Corporation Affixed before us.



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(Signature)
C VENKATARAMANA
AUTHORIZED SIGNATORY
513/A, 5th FLOOR, KOHINOOR CITY,
L.B.S MARG, KURLA (W), MUMBAI, INDIA
FAX NO: 022- 66012300

Dr. Commissioner
Dy. Commissioner
Municipal Corporation
Aurangabad

Municipal Secretary
Municipal Secretary,
Municipal Corporation Aurangabad

In the presence of:

Suryakant Subhanrao Jaybhaye
1. shri. Suryakant subhanrao Jaybhaye.

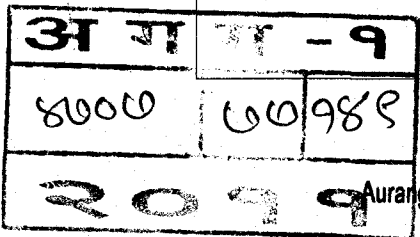
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SCHEDULE I: DEFINITIONS

Account Bank	shall have the same meaning ascribed to it in the Water Payment Reserve Account Agreement;
Adjusted Equity	<p>means the sum expressed in INR representing –(a minus b) multiplied by 115.5% (one hundred fifteen point five percent) where</p> <p>(a) means the paid up equity share capital of the Concessionaire for meeting the equity component of the Project Cost and shall for the purposes of this Agreement include convertible instruments or other similar forms of capital including shareholder loans, which shall compulsorily convert into equity share capital of the Concessionaire, and any interest-free funds advanced by any shareholder of the Concessionaire for meeting such equity component;</p> <p>(b) means any returns of equity paid or shareholder loans which have been repaid (including where such returns are paid by way of dividends, buy back, related party transaction that is not at arms length.</p> <p>For the avoidance of doubt it is clarified only those related party transactions that are not on an arms length basis shall be considered a return on equity invested or debt by a shareholder to the Concessionaire so as to be included as part of paragraph (b) above.</p>
Agreement	means this concession agreement between AMC and the Concessionaire as amended, supplemented, modified or replaced from time to time and which terms includes the Schedules to this Agreement;
AMC	shall have the same meaning as ascribed to it on the first page of this Agreement;
AMC's Conditions Precedent	shall have the same meaning as ascribed to it in Clause 5.2(b);
AMC Event of Default	shall have the meaning ascribed to it in Clause 5.2(a);
AMC Indemnified Persons	shall have the meaning ascribed to it in Clause 36.1;
AMC Step-In Event	shall have the meaning ascribed to it in Clause 35.1;
Annual Operational Support Grant	shall mean the payment made by the AMC to the Concessionaire which amount shall be indexed at the rate 6% (six percent) per annum;
Applicable Law(s)	means any statute, law, ordinance, notification, rule, regulation, judgment, order, decree, bye-law, approval, directive, guideline, policy, requirement or other governmental restriction or any similar form of decision of, or determination by, or any interpretation or administration of the Government, Government of Maharashtra or any Government Instrumentality or

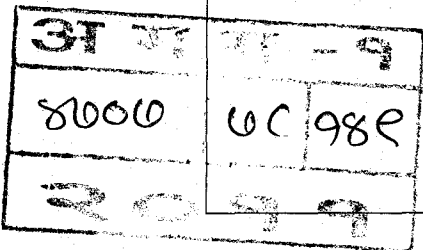


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	instrumentality thereof, as may be in effect on the date of the execution of this Agreement and during the subsistence thereof and applicable to the Project;
Appointed Date	shall have the meaning set out in Clause 5.5;
Award	shall have the meaning set out in Clause 37.2(d);
Bank Rate	means the base rate of interest specified by the State Bank of India (SBI) from time to time;
Bid	shall have the meaning ascribed to it in the Request for Proposal;
Bid Documents	means those documents as set out in Schedule XXIII and includes all subsequent amendments thereto as agreed between the Parties;
Bid Security	means the Bid Security valued at 1% (one percent) of the Project Cost being INR 7,92,00,000 (Rupees seven crore and ninety two lakhs) provided by the Consortium when submitting its response to the Request for Proposal;
C&R Performance Security	shall have the meaning set out in Clause 6.1;
CPHEEO	the Central Public Health & Environmental Engineering Organisation;
Change in Law	<p>means the occurrence of any of the following events after the date of execution of this Agreement -</p> <ol style="list-style-type: none"> enactment of any new Applicable Law (including any taxation law); the repeal in whole or in part (unless re-enacted with the same effect) or modification of any existing Applicable Law; the change in interpretation or application of any Applicable Law; the imposition of a requirement for an applicable Permit(s) (other than for cause) not required on the Appointed Date; after the date of grant of any applicable Permit(s), a change in the terms and conditions attaching to such applicable Permit(s) (other than for cause) or the attachment of any new terms and conditions to an applicable Permit(s) (other than for cause); and any applicable Permit(s) previously granted ceasing to remain in full force and effect, though there is no fault of or breach by a party (including a failure to renew), or if granted for a limited period, not being renewed on a timely basis on an application therefore having been duly made and all conditions for renewal fulfilled in good time. <p>And for the avoidance of doubt it is expressly clarified that neither</p>



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	a change in the electricity tariff (including a removal of subsidy or concessional rate) nor a change in the Raw Water charge levied (including a removal of subsidy or concessional rate) shall constitute a change in law for the purpose of this definition.
Change in Scope	shall have the same meaning ascribed to it in Clause 20.1;
Change in Scope Notice	shall have the same meaning ascribed to it in Clause 20.3(a);
Change in Scope Order	shall have the same meaning ascribed to it in Clause 20.3(f);
Collection Account	shall have the same meaning ascribed to it in Clause 22.2;
Commercial Operation Date or COD	refers to the date upon which the Independent Engineer has certified that all Project Milestones have been completed and that, in the absence of a Partial COD, the Operation and Maintenance Period shall commence;
Complainant	shall have the same meaning ascribed to it in Clause 21.6(a);
Complaints Register	shall have the same meaning ascribed to it in Clause 21.6(a);
Concession Period	shall have the same meaning ascribed to it in Clause 4(b);
Concessionaire	shall have the same meaning as ascribed to it on the first page of this Agreement;
Concessionaire's Conditions Precedent	shall have the same meaning as ascribed to it in Clause 5.2(a);
Concessionaire Event of Default	shall have the meaning ascribed to it in Clause 33.1;
Connection and Disconnection Procedure	means the policy or policies as set out in Part B of Schedule III;
Consortium	shall have the meaning ascribed to it in Recital G;
Construction and Rehabilitation Period	shall have the meaning ascribed to it in Clause 4(c)(i);
Construction and Rehabilitation Work Plan	shall have the meaning ascribed to it in Schedule XII;
Contamination	means all or any pollutants or contaminants, including any chemical or industrial, radioactive, dangerous, toxic or hazardous substance, waste or residue (whether in solid, semi-solid or liquid form or a gas or vapour) and including without limitation genetically modified organisms;
Contingency Reserve	shall have the meaning ascribed to it in Clause 19.1(c)
Contract Month	means each period commencing on the first day of each calendar month and ending on the last day of each calendar month during the Concession Period except for the first Contract Month which shall commence on the Appointed Date and the last Contract

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	Month which shall end on the date of expiration of the Concession Period or the date of its earlier termination;
Debt Due	<p>means the aggregate of the following sums expressed in Rupees outstanding and payable to the Lenders in respect of the Project under the Financing Agreements -</p> <p>(a) the principal amount of the debt provided by the Lenders under the Financing Agreements for financing the Project which is outstanding as on the date of termination of this Agreement; and</p> <p>(b) all accrued interest, financing fees and charges payable on or in respect of the debt referred to in sub clause (a) above up to the date preceding the date of handing over of the Project including: (i) penal interest or charges payable under the Financing Agreements to the Lenders; and (ii) any pre-payment charges in relation to accelerated repayment of debt;</p> <p>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;</p>
Deputation Employees	shall mean those individuals listed in Schedule XIII;
Designs and Drawings	includes the conceptual and detailed designs, working drawings and engineering, plans, backup technical information required for the Project Facilities;
Dispute	shall have the same meaning as set out in Clause 37.1(a);
End User	means any person who is within the Supply Area and supplied Potable Grade Water from the Project;
Environmental and Social Assessment Report	means the report as set out in Schedule V;
Equity IRR	means either the internal rate of return on the equity investment made by the Concessionaire referred to in the Financial Model, or 15.5% (fifteen point five percent) whichever is lesser;
Event of Default	means either the Concessionaire Event of Default or AMC Event of Default (as the case may be);
Existing Assets	means the assets and facilities set out in Schedule IX and where the context demands also refers to the such facilities following their rehabilitation and includes moveable assets such as water tankers;
Financial Model	shall mean the financial projection of the Concessionaire for the Concession Period;
Financial Year	shall mean the period commencing on April 1 of each calendar

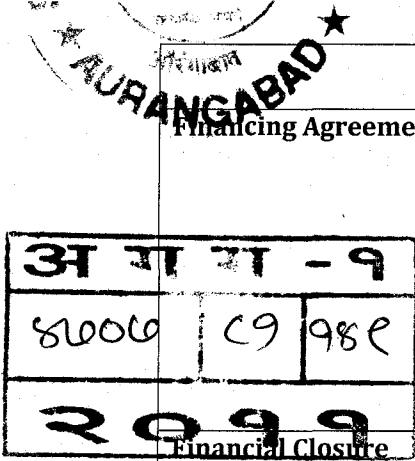
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	year and ending on March 31 of the following calendar year;
Financing Agreements	means the documents executed by the Concessionaire, if any, in respect of financial assistance (including refinancing) for the Project to be provided by the Lenders by way of loans, advances, subscription to debentures and other debt instruments and guarantees, risk participation, take-out financing, lease finance or any other form of credit enhancement for the Project and shall include loan agreements, guarantee agreements, subscription agreements, notes, debentures and any documents providing security for such financial assistance and any related documents;
Financial Closure	means the fulfilment of all conditions precedent to the initial availability of funds under the Financing Documents.
Force Majeure	shall have the meaning ascribed to it in Clause 31.1;
Force Majeure Costs	shall have the meaning ascribed to it in Clause 31.6(b);
GoM	shall mean Government of Maharashtra;
Good Industry Practice	means the exercise of that degree of skill, diligence and prudence and those practices, methods, specifications and standards of engineering, procurement, construction, equipment, safety, operation and performance, as may change from time to time and which would reasonably and ordinarily be expected to be used by a skilled concessionaire/contractor and/or operator, in the implementation, operation and maintenance and supervision of a project of the type and size similar to the Project;
Government	means the Government of India;
Government Instrumentality	means any department, division or sub-division of the Government or the Government of Maharashtra and includes any commission, board, authority, agency or municipal and other local authority or statutory body including panchayat under the control of the Government or the Government of Maharashtra, 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;
Indemnified Party	shall have the same meaning ascribed to it in Clause 36.3;
Indemnifying Party	shall have the same meaning ascribed to it in Clause 36.3;
Independent Auditor	shall mean the independent auditor appointed jointly by AMC and the Concessionaire in accordance with the terms of this Agreement;
Independent Engineer	shall mean the independent engineer appointed jointly by AMC and the Concessionaire in accordance with the terms of this Agreement;

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Insurance Cover	means the aggregate of the maximum sums insured under the insurances taken out by the Concessionaire pursuant to Clause 12, and when used in the context of any act or event, it shall mean the aggregate of the maximum sums insured and payable in relation to such act or event;
Invoice Dispute Notice	shall have the meaning ascribed to it in Clause 4 of Schedule VIII.
INR	means Indian Rupees;
Intellectual Property	means all intellectual property rights existing in worldwide including any patent, design (whether registered or not), copyright, trademark, protected circuit layout (or similar right), trade secret, confidential information or other right whether existing under statute, at common law or in equity;
Latent Defect	means a defect or deficiency in the structure, physical envelope or fabric of the Existing Assets which exists on the date of this Agreement but excluding any defect or deficiency that can be remedied through routine maintenance or life cycle maintenance;
Layout Drawings	shall have the same meaning ascribed to it in Clause 15.5;
Lead Consortium Member	shall mean the Lead Consortium Member of the Consortium as described in the Bid Documents;
Lender(s)	means the financial institutions, banks, multilateral lending agencies, trusts, funds and agents or trustees of debenture holders, including their successors and assignees, who have agreed to guarantee or provide finance or refinancing to the Concessionaire and who hold <i>pari passu</i> charge on the assets, rights, title and interests of the Concessionaire;
Letter of Award	shall mean the letter of award dated April 8, 2011 from AMC to the Consortium;
Mandatory Project Requirements	means the mandatory project requirements as detailed in the Request for Proposal;
Master Balancing Reservoir	shall have the meaning ascribed to it in Clause 2.1(c);
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 and substantial financial burden or loss to either Party or materially adversely and substantially affects or restricts or frustrates the ability of any Party to perform its obligations under this Agreement;
Material Breach	means a breach of the obligations, terms and conditions of this Agreement or covenants by a Party, which materially and substantially affects or is likely to affect the Project or the performance of the transactions contemplated by this Agreement

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and has or is likely to have a Material Adverse Effect, including those events specifically identified as Material Breaches in the Agreement and including a breach of the Parties' material obligations under the Water Payment Reserve Account Agreement as detailed in Clause 8.2 of the Water Payment Reserve Account Agreement;

MLD	means million litres per day;
MoUD	Shall have the meaning ascribed to it in Recital E;
Notice of Intention to Terminate	shall have the same meaning ascribed to it in Clause 34.1;
O&M Performance Security	shall have the meaning set out in Clause 6.2;
Operation and Maintenance Period	shall have the same meaning ascribed to it in Clause 4(c)(ii);
Partial COD	means the date upon which the Independent Engineer in consultation with AMC has certified that the Concessionaire can commence undertaking some of its obligations in relation to the Operations and Maintenance Period, notwithstanding that not all the Project Milestones have been completed;
Performance Security	means the C&R Performance Security and/or O&M Performance Security as the case may be;
Permits	means all permits, licences, approvals or similar required for the implementation of the Project;
Portion A of the Project Site	means that portion of the Project Site referred to as Portion A in Schedule VI;
Portion B of the Project Site	means that portion of the Project Site referred to as Portion B in Schedule VI;
Post-COD Service Level Requirements	means the service level requirement referred to in Part A of Schedule XXIV;
Potable Grade Water	water that shall conform to the water quality norms for Potable Grade Water as elaborated in Schedule XIV;
Pre-COD Connection and Disconnection Procedure	means the policy or policies as set out in Part A of Schedule III;
Pre-COD Service Level Requirements	means the service level requirement referred to in Part A of Schedule XXIV;
Preparatory Period	shall have the same meaning ascribed to it in Clause 4(a);



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Preparatory Obligations	Period	shall have the same meaning ascribed to it in Clause 15.1;
Premises Meter(s)		means the meters installed at each premises within the Supply Area which are used to measure the volume of Water supplied to such End User
Project		means the activities described in Clause 3;
Project Agreements		collectively include this Agreement, the engineering, procurement and construction (EPC) agreements and operation and maintenance (O&M) agreements (other than the Financing Agreements) entered into or may hereinafter be entered into by the Concessionaire in connection with the Project;
Project Assets		means all physical and other assets relating to and forming part of the Project Site including (a) rights over the Project Site in the form of licence, right of way or otherwise; (b) tangible assets such as civil works and equipment (including tankers); (c) Project Facilities situated on the Project 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) Permits and authorisations relating to or in respect of the Project;
Project Contractor		means a party contracting with the Concessionaire under a Project Agreement (other than this Agreement);
Project Cost		means the sum of INR 7,92,20,00,000 (Rupees seven hundred and ninety two crores and twenty lakhs);
Project Facilities		means the new facilities to be constructed in accordance with this Agreement and the Existing Assets (both before and during the Concession Period);
Project Grant(s)		means the grant payments as set out in Clause 19.1(a);
Project Insurance(s)		shall have the same meaning as ascribed to them in Clause 12;
Project Milestone(s)		shall have the same meaning ascribed to it in Clause 15.3(a)(i);
Project Site		means the land described in Schedule VI and includes both Portion A of the Project Site and Portion B of the Project Site;
Project Specifications		shall have the same meaning ascribed to it in Clause 1.4(d);
Proprietary Information		means information rightfully in the possession and property of a person, including a document, idea, policy, procedure, method, process, materials or other tangible or intangible thing, which information derives economic value from not being generally known to, and not being readily ascertainable by, proper means by another person who can obtain economic value from its disclosure and use, and which is the subject of reasonable efforts to maintain

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	its secrecy;
Punch List	shall have the same meaning as ascribed to it in Clause 18.4(g);
Quarterly Operational Support Grant	shall have the same meaning as ascribed to it in Schedule XV;
Raw Water	shall mean the water that shall be drawn from the Jayakwadi project water reservoir;
Request for Proposal	shall mean the request for proposal issued by AMC for the Project and included in Schedule XXIII;
Service Level Requirements	means the service level requirement referred to in Schedule XXIV;
Site Conditions	means, at any time, the condition of the Project Site including (but not limited to) climatic, hydrological, hydro-geological, ecological, environmental, geotechnical and archaeological conditions;
Sponsors	means any or all the shareholders of the Concessionaire;
Supply Area / Service Area	means the jurisdictional boundaries of AMC including en-route consumers;
Termination Notice	shall have the same meaning ascribed to it in Clause 34.1(c);
Transfer Date	means the calendar day immediately after the date of expiration of the Concession Period;
UIDSSMT	shall have the same meaning ascribed to it in Recital E;
Unforeseen Adverse Site Conditions	shall have the meaning ascribed to it in Clause 7.3 (a);
User Fees	shall mean the fees and / or charges paid by the End Users to the AMC towards consumption of the water supplied in accordance with the Schedule XVI;
User Fee Payment	means an amount equal to the amount (in INR) of User Fees collected by the Concessionaire on behalf of AMC in accordance with the terms of this Agreement for the relevant billing period. For the avoidance of doubt it is expressly clarified that the User Fee Payment will include and connection or disconnection charges.
	The User Fee Payment and Annual Operational Support Grant less cost and expenses towards Deputed Employees, Electricity charges and Raw Water charges, plus: (a) the consumer coverage loss as set out in Schedule XXIV; (b) the functionality of consumer meters loss as set out in Schedule XXIV;

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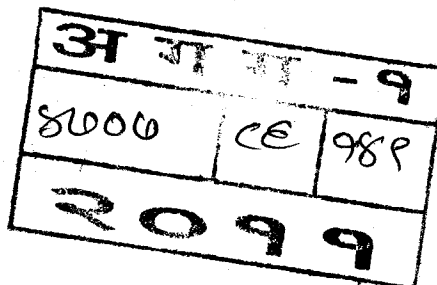
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	<p>(c) the water loss as set out in Schedule XXIV;</p> <p>(d) complaint management mechanism loss as set out in Schedule XXIV;</p> <p>(e) supply of water loss as set out in Schedule XXIV; and</p> <p>(f) portability of supply water loss as set out in Schedule XXIV.</p>
Water Payment Reserve Account	shall have the same meaning as ascribed to it in Clause 25(a);
Water Payment Reserve Account Agreement	means the agreement set out in Schedule XX;
Works	means the works relating to the development, construction, rehabilitation and operation and maintenance of the Project Facilities (singularly or collectively, as the context admits or requires) to be undertaken by the Concessionaire in accordance with the provisions of this Agreement and Good Industry Practice, and the services and things to be constructed, supplied, executed, installed, completed, tested, commissioned, rehabilitated, carried out and undertaken and any other permanent, temporary or urgent works required hereunder in respect of the Project Facilities.

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SCHEDULE II: ENROUTE CUSTOMERS

(The copy of agreements with en-route customers attached separately)



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SCHEDULE III: WATER BYELAWS

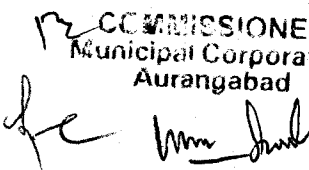
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SCHEDULE IV: CHARGES FOR SERVICE CONNECTIONS

Pipe Diameter, Inch / mm	Rates, Rs / connection
1 / 2" (15 mm)	1,420
3 / 4" (20 mm)	1,595
1" (25 mm)	1,920
1.5" (40 mm)	2,840
2" (50 mm)	3,600
3" (75 mm)	8,180
4" (100 mm)	17,185
6" (150 mm)	30,175
8" (200mm)	44,900

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SCHEDULE V: ENVIRONMENTAL AND SOCIAL ASSESSMENT REPORT

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SCHEDULE VI: PROJECT SITE AND LAND DELIVERY SCHEDULE

(To be completed during the Preparatory Period)

SCHEDULE FOR PORTION A

Sr. No	Item
1	Land for Head Works
2	Approach Bridge
3	Raw Water Pumping Main from Head Work to Paithan Road Through Irrigation Colony
4	WTP site at Pharola
5	Staff quarters at Pharola and Head Works Site
6	Pure Water Pumping Main along Approach Road to MBR Site
7	Gravity Main from MBR to Paithan Road
8	elevated service reservoir sites within Supply Area
9	Distribution system sites within Supply Area

SCHEDULE FOR POTION B

Sr. No	Item
1	Raw water pumping main along Paithan Road from Jaikwadi to WTP
2	Pure water pumping main along Paithan Road from WTP to Nakhtrawadi Approach Road
3	Gravity Main along Paithan Road to Aurangabad City
4	MBR Site

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PROJECT GRANT AND PRINCIPLES FOR SETTING UP OF PROJECT MILESTONES

Principles for setting of Project milestones and receipt of Project Grant

The Project Construction and Rehabilitation Work Plan shall have quarterly physical milestones and details of the funding required for completing each of the milestones (including quantity and rates) in the form of a Project Grant and Concessionaire's debt/equity contribution. In total 12 (twelve) milestones would be submitted and agreed between the Concessionaire and AMC. The Independent Engineer on agreeing on milestone components shall determine what constitutes 85% (eighty five percent) and 100% (one hundred percent) completion of the respective milestone.

No milestone shall be funded completely through Project Grant and Concessionaire shall necessarily be investing his share of fund in the form of debt and equity. The Project Grant component and Concessionaire's contribution would be a function of the milestone components.

Release of Project Grant

First Milestone: On the Appointed Date, AMC will release grant for the first milestone and the Concessionaire will bring in his share of funding required for this milestone.

Second Milestone: The Concessionaire will be required to complete at least 85% (eighty five percent) of the physical progress of the first milestone before raising grant demand for the next milestone. The Independent Engineer will certify the progress of the first milestone in accordance with the terms of this Agreement. Subject to completion of at least 85% (eighty five percent) of the physical progress of the first milestone, AMC will release grant for the second milestone to the extent of completion of the first milestone and the Concessionaire will bring in his share of funding required for this milestone.

Third Milestone: The Concessionaire will be required to complete at least 85% (eighty five percent) of the physical progress of the second milestone and 100% (one hundred percent) of the physical progress of the first milestone before raising grant demand for the third milestone. The Independent Engineer will certify the progress of the first and second milestone in accordance with the terms of this Agreement. Subject to the completion of 100% (one hundred percent) completion of first milestone and at least 85% (eighty five percent) completion of second milestone, AMC will release grant for the third milestone to the extent of completion of the second milestone and the Concessionaire will bring in his share of funding required for this milestone.

(By means of clarification, if the Concessionaire is able to complete 90% (ninety percent) of physical progress of first milestone, then AMC will release 90% (ninety percent) of the grant approved for the second milestone. Only after completion of the 100% (one hundred percent) of the first milestone, the entire grant approved for the second milestone shall be released.)

If in case the Concessionaire fails to complete physical progress of earlier milestones, as agreed, AMC will withhold release of grant for such milestone. In such an event the Concessionaire will bring in his own funds to maintain the pace of the Works and complete the milestones with the agreed time. The withhold grant will be released only after successful completion of all previous milestones.

This process will be applicable for each Project Milestone. If the Concessionaire is able to



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complete different milestones but faces problem with completion of certain specific milestone, AMC shall deduct the grant pertaining to that specific milestone from grant for the running milestone. However, the Concessionaire is required to continue work on other milestones. Such grant as withheld will be released only after completion of the specific milestone as agreed. For example if first milestone 1 is 85% (eighty five percent) completed and milestone two is 100% (one hundred percent) completed, then AMC will release grant for the third milestone after deducting the grant for first milestone from third milestone. If the approved grant amount for milestone turns out to be lower than the first milestone, then AMC shall not release any grant to the Concessionaire till the time he completes the first milestone.

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SCHEDULE VIII: CALCULATION OF WATER PAYMENT AND INVOICING

1. DEFINITION OF WATER PAYMENT

During the Concession Period, the Water Payment means:

(a) The User Fee Payment Less cost and expenses towards Deputed Employees, Electricity charges and Raw Water charges, and

(b) Annual Operational Support Grant

as calculated after accounting for:

(i) the consumer coverage loss as set out in Schedule XXIV;

(ii) the functionality of consumer meters loss as set out in Schedule XXIV;

(iii) the water loss as set out in Schedule XXIV;

(iv) complaint management mechanism loss as set out in Schedule XXIV;

(v) supply of water loss as set out in Schedule XXIV; and

(vi) potability of supply water loss as set out in Schedule XXIV.

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2. DELIVERY OF INVOICES

2.1 For each Contract Month, the Concessionaire shall submit to AMC by the 5th (fifth) business day of such month (or, if such day is not a business day, the immediately following business day) an invoice setting out the User Fee payable in respect of the immediately preceding month in accordance with this Agreement.

3. PAYMENT OF INVOICES

3.1 Any amount payable under an invoice shall be paid with immediately available and freely transferable cleared funds, for value within 15 (fifteen) days of receipt of such invoice, to such account of the Concessionaire as shall have been previously notified to AMC.

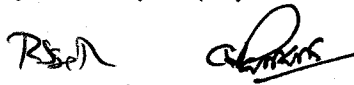
3.2 Should any Water Payment (or part thereof) due from AMC to the Concessionaire not be paid within 15 (fifteen) days of the date of receipt of such invoice, the Concessionaire shall have the right to draw on the Water Payment Reserve Account as set out in Clause 25 of the Agreement.

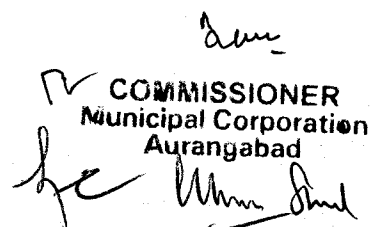
4. DISPUTED INVOICES

4.1 If AMC does not question or dispute an invoice within 15 (fifteen) days of receiving it, the invoice shall be considered correct and complete and conclusive between the Parties.

4.2 If AMC disputes any item or part of an item set out in any invoice provided in accordance

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with Clause 2.1 of this Schedule, AMC shall serve a notice (an "Invoice Dispute Notice") on the Concessionaire setting out the item or part of an item set out in such invoice which is in dispute together with its estimate of what such item or part of an item should be along with the reasons and basis of such disputed amount.

4.3 Notwithstanding that AMC has issued an Invoice Dispute Notice in accordance with Clause 4.2 of this Schedule, it shall still be required to pay to the Concessionaire the Water Payment less the disputed amount as described in the disputed invoice. After the settlement of the dispute, the disputed amount shall be paid within a period of 7 (seven) days.

4.4 In the event that the Parties do not, within 15 (fourteen) business days of the delivery of an Invoice Dispute Notice, resolve any dispute arising under clause 4.2 of this Schedule, either party may refer the matter to be determined in accordance with Clause 37 of the Agreement.

5. INCENTIVES FOR COLLECTION OF ARREARERS

During the Construction and Rehabilitation Period, AMC shall provide incentives to the Concessionaire for recovering any arrears of User Fee (as payable prior to the Appointed Date) from the End User. The incentive will be in accordance with the tabular chart set out hereinbelow and AMC shall remit such incentive along with the Water Payment on a monthly basis:

S.No.	Arrears Recovered	Incentive
1.	Upto 50%	15%
2.	50 - 75%	20%
3.	Above 75%	30%

Then incentives will be paid along with Water Payment.

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SCHEDULE IX: EXISTING ASSETS

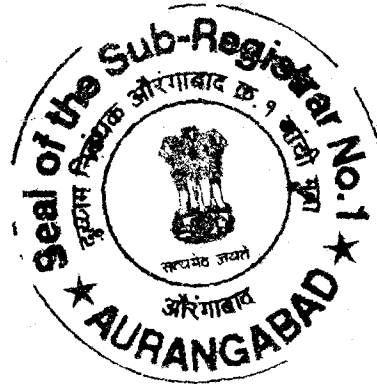
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SCHEDULE X: LIST OF DEBTORS AND ARREARS OF PAYMENT OF USER FEE

(To be completed during the Preparatory Period)

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SCHEDULE XI: RAW WATER QUALITY RANGE
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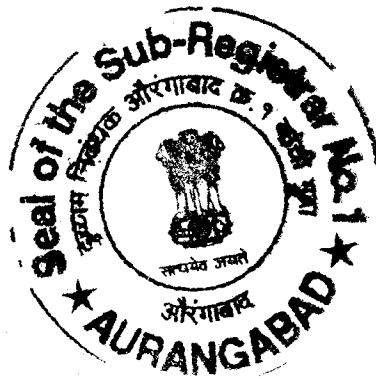
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SCHEDULE XII: CONSTRUCTION AND REHABILITATION WORK PLAN

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SCHEDULE XIII: AMC DEPUTATION EMPLOYEES

The employees employed by AMC who are required to be placed on deputation to the Concessionaire are as set out below -

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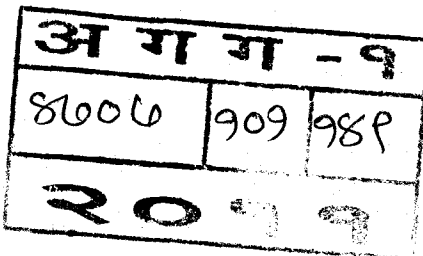
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SCHEDULE XIV: WATER QUALITY MONITORING

S. No.	Water Quality Monitoring - Key Aspects	Details																						
1	Responsibility	AMC to collect water samples																						
2	Indicators to be monitored	<table border="1"> <thead> <tr> <th>Parameter</th> <th>Treated water standards as per IS 10500 - 1992</th> </tr> </thead> <tbody> <tr> <td>pH</td> <td>6.5 to 8.5</td> </tr> <tr> <td>Colour (Hazen units)</td> <td>5 max.</td> </tr> <tr> <td>Odour</td> <td>Odourless</td> </tr> <tr> <td>Turbidity (NTU)</td> <td>5 max.</td> </tr> <tr> <td>Total hardness (mg/l)</td> <td>300 max</td> </tr> <tr> <td>Chloride (mg/l)</td> <td>250 max</td> </tr> <tr> <td>Nitrates (mg/l)</td> <td>45 max</td> </tr> <tr> <td>Residual free chlorine (mg/l)</td> <td>0.2 min</td> </tr> <tr> <td>Iron (mg/l)</td> <td>0.3 max</td> </tr> <tr> <td>Flouride (mg/l)</td> <td>0.6 max</td> </tr> </tbody> </table> <p>Note: The IS 10500 - 1992 have listed about 34 parameters for water quality monitoring. AMC on a regular basis would monitor the essential parameters as given in the table above. However, if required AMC may check on other parameters too and the Concessionaire is to adhere to all the water quality parameters.</p>	Parameter	Treated water standards as per IS 10500 - 1992	pH	6.5 to 8.5	Colour (Hazen units)	5 max.	Odour	Odourless	Turbidity (NTU)	5 max.	Total hardness (mg/l)	300 max	Chloride (mg/l)	250 max	Nitrates (mg/l)	45 max	Residual free chlorine (mg/l)	0.2 min	Iron (mg/l)	0.3 max	Flouride (mg/l)	0.6 max
Parameter	Treated water standards as per IS 10500 - 1992																							
pH	6.5 to 8.5																							
Colour (Hazen units)	5 max.																							
Odour	Odourless																							
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Nitrates (mg/l)	45 max																							
Residual free chlorine (mg/l)	0.2 min																							
Iron (mg/l)	0.3 max																							
Flouride (mg/l)	0.6 max																							
3	Frequency of monitoring	<ul style="list-style-type: none"> Twice every quarter; On case basis with respect to complaints received 																						
4	Monitoring points	<ul style="list-style-type: none"> Outlet of WTP; Inlet & outlet of MBR; Outlet of elevated service reservoir / ground service reservoir; Consumer tap - 0.25% of total water connections in a water district. (About 250 samples, evenly spread across the Service Area). 																						
5	Sample testing lab	AMC may get the samples tested from a certified laboratory																						



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SCHEDULE XV: TERMS OF PAYMENT OF ANNUAL OPERATIONAL SUPPORT GRANT

1. The Annual Operational Support Grant will be a sum of Rs. 63,00,00,000 (Rupees Sixty Three Crore) per annum (which shall be indexed annually @ of 6% (six percent) per annum (on a compounded basis) on 1st of April each year commencing from the 1st April that falls subsequent to the Appointed Date) and will be payable in four quarterly instalments, ("Quarterly Operational Support Grant").
2. The Quarterly Operational Support Grant will be divided in two parts shall be due and payable to the Concessionaire in the following manner:
 - (i) **Fixed AOSG Amount** - The fixed payment comprises of 75% of the total Quarterly Operational Support Grant ("Fixed AOSG Amount") and will be released at the beginning of each quarter.
 - (ii) **Variable AOSG Amount** - The variable payment comprises of 25% of the total Quarterly Operational Support Grant ("Variable AOSG Amount") and will be released at the end of every quarter.
3. Notwithstanding para 2(ii) hereinabove, the payment of Variable AoSG Amount to the Concessionaire shall be subject to compliance of the Service Level Requirements set out in Schedule XXIV, by the Concessionaire, on a continuous basis. The Variable AoSG Amount shall be released on approval of the Independent Engineer.
4. In the event the Concessionaire fails to achieve the Service Level Requirements on a continuous basis, AMC shall deduct the penalty amount (to be calculated as set out in 5 hereinbelow) from the Variable AoSG Amount and transfer the penalty amount to the Water Payment Reserve Account. The balance of Variable AoSG Amount after deducting the penalty amount, shall be due any payable to the Concessionaire.
5. The penalty amount shall be calculated as per Schedule XXIV.
6. AMC shall, within 15 (fifteen) days from the Appointed Date, deposit an amount equal to 1.5 (one and a half) times the Annual Operational Support Grant into the Water Payment Reserve Account.
7. The first instalment of the Fixed AoSG Amount shall be due and payable on the 15 (fifteenth) day from the Appointed Date ("Payment Date") and the successive instalments of the Fixed AoSG Amount shall be due and payable at the beginning of every successive quarter as reckoned from the Appointed Date.
8. Each instalment of the Variable AoSG Amount shall be due and payable at the end of the every quarter as reckoned from the Appointed Date.



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SCHEDULE XVI: USER FEE FOR CONCESSION PERIOD

The User Fee in the Service Area shall be fixed for the first 3 (three) years of Concession Period and Concessionaire shall be in position to charge telescopic User Fee only after Commercial Operation Date. Following table provides the User Fee for the Concession Period:

Sr.No	Concession Period	Water Charges for Household Consumers		Water Charges for Commercial (non-household) Consumers	
		Pipe Diameter, in inch	Rs/ annum	Pipe Diameter, in inch	Rs/ annum
1	Year 1 to 3	1/2	1,800	1/2	6,500
		3/4	2,925	3/4	12,000
		1	6,825	1	25,000
		1.5	30,000	1.5	70,000
		2	50,000	2	1,40,000
		3	80,000	3	2,00,000
		4	1,20,000	4	3,00,000
		6	2,00,000	6	4,00,000
		8	3,00,000	8	
		Volumetric for all pipe diameter - Rs 8/kl		Volumetric for all pipe diameter - Rs 39/kl	
		Water supply to the temporary building, volumetric for all pipe diameter - Rs 39/kl			
2	Year 4 to 6	Water Consumption, Kl/connection/month	Rate, Rs/ Kl	Rs 44 / Kilo Litre	
		0 - 8	9.00		
		8 - 17	15.00		
		17 - 23	23.00		
		Above 23	30.00		
3	Year 7 to 9	Water Consumption, Kl/connection/month	Rate, Rs/ Kl	Rs 53 / Kilo Litre	
		0 - 8	11.00		
		8 - 17	18.00		
		17 - 23	28.00		
		Above 23	36.00		
4	Year 10 to 12	Water Consumption, Kl/connection/month	Rate, Rs/ Kl	Rs 64 / Kilo Litre	
		0 - 8	14.00		
		8 - 17	22.00		
		17 - 23	34.00		
		Above 23	44.00		
5	Year 13 to 15	Water Consumption,	Rate, Rs/ Kl		



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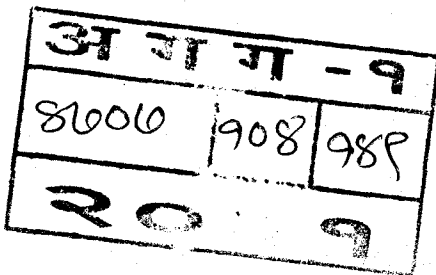
Sr.No	Concession Period	Water Charges for Household Consumers	Water Charges for Commercial (non-household) Consumers
		Kl/connection/ month	
		0 - 8	17.00
		8 - 17	27.00
		17 - 23	41.00
		Above 23	53.00
6	Year 16 to 18	Water Consumption, Kl/connection/ month	Rate, Rs/ Kl
		0 - 8	21.00
		8 - 17	33.00
		17 - 23	50.00
		Above 23	64.00
7	Year 19 to 20	Water Consumption, Kl/connection/ month	Rate, Rs/ Kl
		0 - 8	26.00
		8 - 17	40.00
		17 - 23	60.00
		Above 23	77.00

For the residential complexes having one water connection catering to multiple apartments, the Concessionaire shall charge average tariff to such connection. For example, if a connection is catering to two different apartments and having water consumption of 25 Kl / month, then the Concessionaire shall charge the water rate applicable to the slab of 8-17 Kl/connection/month and not of above 23 Kl/connection/month. The Concessionaire is required to do thorough household survey to identify such properties within the Service Area.

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SCHEDULE XVII: END USER INVOICE FORMAT



Aurangabad Municipal Corporation
Town Hall, Aurangabad 431 001

Customer Number	Due Date
xxxx	Dd/mm/yy
Amount due by Due Date	Amount due after Due Date
Rs. xxxx	Rs. xxxx


To avoid late fees, payments must be received in our office no later than the Due Date.
Make cheque payable to "_____"

Customer Name
Address

Customer Name	Meter Number	Meter Size inch	Meter Reading, KL		Usage of water KL/two months	Description
			Previous	Current		
xxxx	xxxx	xxxx	xxxx	xxxx	xxxx	Water usage xxxx KL Water charges, Rs./KL. xxxx Previous balance Rs. xxxx Late fee Rs. xxxx Current payment Rs. xxxx Total amount due Rs. xxxx

----- Customer Copy -----

Cut off date - dd/mm/yy



Aurangabad Municipal Corporation
Town Hall, Aurangabad 431 001

Customer Details	
Name of customer	Meter no
Billing date - dd/mm/yy	Due date - dd/mm/yy
Bill amount Rs. xxxx	
Billing period - dd/mm/yy to dd/mm/yy	

Office hours	0700 to 1900
Customer service helpline	Ph 112/314/516/718/9
	Fax 1/2
	email:
	website
Customer service helpline, after office hours	Ph 1/2

Instruction to consumer:

1. The bill amount must be paid on or before Bill Due Date;
2. In case of non-payment of bill amount within 15 (fifteen) days of Bill Due Date, Aurangabad Municipal Corporation (AMC) shall disconnect water connection by giving 48 hours notice;
3. In case of non-payment of any past due, the AMC shall disconnect water connection by giving 48 hours notice;
4. The consumer should maintain water meter in good & clean condition; the water meter should be placed in such a way that meter reader could easily take the reading; the meter should be made available to the meter reader immediately, without any notice;
5. The consumer, without the permission of AMC, must not change meter position, replace existing meter, install new meter, repair existing meter and or any other changes; in such cases the sole responsibility lies on consumer;
6. The consumer should protect water meter from any theft and / or tampering; the consumer shall be sole responsible in such cases;

The consumer will be charged based on her consumption of water;



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8. Any grievances relating to the water meter, meter reading, water charges, supply of water must be addressed to "[•]" in writing within five days of incidence; the consumer should mention meter number in the complaint;
9. The consumer can pay her water bill by cheque drawn on "_____"; on the back of the cheque please mention name of the consumer, meter number, billing period and ward office;
10. The AMC shall take necessary action against consumer under 'Negotiable Instrument Act' if in case non-clearance of the cheque;
11. The consumer must inform AMC within 48 hours, in case of any damage of the water meter;
12. If the consumer defaults on any of above terms & conditions, the AMC shall disconnect water connection within 48 hours by providing notice to the consumer; and
13. If in case consumer fails to inform AMC about defects in the water meter for four consecutive months, water connection shall be disconnected within 24 hours without any notice to the consumer.

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SCHEDULE XVIII: REPORTING REQUIREMENTS

A list of reports required to be submitted by the Concessionaire to AMC and Independent Engineer are given below. Apart from these, the Concessionaire should submit any additional reports as required under the Agreement or to meet compliance, regulatory and oversight requirements of the Project, as required by AMC, Independent Engineer, Independent Auditor and other regulatory / compliance enforcement authorities.

A. During Construction Period

The Concessionaire will submit the following reports during the Construction Period to AMC and Independent Engineer -

1. Monthly and quarterly progress report - Physical and financial progress of the Project;
2. Project Grant utilization certificate;
3. Monthly water quality report (for raw and treated water);
4. Monthly water production report;
5. Quarterly report on installation of water bulk production meters;
6. Quarterly report on installation of water bulk distribution meters;
7. Quarterly report on coverage of consumers within Supply Area;
8. Quarterly report on household survey;
9. Quarterly report on status of the consumer complaint recording and monitoring system;
10. Quarterly report on computerized billing and collection system; and
11. Quarterly report on installation of meters at consumer connections

B. During Operations and Maintenance Period (Post COD)

1. Monthly water quality report;
2. Monthly water production report;
3. Quarterly report on coverage of consumers within Supply Area;
4. Quarterly report on functionality status of meters at consumer end;
5. Quarterly report on water loss;
6. Quarterly report on complaints and redress of complaints;
7. Quarterly report on water availability within Supply Area;



Aurangabad City Water Utility Company Limited

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8. Yearly audited balance sheet and profit & loss statements with all schedules, in a format as described by Securities and Exchange Board of India for any listed entity; and
9. Quarterly unaudited balance sheet and profit & loss statements with all schedules, in a format as described by Securities and Exchange Board of India for any listed entity.

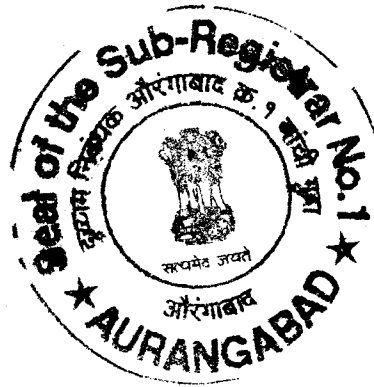
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SCHEDULE XIX: FEE FOR SUPPLY OF POTABLE GRADE WATER TO THE END USERS BY TANKER

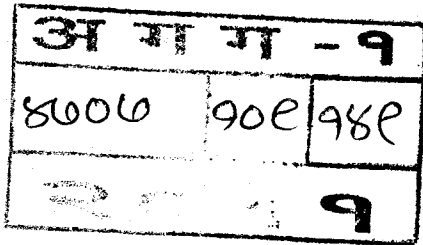
S. No.	Concession Period	User Charges for the potable water supplied by tanker Rs / per 10 kilo liters
1	Year 1 - 3	500
2	Year 4 - 6	625
3	Year 7 - 9	775
4	Year 10 - 12	975
5	Year 13 - 15	1225
6	Year 16 - 18	1525
7	Year 19 - 20	1900

AMC supplies Potable Grade Water by tanker to a population of about 40,000 on an alternate day, i.e. Potable Grade Water to 20,000 consumers by tankers on a daily basis at a rate of Rs 900/annum/household. During the Construction Period, before providing distribution network and metering of the connection, the Concessionaire shall continue to supply Potable Grade Water to these End Users by tanker at the same rate.

Aurangabad City Water Utility Company Limited

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SCHEDULE XX: WATER PAYMENT RESERVE ACCOUNT AGREEMENT

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WATER PAYMENT RESERVE ACCOUNT AGREEMENT

AMONGST

AURANGABAD CITY WATER UTILITY COMPANY LIMITED

AND

**[•]
(Financial Institution/ Bank)**

AND

AURANGABAD MUNICIPAL CORPORATION

Aurangabad City Water Utility Company Limited

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Deputy Commissioner
Municipal Corporation
Aurangabad
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WATER PAYMENT RESERVE ACCOUNT AGREEMENT

THIS AGREEMENT is made on this the [•] day of [•] [•] at Aurangabad, Maharashtra, India.

AURANGABAD CITY WATER UTILITY COMPANY LIMITED, a company incorporated under the Companies Act, 1956 having its registered office at 206 Marthanda Building, above Canara Bank, Dr Annie Besant Road, Worli Naka, Mumbai, India (hereinafter referred to as **"the Concessionaire"**, which expression shall, unless the context otherwise requires, include its permitted successors and assigns);

[•] [name and particulars of the Account Bank] having its registered office at [•] (hereinafter referred to as the **"Account Bank"** which expression shall, unless the context otherwise requires, include its permitted successors and assigns);

AND

AURANGABAD MUNICIPAL CORPORATION, represented by municipal commissioner, (hereinafter referred to as **"AMC"**, which expression shall, unless the context otherwise requires, include its permitted successors and assigns).

Each of the parties mentioned above, are collectively referred to **"Parties"** and individually as a **"Party"**.

INTRODUCTION

1. In order to improve water availability and quality of services level in the city of Aurangabad, AMC has planned a comprehensive water supply project, being the Project for the city.
2. AMC has granted the Concessionaire a 20 (twenty) year concession to undertake the Project on its behalf, on terms substantiated in the Concession Agreement dated September 22, 2011.
3. As consideration for undertaking the Project, the Concessionaire shall be paid, amongst other things, a monthly Water Payment by AMC pursuant to the provisions of Clause 10.1(b) and Clause 26 of the Concession Agreement.
4. To secure the timely payment of the Water Payment to the Concessionaire, AMC has also agreed to deposit an amount equal to 1.5 (one and a half) times the Annual Operational Support Grant into an escrow bank account held with a reputable bank in India (being the Account) within 15 (fifteen) days from the Appointed Date in accordance with Clause 25 of the Concession Agreement, which amount shall be periodically increased by AMC such that the amounts in the Account reflect, at all times, an amount equivalent to 1.5 times the then applicable Annual Operational Support Grant.
5. The Parties acknowledges that should AMC fail to make the Water Payment in accordance with Clause 10.1(b) and Clause 26 of the Concession Agreement, the Concessionaire shall have the right to recover such payment from the Water Payment Reserve Account in accordance with this Agreement as provided under Clause 25(b) of the Concession Agreement.
6. This Agreement is being entered into as a security measure and the Concessionaire shall only have the right to draw on the Account in the event that AMC has failed to pay the

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Water Payment in accordance with the Concession Agreement.

NOW THEREFORE, in consideration of the mutual covenants, promises, assurances, representations and provisions set forth herein, the Parties hereto agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Terms and expressions used in this Agreement (including the Introduction) shall have the meanings set out below -

Agreement means this Water Payment Reserve Account Agreement and any amendment or modification made to this agreement in accordance with the provisions contained hereof;

Account shall have the meaning ascribed thereto in Clause 2.1(a);

Account Default shall have the meaning ascribed thereto in Clause 8.1;

Award shall have the meaning ascribed thereto in Clause 10.2(c);

Cessation Date shall have the meaning ascribed thereto in Clause 6.7;

Cessation Notice shall have the meaning ascribed thereto in Clause 6.7;

Concession Agreement means the concession agreement dated September 22, 2011 between AMC and the Concessionaire;

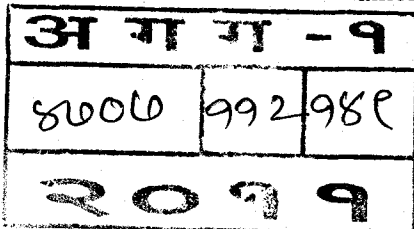
Dispute shall have the meaning ascribed thereto in Clause 10.1(a); and

Successor Account Bank shall have the meaning ascribed thereto in Clause 6.7.

1.2 Interpretation

In this Agreement, unless otherwise specified -

- (a) references to Clauses, Sub-Clauses, Paragraphs and Schedules are to clauses, sub-clauses, and paragraphs of, and schedules to, this Agreement;
- (b) use of any gender includes the other genders;
- (c) references to a "company" shall be construed so as to include any company, corporation or other body corporate, wherever and however incorporated or established;
- (d) references to a "person" shall be construed so as to include any individual, firm, company, government, state or agency of a state, local or municipal authority or government body or any joint venture, association or partnership (whether or not having separate legal personality);
- (e) a reference to any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted;



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- (f) any reference to a "day" (including within the phrase "business day") shall mean a period of 24 (twenty four) hours running from midnight to midnight;
- (g) references to a "business day" shall be construed as a reference to a day (other than a Sunday) on which banks in the state of Maharashtra are generally open for business;

references to times are to Indian standard time;

a reference to any other document referred to in this Agreement is a reference to that other document as amended, varied, novated or supplemented from time to time;

capitalised terms used in this Agreement but not defined shall have the meaning ascribed to them in the Concession Agreement; and

- (k) all headings and titles are inserted for convenience only. They are to be ignored in the interpretation of this Agreement.

2. WATER PAYMENT RESERVE ACCOUNT

2.1 Account Bank to act as trustee

- (a) The Account Bank has opened on its books, at its office at Aurangabad, an account in the name of AMC designated the 'Water Payment Reserve Account' ("Account").

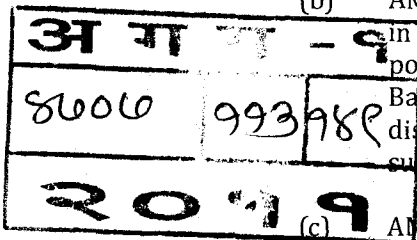
- (b) AMC hereby appoints the Account Bank to act as trustee for the Concessionaire in connection herewith and authorises the Account Bank to exercise such rights, powers, authorities and discretion as are specifically delegated to the Account Bank by the terms hereof together with all such rights, powers, authorities and discretion as are reasonably incidental hereto, and the Account Bank accepts such appointment pursuant to the terms hereof.

- (c) AMC hereby declares that all rights, title and interest in and to the Account shall be vested in the Account Bank and held in trust for the Concessionaire and applied in accordance with the terms of this Agreement. No person other than AMC and the Concessionaire shall have any rights hereunder as the beneficiaries of, or as third party beneficiaries under, this Agreement.

- (d) The Account Bank shall, save as otherwise provided herein, maintain the Account in accordance with its usual practices, provided that, in the event of any conflict between the provisions of this Agreement and any applicable mandate, the provisions of this Agreement shall prevail.

- (e) Notwithstanding anything else in this Agreement, the Concessionaire shall not knowingly request or require that any withdrawal be made from the Account if it would cause the Account to become overdrawn, and to the extent that any withdrawal (if made in full) would cause the Account to become so overdrawn, such withdrawal shall be made in part in as great an amount as possible as will not result in such Account becoming overdrawn.

- (f) Where any withdrawal required under this Agreement cannot be made in its



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entirety, the Account Bank shall promptly notify the Parties of that fact and provide details of the payment not made, the date on which it should have been made and the amount unpaid.



- (g) Each amount from time to time standing to the credit of the Account shall bear interest at the rate agreed between the Account Bank and AMC from time to time, such interest to be credited to the Account in respect of which such interest has accrued in accordance with the relevant mandate.

The Account Bank agrees that it shall make such payments out of the amount standing to the credit of the Account as may from time to time be requested by the Concessionaire and authorized by the AMC subject to the restrictions contained in this Agreement. Save as otherwise provided in this Agreement, the Concessionaire shall not be entitled to require the Account Bank to make, and the Account Bank shall not make, any payment out of the amount standing to the credit of the Account.

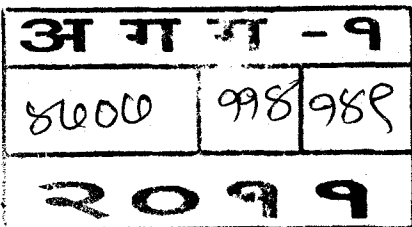
- (i) Subject to Clause 6.7, AMC shall maintain the Account with the Account Bank until the termination or expiration of the Concession Agreement. If so instructed after the termination or expiration of the Concession Agreement, the Account Bank shall, at the sole cost and expense of AMC, terminate the Account in accordance with the relevant instructions and pay any amount standing to the credit of such accounts as AMC may elect in accordance with Clause 9.2.

2.2 Acceptance of Account Bank

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

2.3 Operation of the Account

- (a) The Account Bank shall maintain the 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, or as otherwise agreed in accordance with Clause 2.1(g), on the balance in the Account from time to time.
- (b) The Account Bank shall, after consultation with AMC and the Concessionaire, agree on the detailed mandates, terms and conditions, and operating procedures for the Account Bank, but in the event of any conflict or inconsistency between this Agreement and such mandates, terms and conditions, or procedures, this Agreement shall prevail.
- (c) Subject to restrictions set out in this Agreement, the Account shall only be used for -
- (i) paying the Concessionaire in accordance with the terms of this Agreement; and



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receiving monies from AMC for the replenishment of the Account in accordance with the terms of this Agreement.

2.4 Account Bank's fee

AMC and the Concessionaire shall pay the Account Bank its fees and expenses equally in an amount, and at such times, as may be agreed between the Account Bank and AMC.

2.5 Rights of the Parties

The rights of the Concessionaire in the monies held in the Account are set forth in their entirety in this Agreement.

3. DEPOSITS INTO THE ACCOUNT

3.1 AMC shall deposit into and/or credit the Account with an amount equal 1.5 (one and a half) times the Annual Operational Support Grant within 15 (fifteen) days from the Appointed Date in accordance with Clause 25(a) of the Concession Agreement.

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

3.3 If the Concessionaire draws on the Account, in accordance with this Agreement and the Concession Agreement, AMC shall replenish the Account within 15 (fifteen) days from the date of such drawing such that it at all times maintains a balance amount equal to 1.5 times of Annual Operational Support Grant applicable in respective year.

4. WITHDRAWALS FROM THE ACCOUNT

4.1 The Account Bank shall only make payments or transfers from the Account on the request of the AMC.

4.2 In the event that the Water Payment has not been paid in full in accordance with Clause 26.2 of the Concession Agreement, the Concessionaire shall have the right to receive from the Account an amount equal to the outstanding balance of such invoice in accordance with the procedure set out in this Clause 4.

4.3 Except as otherwise stated in this Agreement, on receipt of a notice in writing from an authorised signatory of the Concessionaire that payment is authorised under this Agreement and the Concession Agreement, the Account Bank shall make the payment as demanded by the Concessionaire within 5 (five) days of receipt of such notice.

4.4 Notwithstanding any other provision of this Agreement, at any time following the occurrence of any Concessionaire Event of Default under the Concession Agreement which is continuing and has not been waived or remedied, AMC may, at any time, give notice to the Account Bank instructing it not to act on the instructions of, or at the request of, the Concessionaire in relation to any sums at any such time standing to the credit of the Account. On receipt of a notice in writing from an authorised signatory of AMC in accordance with this Clause the Account Bank shall not make any payments from the Account until such time as AMC's authorised signatory authorises that such payment be made.



Aurangabad City Water Utility Company Limited

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[Signature]
Authorized Signatory

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COMMISSIONER
Municipal Corporation
Aurangabad
[Signature]

- 4.5 The Account Bank shall be entitled to treat any act of the authorised signatory of the Concessionaire or AMC as being expressly authorised by the Concessionaire or AMC and the Account Bank shall not be required to determine whether an express authority has in fact been given.
- 4.6 In establishing the balance standing to the credit of the Account at any time, the Account Bank may take into account credits to, and withdrawals from, such Account which are to be made on such day.
- 4.7 All amounts withdrawn from the Account for transfer to another account or for application in or towards making a specific payment or meeting a specific liability shall be transferred to that account or applied in or towards making that payment or meeting that liability and for no other purpose.

5. MANDATES

AMC shall deliver to the Account Bank on the date hereof the applicable mandates together with its authorised signature list. Such authorised signatories can be amended and updated by notice in accordance with Clause 11.14.

6. OBLIGATIONS OF THE ACCOUNT BANK

6.1 In discharge of its duties and obligations hereunder, the Account Bank -

(a) may, in the absence of bad faith or gross negligence on its part, rely as to any matters of fact which might reasonably be expected to be within the knowledge of the Concessionaire or AMC upon a certificate signed by or on behalf of the AMC respectively;

(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;

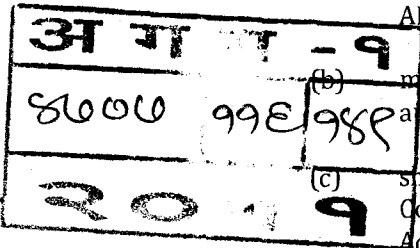
(c) shall, within 5 (five) business days after receipt, deliver a copy to the Concessionaire of any notice or document received by it in its capacity as the Account Bank from AMC or any other person hereunder or in connection herewith; and

(d) shall, within 5 (five) business days after receipt, deliver a copy to AMC of any notice or document received by it from the Concessionaire in connection herewith.

6.2 The Account Bank may -

(a) with the prior written consent of AMC (which shall not be unreasonably withheld), engage and pay reasonable fees for the advice or services of any lawyers, accountants or other experts whose advice or services may to it seem necessary, expedient or desirable and rely upon any advice so obtained;

(b) rely upon any communication or document believed by it to be genuine and, in particular, rely upon any notice, request or other communication of the Concessionaire for the purposes of this Agreement if such notice, request or other communication purports to be signed or sent by or on behalf of an authorised signatory of the Concessionaire;



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Authorized Signatory

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Municipal Corporation
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assume that no Concessionaire Event of Default has occurred unless it has actual notice to the contrary. For the avoidance of doubt, it is expressly clarified that receiving a copy of AMC's Notice of Intention to Terminate the Concession Agreement shall be deemed to be notice that a Concessionaire Event of Default has occurred; and

- (d) assume that all conditions for the making of any payment out of the amount standing to the credit of the Account which is specified in the Concession Agreement have been satisfied, unless it has actual notice to the contrary.

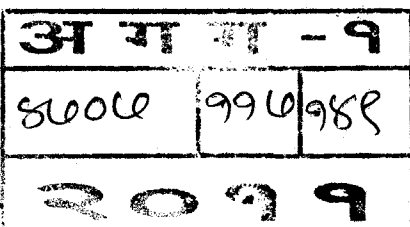
6.3 Notwithstanding anything to the contrary expressed or implied herein, the Account Bank shall not -

- (a) be bound to enquire as to the occurrence or otherwise of an Concessionaire Event of Default or be affected by notice of any of the same except by reason of and to the extent expressly provided in this Agreement;
- (b) be bound to account to any other party hereto for any sum or the profit element of any sum received by it for its own account;
- (c) save as provided in this Agreement or as otherwise required under Applicable Law, be bound to disclose to any other person any information relating to any other party hereto;
- (d) be under any fiduciary duty towards any other party hereto or under any obligations other than those for which express provision is made in this Agreement;
- (e) have any responsibility to ensure that the information set out in any instructions received by it hereunder are correct or to check or enquire as to or otherwise be affected by whether any condition has been or will be met or fulfilled or any instruction is properly given on behalf of the person from whom it purports to be given or any instruction is given properly other than to exercise the bankers duty of care; or
- (f) have any responsibility to any party if any instruction which should be given by the Concessionaire to the Account Bank under or in connection with this Agreement is for any reason not received by the Account Bank or is not made at the time it should be made.

6.4 The Account Bank does not have and does not accept any responsibility for the accuracy and/or completeness of any information (other than statements provided in accordance with Clause 7.2) and the Account Bank shall not be under any liability as a result of taking or omitting to take any action in relation to the Account, save in the case of negligence or wilful misconduct or breach of its obligations under this Agreement.

6.5 Each of the other Parties hereto agrees that it will not assert or seek to assert against any director, officer or employee of the Account Bank any claim it might have against the Account Bank in respect of the matters referred to in Clause 6.4.

6.6 The Account Bank may accept deposits from, lend money to, invest in and generally engage in any kind of banking or other business with the Concessionaire, its shareholders or any other party undertaking any activity whatsoever in relation to the



Aurangabad City Water Utility Company Limited

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Authorized Signatory

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COMMISSIONER
Municipal Corporation
Aurangabad
[Signature]

Project.

6.7 The Account Bank may, at any time (without assigning any reason therefore), notify AMC in writing, with a copy of the same to the Concessionaire, that it wishes to cease to be a party hereto as Account Bank (the "Cessation Notice"). Upon receipt of a Cessation Notice, AMC may nominate another bank as a successor to the Account Bank (the "Successor Account Bank"). If no such nomination is made before the date specified in the cessation notice as being the date on which the Account Bank wishes to cease to be a party hereto (the "Cessation Date") (which date shall be a business day falling not less than 30 (thirty) days after the date of delivery of the Cessation Notice to AMC), then the Account Bank may nominate another bank as a successor Account Bank itself.

6.8 If a Successor Account Bank is nominated under the provisions of Clause 6.7, then on the Cessation Date, provided the Successor Account Bank has been approved by the Concessionaire and has executed and delivered to AMC a deed of novation in such form as AMC may require undertaking to become a party to and bound by the terms and conditions of this Agreement -

(a) the Successor Account Bank shall open on its books at its principal office an account equivalent to that described in Clause 2 and any amounts standing to the credit of the Account shall be transferred to the corresponding one of such account;

(b) any reference in the Concession Agreement to the Account shall be deemed to refer to the corresponding account opened pursuant to Sub- Clause (a);

(c) the Account Bank shall cease to be a party hereto as Account Bank and shall cease to have any obligation hereunder in such capacity (but without prejudice to any accrued liabilities under this Agreement and its obligations under Clause 6 but shall remain entitled to the benefit of the provisions of this Clause 6); and

(d) the Successor Account Bank and each of the other parties hereto shall have the same rights and obligations amongst themselves as they would have had if such Successor Account Bank had been an original party hereto as Account Bank.

6.9 The Account 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 Account. For the avoidance of doubt, it is hereby acknowledged and agreed by the Account Bank that the monies and properties held by the Account Bank in the Account shall not be considered as part of the assets of the Account Bank and being trust property, shall in the case of bankruptcy or liquidation of the Account Bank, be wholly excluded from the assets of the Account Bank in such bankruptcy or liquidation.

7. ACKNOWLEDGEMENTS BY THE ACCOUNT BANK

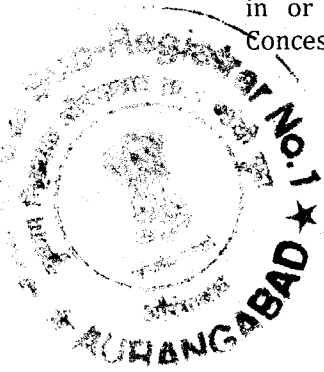
7.1 Subject to this Agreement and notwithstanding anything to the contrary in any applicable mandate, the Account Bank hereby waives so far as it may validly and lawfully do so any right it has or may hereafter acquire to combine, consolidate or merge the Account with any other account of the Account Bank, AMC or any other person or with any liabilities of AMC or any other person to the Account Bank. In addition, the Account Bank agrees so far as it may validly and lawfully do so that it may not set off, combine, withhold or transfer any sum standing to the credit of the Account in or towards satisfaction of any liabilities to the Account Bank of AMC, the Concessionaire, or any other person.

Aurangabad City Water Utility Company Limited

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Authorized Signatory

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Municipal Corporation
Aurangabad



7.2 After the date hereof and until the Account Bank has been notified by AMC of the termination of the Concession Agreement or until the Account Bank ceases to be a party to this Agreement pursuant to the provisions of Clause 6.7, the Account Bank shall provide to AMC and the Concessionaire with statements in respect of the Account, such statement to be supplied in accordance with any reasonable request therefore by AMC or the Concessionaire.

8. ACCOUNT DEFAULT

8.1 Account Default

The following events shall constitute a default by AMC (an "Account Default") -

- (a) AMC commits breach of this Agreement by failing to deposit any receipts into the Water Payment Reserve Account as provided herein and fails to replenish the Account in accordance with Clause 3.3 of this Agreement;
- (b) AMC causes the Account Bank to transfer funds to any account of AMC in breach of the terms of this Agreement and fails to cure such breach by depositing the relevant funds into the Account in which such transfer should have been made, within 15 (fifteen) days; or
- (c) AMC commits or causes any other breach of the provisions of this Agreement and fails to cure the same within 15 (fifteen) days.

8.2 Consequences of Water Payment Reserve Account Default

Upon occurrence of an Account Default, then such Account Default shall be deemed to be a Material Breach under the provisions of the Concession Agreement and the consequences thereof shall be dealt with under and in accordance with the provisions of the Concession Agreement.

9. TERMINATION OF WATER PAYMENT RESERVE ACCOUNT AGREEMENT

9.1 Duration of the Water Payment Reserve Account Agreement

This Agreement shall remain in full force and effect until AMC and the Concessionaire notify the Account Bank that the Account is to be closed.

9.2 Closure of the Account

On receipt of a notification in accordance with Clause 9.1 or 9.3, the Account Bank shall close the Account and pay the balance remaining to the nominated account of AMC or to any third party nominated by AMC. Upon closure of the Account hereunder, this Water Payment Reserve Account Agreement shall be deemed to be terminated.

9.3 Termination of the Concession Agreement

In the event that either party to the Concession Agreement has purported to terminate the Concession Agreement, notwithstanding any dispute as to the validity of such termination, AMC shall be entitled to request that the account be closed and monies paid to its other nominated account in accordance with Clause 9.2.



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10. DISPUTE RESOLUTION

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10.1 Amicable 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 within 90 (ninety) days from the date of such notification.
- (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.

10.2 Arbitration

- (a) Any Dispute which is not resolved amicably as provided in Clause 10.1, shall be finally decided by reference to arbitration appointed in accordance with Clause 10.2(b). Such arbitration shall be subject to the provisions of the Arbitration and Conciliation Act 1996. The venue of such arbitration shall be Aurangabad, and the language of arbitration proceedings shall be English.
- (b) There shall be a board of three arbitrators, of whom each disputing Party shall select one arbitrator.
- (c) The arbitrators shall make a reasoned award (the "Award"). Any Award made in any arbitration held pursuant to this Clause 10 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.
- (d) The Parties agree that an Award may be enforced against the Concessionaire, AMC, and/or the Account Bank, as the case may be, and their respective assets wherever situated.
- (e) 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.

11. MISCELLANEOUS PROVISIONS

11.1 Authority to execute

The Parties hereto expressly represent and warrant that they are duly empowered to sign and execute this Agreement.

11.2 Representation of AMC

AMC represents and warrants that it has taken all necessary actions under the Applicable Laws including passing relevant resolutions under the Bombay Provincial Municipal Corporations Act, 1949 to authorise the execution, delivery and performance of this Agreement.

Governing law and jurisdiction



Aurangabad City Water Utility Company Limited

[Signature]
[Signature]
 Authorized Signatory

[Signature]
 COMMISSIONER
 Municipal Corporation
 Aurangabad
[Signature]

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

11.4 Waiver of immunity

AMC 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 it with respect to its assets, property or revenues;

waives any right of immunity which it or its assets, property or revenues now have, 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).

11.5 Variation

This Agreement may only be varied in writing and signed by the Parties.

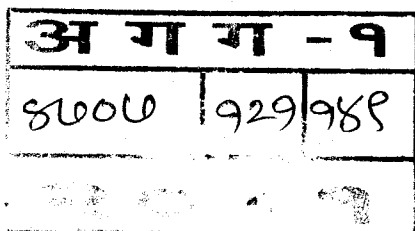
11.6 Waiver

Waiver, including partial or conditional waiver, by any Party of any default by any other Party in the observance and performance of any provision of or obligations under this Agreement -

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

11.7 No third party beneficiaries

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.



Aurangabad City Water Utility Company Limited

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Shamir
Authorized Signatory

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COMMISSIONER
Municipal Corporation
Aurangabad
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11.8 Survival

- (a) Termination or expiration of the Concession Period shall –
- (i) not relieve the Account Bank, Concessionaire or AMC, as the case may be, of any obligations hereunder which expressly or by implication survive hereof; and
 - (ii) except as otherwise provided in any provision of this Agreement expressly limiting the liability of any Party, not relieve any Party of any obligations or liabilities for loss or damage to any other Party arising out of, or caused by, acts or omissions of such Party prior to the effectiveness of such termination or expiration or arising out of such termination or expiration.
- (b) All obligations surviving termination or expiration of the Concession Period shall only survive for a period of 1 (one) year following the date of such termination or expiration of the Concession Period.

11.9 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 shall 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.

11.10 Successors and assigns

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

11.11 Assignment

The Concessionaire may assign any of its rights under this Agreement with the consent of AMC. AMC's consent is to be in accordance with the terms of the Concession Agreement and must not be unreasonably withheld or delayed.

11.12 Notices

Any notice or other communication to be given by any Party to another Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall be given by hand delivery, recognised courier, registered post or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set forth below –

If to AMC:

The Commissioner
Aurangabad Municipal Corporation

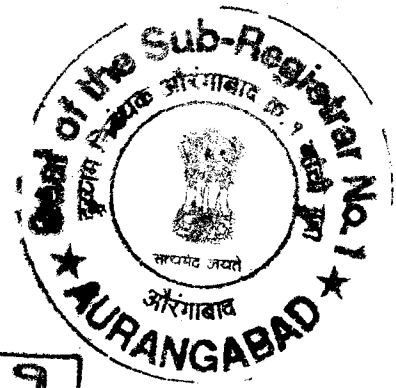
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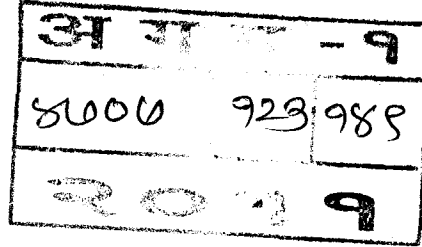
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Municipal Corporation
Aurangabad
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Town Hall
Aurangabad 431001
Maharashtra, India
Phone: +91-240-2331194
Fax: +91-240-2331213
E-mail: contact@aurangabadmahapalika.org



If to Concessionaire:

Mr. Sushil Sethi
Managing Director,
SPML Infra Limited
Plot no. 65, Sector 32,
Gurgaon 122 001
Phone: +91-11-46861200
Fax No. +91-11-46861222
E-mail: info@spml.co.in



If to the Account Bank:

[•]
Phone: [•]
Fax No. [•]
Attn: [•]

11.13 Language

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

11.14 Authorised representatives

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

11.15 Counterparts

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

11.16 Mitigation

Without prejudice to any express provisions of this Agreement on any mitigation obligations of the Parties, each Party shall at all times take all reasonable steps to minimise and mitigate any loss for which the relevant Party is entitled to bring a claim against the other Party pursuant to this Agreement.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED

SIGNED, SEALED AND DELIVERED

Aurangabad City Water Utility Company Limited

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COMMISSIONER
Municipal Corporation
Aurangabad
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Shri

For and on behalf of CONCESSIONAIRE by:

For and on behalf of AMC by:

(Signature)

(Signature)

(Name)

(Name)

(Designation)

(Designation)

(Address)

(Address)

(Fax No.)

(Fax No.)

SIGNED, SEALED AND DELIVERED

For and on behalf of ACCOUNT BANK by:

(Signature)

(Name)

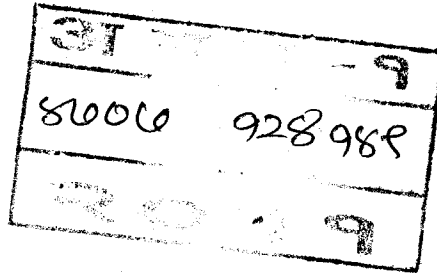
(Designation)

(Address)

(Fax No.)

In the presence of:

1.



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Aurangabad City Water Utility Company Limited

[Signature]
[Signature]
 Authorized Signatory

[Signature]
 COMMISSIONER
 Municipal Corporation
 Aurangabad
[Signature]

SCHEDULE XXI: AGREEMENT WITH IRRIGATION DEPARTMENT REGARDING DRAWING OF RAW WATER

(ATTACHED SEPARATELY)

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SCHEDULE XXII: DRAFT SUBSTITUTION AGREEMENT

THIS AGREEMENT is made on this the [•] day of [•] [•] at Aurangabad, Maharashtra, India.
BETWEEN

[•] (Financial Institution/ Bank) having its Registered Office/Head Office at [•] (hereinafter referred to as '**the Lender**') OR [•] (Financial Institution/Bank) having its Registered Office/Head Office at [•] acting for and on behalf of the Lenders listed in Schedule A hereto (hereinafter referred as "**the Lender's Representative**");

AURANGABAD CITY WATER UTILITY COMPANY LIMITED, a company incorporated under the Companies Act, 1956 having its registered office at 206 Marthanda Building, above Canara Bank, Dr Annie Besant Road, Worli Naka, Mumbai, India (hereinafter referred to as '**the Concessionaire**', which expression shall, unless the context otherwise requires, include its permitted successors and assigns);

AND

AURANGABAD MUNICIPAL CORPORATION, represented by [•], (hereinafter referred to as '**AMC**', which expression shall, unless the context otherwise requires, include its permitted successors and assigns).

Each of the parties mentioned above, are collectively referred to '**Parties**' and individually as a '**Party**'.

INTRODUCTION

- A. AMC is a statutory body which came into being under the provisions of the Bombay Provincial Municipal Corporations Act, 1949 and which carries out the obligatory and discretionary functions as prescribed in the Bombay Provincial Municipal Corporations Act, 1949, one of which being supply of Potable Grade Water within the Supply Area.
- B. In seeking to fulfil its statutory obligations under the Bombay Provincial Municipal Corporations Act 1949, and pursuant to section 66A of the said Act, AMC intends that the Project be undertaken with private sector participation on a public private partnership basis and has passed a General Body resolution vide subject number 554 dated August 18, 2009, among other things, to confirm such intention.
- C. On September 10, 2009, AMC initiated a competitive bidding process in accordance with Applicable Law. On [•], the [•] and [•] ("**Consortium**") was selected as the "**Preferred Bidder**" to implement the Project and accordingly the Consortium, being the Preferred Bidder, incorporated the Concessionaire as a special purpose company to implement the Project.
- D. The Lenders have agreed to finance the Project in accordance with the terms and conditions set forth in the Financing Agreements.

4. The Lenders have requested AMC to enter into this Substitution Agreement for the purposes of securing their interests through assignment, transfer and substitution of the project to a Selectee in accordance with the provisions of this Agreement and the



Aurangabad City Water Utility Company Limited

[Signature]
 Authorized Signatory

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COMMISSIONER
 Municipal Corporation
 Aurangabad
[Signature]

Concession Agreement.

5. In order to enable implementation of the Project, including its financing, construction, operation and maintenance, AMC has agreed and undertaken to transfer and assign the Project to a Selectee in accordance with the terms and conditions set forth in this Agreement and the Concession Agreement.

NOW THEREFORE, in consideration of the mutual covenants, promises, assurances, representations and provisions set forth herein, the Parties hereto agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Terms and expressions used in this Agreement (including the Introduction) shall have the meanings set out below.

Agreement means this substitution agreement and includes any amendment or modification made to this agreement in accordance with the provisions hereof;

Concession Agreement means the concession agreement entered into by AMC and the Concessionaire dated September 22, 2011;

Concessionaire Default means a Concessionaire Event of Default under the Concession Agreement;

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

Financial Default means occurrence of a material breach of the terms and conditions of the Financing Agreements or a continuous default in servicing debt thereunder by the Concessionaire for a minimum period of three (3) months;

Indemnifying Party shall have the same meaning ascribed to it in Clause 7.2;

Indemnified Party shall have the same meaning ascribed to it in Clause 7.2;

Lender(s) means the financial institutions/banks whose name(s) and addresses are set out in Schedule A hereto and shall include the financial institutions/banks who may replace the same by way of a refinance/subrogation, as may be notified by the Lenders' Representative to the Concessionaire, from time to time;

Notice of Financial Default shall have the same meaning ascribed to it in Clause 3.2(a);

Residual Concession Period shall mean the period of time that the Concession Period would have continued for had the Concession Agreement not been terminated;

Rules shall have the meaning ascribed thereto in Clause 8.1(a); and

Selectee means a person proposed by the Lender/Lender's Representative pursuant to this Agreement and approved by AMC for substituting the Concessionaire for the Residual Concession Period, in accordance with the provisions of this Agreement.

1.2 Interpretation

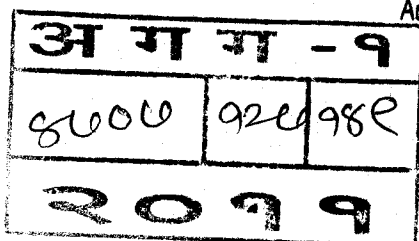
Aurangabad City Water Utility Company Limited

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Authorized Signatory

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Municipal Corporation
Aurangabad

In this Agreement, unless otherwise specified:

- (a) references to Clauses, Sub-Clauses, Paragraphs and Schedules are to clauses, sub-clauses, and paragraphs of, and schedules to, this Agreement;
 - (b) use of any gender includes the other genders;
 - (c) references to a '**company**' shall be construed so as to include any company, corporation or other body corporate, wherever and however incorporated or established;
 - (d) references to a '**person**' shall be construed so as to include any individual, firm, company, government, state or agency of a state, local or municipal authority or government body or any joint venture, association or partnership (whether or not having separate legal personality);
 - (e) a reference to any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted;
- any reference to a '**day**' (including within the phrase 'business day') shall mean a period of 24 hours running from midnight to midnight;
- references to a '**business day**' shall be construed as a reference to a day (other than a Sunday) on which banks in the state of Maharashtra are generally open for business;
- (h) references to times are to Indian standard time;
 - (i) a reference to any other document referred to in this Agreement is a reference to that other document as amended, varied, novated or supplemented from time to time;
 - (j) all headings and titles are inserted for convenience only. They are to be ignored in the interpretation of this Agreement;
 - (k) capitalised terms used in this Agreement but not defined shall have the meaning assigned to them in the Concession Agreement; and
 - (l) the rules of interpretation stated in Clauses 1.3 and 1.4 of the Concession Agreement shall apply, *mutatis mutandis*, to this Agreement.

1.3 Priority of agreements

The Parties hereby expressly agree that for the purpose of giving full and proper effect to this Agreement, the Concession Agreement and this Agreement shall be read together and construed harmoniously. 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.

2. ASSIGNMENT

2.1 Assignment of rights and title

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The Concessionaire hereby agrees to assigns its rights, title and interest in the Project to, and in favour of the Lenders 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

- (a) Pursuant to the rights, title and interest assigned under Clause 2.1, the Lenders shall be entitled to substitute the Concessionaire by a Selectee under and in accordance with the provisions of this Agreement and the Concession Agreement.
- (b) AMC hereby agrees to substitute the Concessionaire by endorsement on the Concession Agreement in favour of the Selectee selected by the Lenders in accordance with this Agreement. For the avoidance of doubt, the Lenders shall not be entitled to operate and maintain the Project.

3.2 Substitution upon occurrence of Financial Default

- (a) Upon occurrence of a Financial Default, the Lenders/Lenders' Representative may issue a notice to the Concessionaire (the '**Notice of Financial Default**') along with particulars thereof, and send a copy to AMC 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.

Upon issue of a Notice of Financial Default hereunder, the Lenders/Lenders' Representative may, without prejudice to any of their/its rights or remedies under this Agreement or the Financing Agreements, substitute the Concessionaire by a Selectee in accordance with the provisions of this Agreement.

- (c) At any time after the Lenders/Lenders' Representative has issued a Notice of Financial Default, it may by notice require AMC to suspend all the rights of the Concessionaire and undertake the operation and maintenance of the Project, and upon receipt of such notice, AMC shall so suspend the rights of the Concessionaire.

Provided that such suspension shall be revoked upon substitution of the Concessionaire by a Selectee, and in the event such substitution is not completed within one hundred and eighty (180) days from the date of such suspension, AMC 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/Lenders' Representative and the Concessionaire, AMC may extend the aforesaid period of one hundred and eighty (180) days by a period not exceeding ninety (90) days.

3.3 Substitution upon occurrence of Concessionaire Default

- (a) Upon occurrence of a Concessionaire Default, AMC shall by a notice inform the

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Lenders/Lenders' Representative of its intention to issue a Termination Notice and grant fifteen (15) days time to the Lenders/Lenders' Representative to make a representation, stating the intention to substitute the Concessionaire by a Selectee.

- (b) In the event that the Lenders makes a representation to AMC within the period of fifteen (15) days specified in Clause 3.3(a), stating that it intends to substitute the Concessionaire by a Selectee, the Lenders/Lenders' Representative shall be entitled to undertake and complete the substitution of the Concessionaire by a Selectee in accordance with the provisions of this Agreement within a period of one hundred and eighty (180) days from the date of such representation, and AMC shall either withhold termination and/or suspend the rights of the Concessionaire for the aforesaid period of one hundred and eighty (180) days.

Provided that upon written request from the Lenders and the Concessionaire, AMC shall extend the aforesaid period of one hundred and eighty (180) days by a period not exceeding ninety (90) days.

3.4 Procedure for substitution

- (a) AMC and the Concessionaire hereby agree that on or after the date of Notice of Financial Default or the date of representation to AMC under Clause 3.3(b), as the case may be, the Lenders/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, from potential Selectees for substituting the Concessionaire and taking on the rights and obligations under the Concession Agreement.

- (b) To be eligible for substitution in place of the Concessionaire, the Selectee shall be required to fulfil the eligibility criteria that were laid down by AMC for short listing the bidders for award of the Project.

Provided that the Lenders/Lenders' Representative may represent to AMC that all or any of such criteria may be waived in the interest of the Project, and if AMC determines that such waiver shall not have any material adverse effect on the Project, it may waive all or any of such eligibility criteria.

- (c) Upon selection of a Selectee, the Lenders/Lenders' Representative shall request AMC to:

- (i) accede to transfer to the Selectee the rights and obligations of the Concessionaire under the Concession Agreement, the Project Land Agreement, the Water Payment Reserve Account Agreement and any other relevant agreements; and
- (ii) novate the Concession Agreement, Project Land Agreement, the Water Payment Reserve Account Agreement and any other relevant agreements to the Selectee such that the Selectee replaces the Concessionaire and becomes entitled/obligated to all the rights and obligations of the Concessionaire, for the Residual Concession Period.

- (d) If AMC has any objection to the transfer of the Project in favour of the Selectee in accordance with this Agreement, it shall within seven (7) days from the date of proposal made by the Lenders/Lenders' Representative, give a reasoned order



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after hearing the Lenders/Lenders' Representative. AMC agrees that it shall not object to any Selectee of the Lenders, if such Selectee satisfies the technical and financial capacity requirements specified by AMC as per its original RFQ dated [•] and RFP dated [•] in relation to the Project. If no such objection is raised by AMC, the Selectee shall be deemed to have been accepted. AMC thereupon shall novate the Concession Agreement within seven (7) days of its acceptance/deemed acceptance of the Selectee.

Provided that in the event of such objection by AMC, the Lenders' Representative may propose another Selectee whereupon the procedure set forth in this Clause 3.4 shall be followed for substitution of such Selectee in place of the Concessionaire.

3.5 Selection to be binding

The decision of the Lenders and AMC in selection of the Selectee shall be final and binding on the Concessionaire. The Concessionaire irrevocably waives any right to challenge the actions of the Lenders' Representative or the Lenders or AMC taken pursuant to this Agreement including the transfer/novation of the Concession Agreement the Project Land Agreement, the Water Payment Reserve Account Agreement and any other relevant agreements in favour of the Selectee. The Concessionaire agrees and confirms that it shall not have any right to seek revaluation of assets comprised in the Project or the Concessionaire's shares. It is hereby acknowledged by the Parties that the rights of the Lenders/Lenders' Representative are irrevocable and shall not be contested in any proceedings before any court or AMC and the Concessionaire shall have no right or remedy to prevent, obstruct or restrain AMC or the Lenders/Lenders' Representative from effecting or causing the transfer by substitution and endorsement of the Project as requested by the Lenders/Lenders' Representative.

4. SUBSTITUTION OF SELECTEE IN PROJECT AGREEMENTS

The Concessionaire shall ensure and procure that each Project Agreement contains provisions that entitle the Selectee to step into such Project Agreement, in its discretion, in place and substitution of the Concessionaire in the event of such Selectee's assumption of the liabilities and obligations of the Concessionaire under the Concession Agreement.

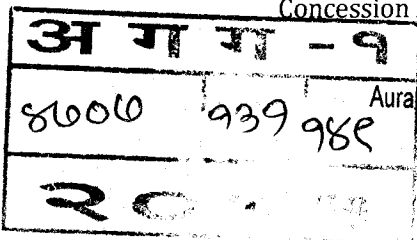
5. TERMINATION OF CONCESSION AGREEMENT

5.1 Termination upon occurrence of Financial Default

At any time after issue of a Notice of Financial Default, the Lenders/Lenders' Representative may by a notice in writing request that AMC terminate the Concession Agreement and upon receipt of such notice, AMC shall terminate the Concession Agreement as permitted by the Concessionaire Agreement and in accordance with the terms of the Concession Agreement.

5.2 Termination when no Selectee is selected

In the event that no Selectee acceptable to AMC is selected and recommended by the Lenders/Lenders' Representative within the period of one hundred and eighty (180) days or any extension thereof as set forth in Clause 3.3(b), AMC may terminate the Concession Agreement in accordance with the Concession Agreement.



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5.3 Realisation of Debt Due

AMC and the Concessionaire hereby acknowledge and agree that, without prejudice to, and in accordance with, any other rights or remedies they may have, the Lenders are 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.

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 this Agreement; or
- (b) no sum remains to be advanced, or is outstanding to the Lenders, under the Financing Agreements.

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7. INDEMNITY

7.1 General indemnity

- (a) The Concessionaire shall indemnify and hold AMC and the Lenders/Lenders' Representatives against any and all suits, 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 any failure of the Concessionaire to comply with Applicable Laws and Permits.

(b) AMC shall 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 AMC 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 AMC, its officers, servants and agents.

- (c) The Lenders/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 Lender/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 Lender/Lenders' Representative, its officers, servants and agents.

7.2 Notice and contest of claims

In the event that a Party receives a claim or demand from a third party in respect of which it is entitled to the benefit of an indemnity under this Clause 7 or in respect of which it is entitled to reimbursement (the '*Indemnified Party*'), it shall notify the other



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Party responsible for indemnifying such claim hereunder (the '*Indemnifying Party*') within fifteen (15) days of receipt of the claim or demand 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, subject to the Indemnified Party being secured against any costs involved, to its reasonable satisfaction. 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

(a) Any dispute, difference or claim arising out of or in connection with this Agreement which is not resolved amicably shall be decided by reference to arbitration to a Board of Arbitrators comprising one nominee each of AMC, the Concessionaire and the Lender/Lenders' Representative. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the "*Rules*") or such other rules as may be mutually agreed by the Parties, and shall be subject to provisions of the *Arbitration and Conciliation Act, 1996*.

(b) The arbitrators shall issue a reasoned award and such award shall be final and binding on the Parties. The venue of arbitration shall be Aurangabad and the language of arbitration shall be English.

9. MISCELLANEOUS PROVISIONS

9.1 Authority to execute

The Parties hereto expressly represent and warrant that they are duly empowered to sign and execute this Agreement.

9.2 Governing law and jurisdiction

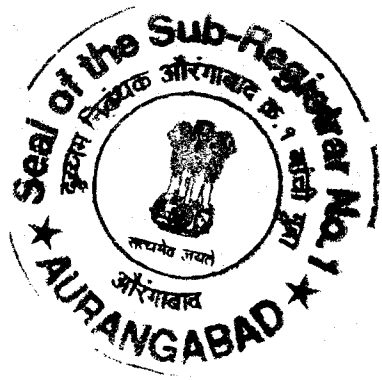
This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts at Aurangabad shall have jurisdiction over matters arising out of or relating to this Agreement.

9.3 Waiver of immunity

AMC unconditionally and irrevocably:

- (a) agrees that the execution, delivery and performance by it of this Agreement, and the matters contemplated hereby, 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 AMC with respect to its assets, property or revenues;

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waives any right of immunity which the Party or its assets, property or revenues now have, may acquire in the future or which may be attributed to it in any jurisdiction; and

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).

9.4 Variation

This Agreement may only be varied in writing and signed by the Parties

9.5 Not in derogation of Financing Agreements

This Agreement shall be in addition to and shall not be in derogation of the terms of the Financing Agreements.

9.6 Waiver

Waiver, including partial or conditional waiver, by any Party of any default by another Party in the observance and performance of any provision of or obligations under this Agreement:-

- (i) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;
- (ii) shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and
- (iii) shall not affect the validity or enforceability of this Agreement in any manner.

9.7 No third party beneficiaries

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.

9.8 Survival

- (a) Termination or expiration of the Concession Period shall:
 - (i) not relieve the Lenders/Lenders' Representative, the Concessionaire or AMC, as the case may be, of any obligations hereunder which expressly or by implication survive hereof; and
 - (ii) except as otherwise provided in any provision of this Agreement expressly limiting the liability of a Party, not relieve a 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 expiration or arising out of such termination or expiration.



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- (b) All obligations surviving termination or expiration of the Concession Period shall only survive for a period of one (1) year following the date of such termination or expiration of the Concession Period.

9.9 Non exhaustion of remedies

The Concessionaire agrees and acknowledges that it shall not be necessary for the Lender(s) or the Lenders' Representative to enforce or exhaust any other remedy available to them before invoking the provisions of this Agreement.

9.10 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 shall 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.

9.11 Successors and assigns

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

9.12 Stamp duty

All stamp duties or other imposts and charges as are applicable on this Agreement or on amendment of the Concession Agreement or execution of fresh Concession Agreement for the purpose of substitution as aforesaid, irrespective of the Lenders/Lenders' Representative or AMC making such payment for the time being, shall be borne by and be to the account of the Concessionaire.

9.13 Notices

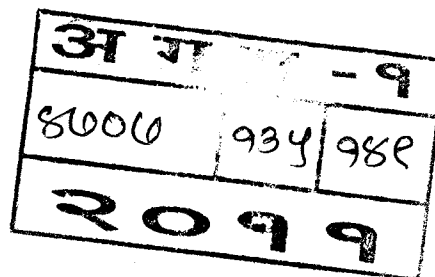
Any notice or other communication to be given by any Party to another Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall be given by hand delivery, recognised courier, registered post or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set forth below:

If to AMC:

[•]
Phone: [•]
Fax No. [•]
Attn: [•]

If to Concessionaire:

Mr. Sushil Sethi
Managing Director,
SPML Infra Limited



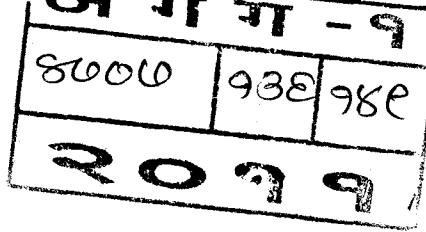
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Plot no. 65, Sector 32,
Gurgaon 122 001
Phone: +91-11-46861200
Fax No. +91-11-46861222
E-mail: info@spml.co.in



If to the Lenders'/Lenders Representatives:

[•]
Phone: [•]
Fax No. [•]
Attn: [•]

9.14 Language

All notices required to be given by one Party to the other Parties and all other communications, documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in the English and/or Marathi language.

9.15 Authorised representatives

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

9.16 Lender's Representative

The consultation, recommendation or approval of the Lenders' under this Agreement shall always be deemed as consultation, recommendation or approval of every concerned Lender and each such Lender shall be bound by the same.

9.17 Counterparts

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

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED
For and on behalf of [CONCESSIONAIRE] by:

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)

SIGNED, SEALED AND DELIVERED
For and on behalf of AURANGABAD MUNICIPAL
CORPORATION by:

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)

SIGNED, SEALED AND DELIVERED
For and on behalf of LENDERS:

Aurangabad City Water Utility Company Limited

R. N. [Signature]
Authorized Signatory

[Signature]
COMMISSIONER
Municipal Corporation
Aurangabad
[Signature]

Signature)
(Name)
(Designation)
(Address)
(Fax)

In the presence of

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SCHEDULE XXIII: BID DOCUMENTS

- A. Request for Qualification
- B. Consortium's response to the Request for Qualification
- C. Request for Proposal (Volume I - Instructions to Bidders)
- D. Request for Proposal (Volume II - Project Information Memorandum)
- E. Consortium's response to the Request for Proposal

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SCHEDULE XXIV: SERVICE LEVEL REQUIREMENTS

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The Service Level Requirements shall be divided into two categories:

1. **Part A: Pre-COD Service Level Requirements** – Pre-COD Service Level Requirements shall be applicable during the Construction and Rehabilitation Period of the Project, from year 1 to year 3 of the Concession Period; and
2. **Part B: Post-COD Service Level Requirements** – Post-COD Service Level Requirements shall be applicable during the Operation and Maintenance Period of the Project, from year 4 to year 20 of the Concession Period.

Pre-COD Service Level Requirements:

The following table depicts the Service Level Requirement to be achieved by the Concessionaire during the Construction and Rehabilitation Period of the Project (i.e. Pre-COD Service Level Requirements) for release of Variable AOSG Amount:

No	Parameter	Service Level Requirement		
		Year 1	Year 2	Year 3
1	Production of Potable Water	Minimum 135 MLD	Minimum 135 MLD	Minimum 135 MLD
2	Installation of bulk production meters	At 100% sites, identified between Concessionaire and Independent Engineer	Regular maintenance of these meters	Regular maintenance of these meters
3	Installation of bulk distribution meters	At 100% sites, identified between Concessionaire and Independent Engineer	Regular maintenance of these meters	Regular maintenance of these meters
4	Coverage of the service area	Supply of Potable Water to 100% of AMC's existing consumers and any new consumer within municipal corporation limit	Supply of Potable Water to 100% of AMC's existing consumers and any new consumer within municipal corporation limit	Supply of Potable Water to 100% of AMC's existing consumers and any new consumer within municipal corporation limit
5	Household survey ¹	100% households	Update database based on new connections	Update database based on new connections
6	Installation of meters at consumer connections ²	10% of total consumers	40% of total consumers	100% of total consumers
7	Consumer complaint recording and monitoring system	-	Operational by the end of 2 nd year of the Concession Period	Regular maintenance of the system
8	Computerized billing	-	Operational by the	Regular

¹ AMC shall provide the Terms of Reference for such household survey
² All new connections shall be metered from day one



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No	Parameter	Service Level Requirement		
		Year 1	Year 2	Year 3
	and collection system		end of 2 nd year of the Concession Period	maintenance of the system
	water supply	-	Daily supply to all consumers	Daily supply to all consumers

The Variable AOSG Amount shall be released during the Construction and Rehabilitation Period on following basis:

- Year 1:** Without any linkage with the Service Level Requirement;
- Year 2:** Only on completion of the Service Level Requirement set for the first year of the Concession Period. If in case the Concessionaire fails to fulfil any of the Service Level Requirement of the first year of the Concession Period, the AMC shall withhold the release of the relevant Variable AOSG Amount. Such withheld Variable AOSG Amount of second year shall be released only on the complete fulfilment of the Service Level Parameters of the first year of the Concession Period.
- Year 3:** Only on completion of the Service Level Requirement set for the first and second year of the Concession Period. If in case the Concessionaire fails to fulfil any of the Service Level Requirement of the first and second year of the Concession Period, the AMC will withhold the release of Variable AOSG Amount for the third year. Such withheld Variable AOSG Amount for third year will be released only on the complete fulfilment of the Service Level Requirement of the first and second year of the Concession Period.

Post-COD Service Level Requirements:

The following table depicts the Service Level Requirement to be achieved by the Concessionaire during the Operation and Maintenance Period of the Project (i.e. Post-COD Service Level Requirements) for release of Variable AOSG Amount:

No	Parameter	Weightage	Service Level Requirement			
			Year 4	Year 5	Year 6	Year 7 to 20
1	Consumer coverage	25%	100% coverage within the Service Area	100% coverage within the Service Area	100% coverage within the Service Area	100% coverage within the Service Area
2	Functionality of the consumer meters ³	10%	At least 95% average of the quarter, of total consumer meters should be functional.	At least 95% average of the quarter, of total consumer meters should be functional.	At least 95% average of the quarter, of total consumer meters should be functional.	At least 95% average of the quarter, of total consumer meters should be functional.
3	Water loss ⁴	25%	Maximum	Maximum	Maximum	Maximum

³ The parameter shall be measured through Concessionaire submitting quarterly report to the Independent Engineer, covering random sample of 1% of total meters installed at consumer end.

⁴ The water loss shall be the raw water lifted at sources less water billed to the end consumer plus free water supplied for fire-fighting usage. The water billed shall be calculated by summation of all consumer invoices showing water usage while calculation of raw water lifted at sources shall be according to the invoice raised by the irrigation department.

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		Service Level Requirement				
No	Parameter	Weightage	Year 4	Year 5	Year 6	Year 7 to 20
			25%	20%	15%	15%
4	Complaint management mechanism	10%	At least 80% of the complaints received should be attained within 24 hours and resolved within 72 hours of registration.	At least 80% of the complaints received should be attained within 24 hours and resolved within 72 hours of registration.	At least 80% of the complaints received should be attained within 24 hours and resolved within 72 hours of registration.	At least 80% of the complaints received should be attained within 24 hours and resolved within 72 hours of registration.
5	Supply of water ⁵	20%	Daily supply to all consumers	24 hours at consumer end, throughout year.	24 hours at consumer end, throughout year.	24 hours at consumer end, throughout year.
6	Potability of supplied water	10%	Must be as per CPEEHO norms	Must be as per CPEEHO norms	Must be as per CPEEHO norms	Must be as per CPEEHO norms

The Variable AOSG Amount shall be released during the Operations and Maintenance Period on following conditions:

1. **Condition 1:** On completion of the Service Level Requirement set for the Construction and Rehabilitation Period of the Concession Period, i.e. first year to third year. If in case the Concessionaire fails to fulfil any of the Service Level Requirement set for the Construction and Rehabilitation Period of the Concession Period, the AMC will withhold the release of Variable AOSG Amount. The Variable AOSG Amount shall be released only on the complete fulfilment of the Service Level Requirement set for the Construction and Rehabilitation Period of the Concession Period.

Condition 2: On fulfilling the Service Level Requirement as set for the Operation and Maintenance Period of the Concession Period, i.e. from fourth year to twentieth Year of the Concession Period. The Variable AOSG Amount shall be released in the proportion of the weightages of the each Service Level Requirement. If in case Concessionaire does not fulfil any of the Service Level Requirements, AMC shall deduct proportionate amount from the Variable AOSG Amount to be released to the Concessionaire⁶. The amount deducted, during the Concession Period from fourth year to twentieth year, for non-compliance of the Service Level Requirement s, shall not be released to the Concessionaire.



⁵ The parameter shall be measured based on the water pressure at locations as determined between Independent Engineer and the Concessionaire.

⁶ For example, if the Concessionaire is entitled to receive say Rs 50 Lakh as a variable component of an Quarterly Operational Support Grant and fails to meet parameter linked to the "consumer coverage", then AMC shall deduct 10% of Quarterly Operational Support Grant, i.e. Rs 5 Lakh and remit balance Rs 45 Lakhs to the Concessionaire as a variable Quarterly Operational Support Grant. If in case the Concessionaire fails to meet any of his Service Level Requirements then AMC shall withhold entire variable payment, i.e. Rs 50 Lakh due to the Concessionaire.

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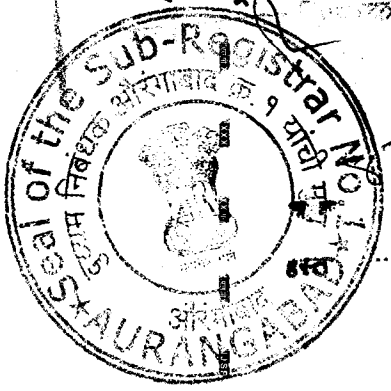
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२०११		

EB 525363



399
...कमत
दिनांक
कागजात
२०११
मि/

पि. एन. शिपाकर
मुद्रांक विक्रेता
व. जियाओदीन रिश्दीकी
न. पास्कर, औरंगाबाद

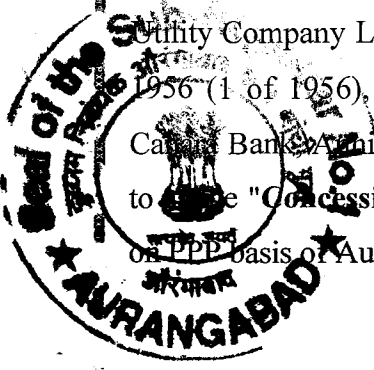
अ ग ग		
8383	9	4
२०११		

Power of Attorney

TO ALL WHOM THESE PRESENTS SHALL COME, Aurangabad Municipal Corporation represented by **Commissioner** (which expression shall, unless the context otherwise requires, include its successors and permitted assigns); having its office at Aurangabad, Maharashtra.

WHEREAS,

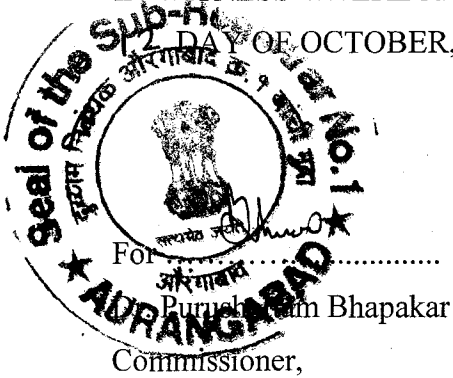
A) By an Agreement dated 22nd day of September, Year of 2011 hereinafter called "**the Said Agreement**", Aurangabad Municipal Corporation, has engaged Aurangabad City Water Utility Company Limited, a Company duly registered in India under the Companies Act, 1956 (1 of 1956), and having its registered office at 206 Marthanda Building, above Capital Bank, The Besant Road, Worli Naka, Mumbai, India hereinafter being referred to as the "**Concessionaire**" for the implementation of Aurangabad Water Supply Project on PPP basis of Aurangabad city, hereafter called "**the PROJECT**".



B.) The Aurangabad Municipal Corporation is desirous of granting necessary powers and authority for the purpose of registration of the Said Agreement.

NOW KNOW BY THESE PRESENTS that Aurangabad Municipal Corporation, do hereby nominate, constitute and appoint Mr. Sakharam Dhondiba Panzade, Executive Engineer, Aurangabad Municipal Corporation, our true and lawful Attorney and Agent, in our name and on our behalf, to register the Said Concession Agreement

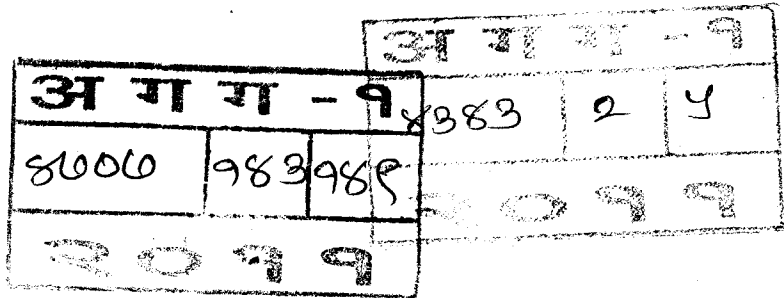
IN WITNESS WHEREOF WE HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS
12 DAY OF OCTOBER, 2011



For ...
Purnesham Bhapkar
Commissioner,
Aurangabad Municipal Corporation.



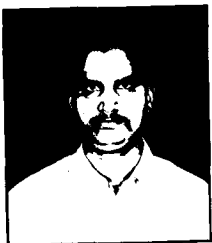
For ...
Mr. Sakharam Dhondiba Panzade
Executive Engineer, Water Supply
Aurangabad Municipal Corporation



Witnesses:



1. PHALAK KASHINATH MURLIDHAR
106 A, Jainisthambharti Colony
Aurangabad.



Borse Dadasaheb Doultrao
110 Hudco Abad.

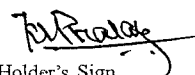
**MUNICIPAL CORPORATION
AURANGABAD. (M.S)**
Tel. (0240) 2333536-40

Identity Card

Name : **Kashinath Murlidhar
Phalak**

Designation : **Assistant Engineer**

Dept. : **A.M.C., Aurangabad**

Holder's Sign. 



Dy. Commissioner
A.M.C., A'bad.

अ ग ग - १

8000	988	989
२०११		

अ ग ग - १

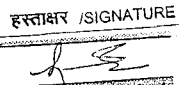
8383	3	4
२०११		

स्थायी लेखा संख्या / PERMANENT ACCOUNT NUMBER
AAMPP8757D

नाम / NAME
SAKHARAM DHONDIBA PANZADE

पिता का नाम / FATHER'S NAME
DHONDIBA SAKHARAM PANZADE

जन्म तिथि / DATE OF BIRTH
18-06-1963

हस्ताक्षर / SIGNATURE 

आयकर आयुक्त, नासिक
COMMISSIONER OF INCOME-TAX, NASIK

R.D. Mahadikar



MAHARASHTRA STATE

Date of Issue : **07-JUN-2009**

SHRI DAULSABER BURSE

is licensed to drive throughout India, vehicle of the following description:

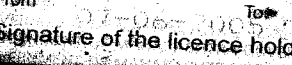
M.C.Y. LMV (T)


Validity for Non-Transport Vehicle

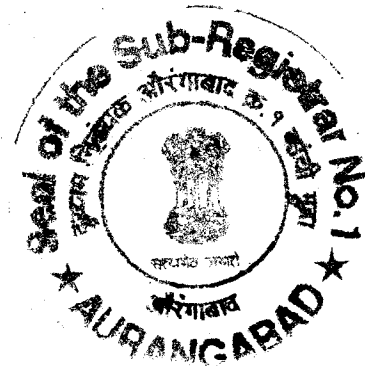
From **21-01-2022** To **21-01-2022**

Validity for Transport Vehicle

From **07-06-2008** To **06-06-2008**

Signature of the licence holder 





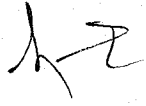
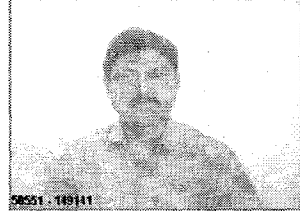






अगग1
दस्त क्र 4343/2011
४-५

दस्त गोषवारा भाग-1

13/10/2011 दुय्यम निबंधक:
11:26:54 am औरंगाबाद 1

दस्त क्रमांक : 4343/2011
दस्ताचा प्रकार : मुखत्यारनामा

अनु क्र.	पक्षकाराचे नाव व पत्ता	पक्षकाराचा प्रकार	छायाचित्र	अंगठ्याचा ठसा
1	<p>नाक: महानगरपालिका औरंगाबाद तर्फे कार्यकारी अभियंता सखाराम धोंडीबा पानझडे पत्ता: घर/फ्लॅट नं: - गल्ली/रस्ता: -- ईमारतीचे नाक: - ईमारत नं: - पेट/वसाहत: सिडको शहर/गाव: औरंगाबाद ता</p>	<p>लिहून घेणार वय 48 सही</p> 		
2	<p>नाक: महानगरपालिका औरंगाबाद आयुक्त श्री. पुरुषोत्तम निवृत्ती भाषकर पत्ता: घर/फ्लॅट नं: - गल्ली/रस्ता: - ईमारतीचे नाक: - ईमारत नं: - पेट/वसाहत: दिल्लीगेट शहर/गाव: औरंगाबाद तालुका: -- पि-</p>	<p>लिहून देणार वय 50 सही</p> 		

अ ग ग - १
४००० १४५ १४९
२०११





दस्त गोषवारा भाग - 2

अगग 1

दस्त क्रमांक (4343/2011)

५-५

दस्त क्र. [अगग1-4343-2011] चा गोषवारा
बाजार मुल्य :1 मोबदला 1 भरलेले मुद्रांक शुल्क : 100

पावती क्र.:4545 दिनांक:12/10/2011
पावतीचे वर्णन
नांव: महानगरपालिका औरंगाबाद तर्फे कार्यकारी
अभियंता सखाराम धोंडीबा पानझडे

दस्त हजर केल्याचा दिनांक :12/10/2011 05:21 PM
निष्पादनाचा दिनांक : 12/10/2011
दस्त हजर करणा-याची सही :

100 :नोंदणी फी
100 :नक्कल (अ. 11(1)), पृष्ठांकनाची नक्कल
(अ. 11(2)),
रुजवात (अ. 12) व छायाचित्रण (अ. 13) ->
एकत्रित फी

200: एकूण

दस्ताचा प्रकार :48) मुखत्यारनामा
शिकका क्र. 1 ची वेळ : (सादरीकरण) 12/10/2011 05:21 PM
शिकका क्र. 2 ची वेळ : (फी) 12/10/2011 05:24 PM(कार्यवाही पूर्ण)
शिकका क्र. 3 ची वेळ : (कबुली) 13/10/2011 11:26 AM
शिकका क्र. 4 ची वेळ : (ओळख) 13/10/2011 11:26 AM

दस्त नोंद केल्याचा दिनांक : 13/10/2011 11:26 AM

दु. निबंधकाची सही, औरंगाबाद 1

ओळख :

खालील इसम असे निवेदीत करतात की, ते दस्तऐवज करून देणा-यांना व्यक्तीशः ओळखतात,
व त्यांची ओळख पटवितात.

1) काशिनाथ मुरलीधर फालक ,घर/फ्लॅट नं: -

गल्ली/रस्ता: -

ईमारतीचे नाव: -

ईमारत नं: -

पेठ/वसाहत: विश्वभारती कॉलनी

शहर/गाव: औरंगाबाद

तालुका: -

पिन: -

2) दादासाहेब दौलतराव बोरसे ,घर/फ्लॅट नं: -

गल्ली/रस्ता: -

ईमारतीचे नाव: --

ईमारत नं: -

पेठ/वसाहत: हडके

शहर/गाव: औरंगाबाद

तालुका: --

पिन: -



दु. निबंधकाची सही
औरंगाबाद 1

४३३ बुकाचे ४३४३
नंबरी नोंदला दिनांक १३/१०/११
प्रमाणीत करण्यात आले की, या
दस्तामध्ये एकूण ५ पाने आहेत.



अ ग ग - १		
४०००	१४६९४६	
२०११		

सह. दुय्यम निबंधक तर्फे -
औरंगाबाद क्रमांक - १



भारत निवडणूक आयोग
ओळखपत्र

ELECTION COMMISSION OF INDIA
IDENTITY CARD
CVT3762986



मतदाराचे नांव : जगदिश कन्हैयालाल सिध्द
ELECTOR'S NAME : JAGDISH KANHAIYALAL Sidhd
वडिलांचे नांव : कन्हैयालाल सिध्द
FATHER'S NAME : Kanhaiyalal Sidhd
लिंग / Sex : पुरुष / MALE
जन्म तारीख/DATE OF BIRTH : 01-01-1967



GOVERNMENT OF MAHARASHTRA
MUNICIPAL CORPORATION AURANGABAD



IDENTITY CARD



Name : S. D. PANZADE
Designation : Executive Engineer
E-Code : 2271
Date of Birth : 18th June 1963
Blood Group : A +ve
Cell No. : +91-9823074025

Commissioner

Employee



Transport Department Government of Delhi

Licence to drive vehicles throughout India

Licence No. : DL-0320020068072 (P) D
Name : RISHABH SETHI
S/D/W of : SH SUSHIL SETHI
DOB : 15-08-1983 BG :
Address : M-231 G K-II NEW DELHI 110048



Authorization to drive
Vehicle Class : M.CYL
LMV-NT

Date of Issue : 02-08-2002
02-08-2002 (Holder's Signature)

Date of Issue : 09-10-2009
Validity : 01-08-2022
INV CARR NO : NA

Sig. Of Licensing Authority SZ

स्थायी लेखा संख्या /PERMANENT ACCOUNT NUMBER

ABFPJ4799M

नाम /NAME
SURYAKANT SUBHANRAO
JAYBHAYE

पिता का नाम /FATHER'S NAME
SUBHANRAO MONAJI JAYBHAYE

जन्म तिथि /DATE OF BIRTH
01-05-1965

हस्ताक्षर /SIGNATURE

R. D. Mahadikar

आयकर आयुक्त, नासिक
COMMISSIONER OF INCOME-TAX, NASIK

स्थायी लेखा संख्या /PERMANENT ACCOUNT NUMBER

ADKPC3457A

नाम /NAME
VENKATA RAMANA CONDOORI

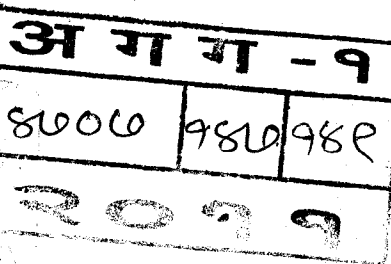
पिता का नाम /FATHER'S NAME
SRINIVASULU CONDOORI

जन्म तिथि /DATE OF BIRTH
12-06-1961

हस्ताक्षर /SIGNATURE

P. A. Chowdhary

मुख्य आयकर आयुक्त, आन्ध्र प्रदेश
Chief Commissioner of Income-tax, Andhra Pradesh



अगग1

दस्त क्र 4707/2011

१४८ - १४९

31/10/2011

दुय्यम निबंधकः





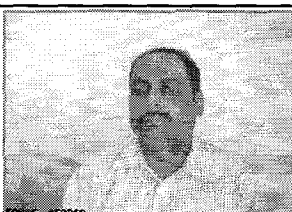

दस्त गोषवारा भाग-1

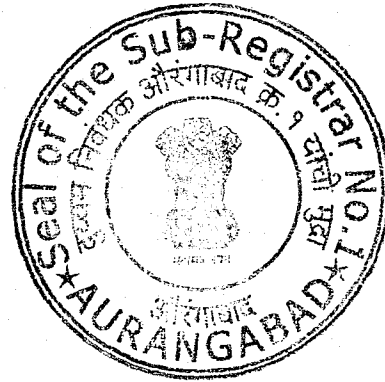
1:48:36 pm

औरंगाबाद 1

दस्त क्रमांक : 4707/2011

दस्ताचा प्रकार : करारनामा किंवा त्याचे अभिलेख किंवा करार संक्षेपलेख

अनु क्र.	पक्षकाराचे नाव व पत्ता	पक्षकाराचा प्रकार	छायाचित्र	अंगठ्याचा ठसा
1	नाव: मनपा औ. बाद तर्फे आयुक्त डॉ. पुरुषोत्तम निवृत्ती भापकर सु. आम म्हणुन पानझडे सखाराम धोंडीबा - कार्यकारी अभियंता - पत्ता: घर/फ्लॉट नं: - गल्ली/रस्ता: - ईमारतीचे नाव: - ईमारत नं: - पेट/ट	लिहून घेणार वय 48 सही		
2	नाव: औरंगाबाद सिटी वॉटर युटीलिटी कंपनी लि. तर्फे ऋषभ सुशील सेठी - - पत्ता: घर/फ्लॉट नं: - गल्ली/रस्ता: - ईमारतीचे नाव: - ईमारत नं: - पेट/वसाहत: - शहर/गाव: 206 मार्तड बिल्डींग डॉ अंनी	लिहून देणार वय 28 सही		
3	नाव: सी. व्यंकटरमना - - पत्ता: घर/फ्लॉट नं: - गल्ली/रस्ता: - ईमारतीचे नाव: - ईमारत नं: - पेट/वसाहत: - शहर/गाव: 513/अ पाचवा मजला कोहिनुर सिटी एल ड्री एस मार्ग कुर्ला मुंबई तालुका: - पिन: - पं	लिहून देणार वय 49 सही		





दस्त गोषवारा भाग - 2

अगग1
दस्त क्रमांक (4707/2011)
१४९-१४९

दस्त क्र. [अगग1-4707-2011] चा गोषवारा
बाजार मुल्य :0 मोबदला 0 भरलेले मुद्रांक शुल्क : 500000

दस्त हजर केल्याचा दिनांक :31/10/2011 01:29 PM
निष्पादनाचा दिनांक : 31/10/2011
दस्त हजर करणा-याची सही : *Risen*

दस्ताचा प्रकार :5) करारनामा किंवा त्याचे अभिलेख किंवा करार संक्षेपलेख
शिकका क्र. 1 ची वेळ : (सादरीकरण) 31/10/2011 01:29 PM
शिकका क्र. 2 ची वेळ : (फ्री) 31/10/2011 01:40 PM
शिकका क्र. 3 ची वेळ : (कबुली) 31/10/2011 01:45 PM
शिकका क्र. 4 ची वेळ : (ओळख) 31/10/2011 01:47 PM

दस्त नोंद केल्याचा दिनांक : 31/10/2011 01:48 PM

ओळख :

खालील इसम असे निवेदीत करतात की, ते दस्तऐवज करून देणा-यांना व्यक्तीशः ओळखतात,
व त्यांची ओळख पटवितात.

1) म.न.पा स्थायी सदस्य जायभाये सुर्यकांत सुभानराव - ,घर/प्लॉट नं. -

गल्ली/रस्ता: -

ईमारतीचे नाव: -

ईमारत नं: -

पेठ/वसाहत: -

शहर/गाव: पुंडलिकनगर

तालुका: औ.बाद

पिन: -

2) म.न.पा स्थायी समिती सदस्य सिध्द जगदीश कन्हैयालाल - ,घर/प्लॉट नं: -

गल्ली/रस्ता: -

ईमारतीचे नाव: -

ईमारत नं: -

पेठ/वसाहत: -

शहर/गाव: धावणी मोहल्ला

तालुका: औ.बाद

पिन: -

१४९ बुकाचे ४०००

नंबरी नोंदला दिनांक ३१/१०/११

प्रमाणीत करण्यात येते की, या

दस्तामध्ये एकूण १४९ पाने आहेत.

दु. निबंधकाची सही
औरंगाबाद 1

सह. दुय्यम निबंधक वर्ग-२
औरंगाबाद क्रमांक -१



पावती क्र.:4922 दिनांक:31/10/2011
पावतीचे वर्णन
नांव: मनपा औ. बाद तर्फे आयुक्त डॉ. पुरुषोत्तम
निवृत्ती भापकर मु. आम म्हणुन पानझडे सखाराम
धोंडीबा - कार्यकारी अभियंता -

30000 :नोंदणी फी
2980 :नक्कल (अ. 11(1)), पृष्ठांकनाची
नक्कल (आ. 11(2)),
रुजवात (अ. 12) व छायाचित्रण (अ. 13) ->
एकत्रित फी

32980: एकूण

दु. निबंधकाची सही, औरंगाबाद 1