

पत्रांक - 69/सु0क0/2018

दिनांक - 22.12.2018

**आफर (Request for Proposal) आमंत्रण सूचना**

लखनऊ विकास प्राधिकरण, लखनऊ द्वारा गोमती नगर विस्तार योजना के सेक्टर-1, 4, 5, 6 व 7 के अन्तर्गत सड़को की मैकेनाईज्ड स्वीपिंग हेतु अनुभवी फर्मों/ठेकेदारों से दिनांक 24/12/18 से 22/01/19 तक आफर (Request for Proposal) आमंत्रित किये जाते हैं। प्रस्ताव के साथ 25,00,000.00 (रुपये-पच्चीस लाख) मात्र का राष्ट्रीयकृत बैंक की एफडीआर, सचिव, लखनऊ विकास प्राधिकरण, लखनऊ के पक्ष में सलग्न करना होगा।

अनुज्ञापित से सम्बन्धित नियम व शर्त किसी भी कार्यदिवस में प्रातः 10:00 बजे से अपरान्ह 4:00 बजे तक अधिशासी अभियन्ता, जोन-1 के कार्यालय अथवा प्राधिकरण की वेबसाईट [www.ldaonline.com](http://www.ldaonline.com) पर देखे जा सकते हैं।

मुख्य अभियन्ता  
लखनऊ विकास प्राधिकरण

8A-1

**Request for Proposal for  
Mechanized Sweeping of Roads  
In Gomati Nagar Extension, Lucknow City.**

**Lucknow Development Authority,  
Vipin Khand, Gomati Nagar, Lucknow 226001**

# **Section-I**

# **TECHNICAL BID**

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## SUMMARY

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### LUCKNOW DEVELOPMENT AUTHORITY

- |     |   |   |
|-----|---|---|
| 1.  | Name of Work  | Comprehensive road sweeping of Sector- 1 4 5 6 of Gomati Nagar Vistar (including service roads, footpaths, road berms, central verge, curb channels, curb stones, and road drain and drain) on a 13 days a month basis with 'compact heavy duty sweepers' with single engine with minimum 5cubic meters hopper capacity on 'Buy Own Operate Basis (BOO)'.<br><br>Part-A: Mechanical sweeping for a period of 2(Two) years |
| 2.  | Quantity  | 2 Nos.  |
| 3.  | Earnest Money Deposit (EMD)                                       | Rs. 25,00,000.00 (Rs Twenty Five Lakhs) In Form of FDR  |
| 4.  | Name & Address of Tenderer<br>(to whom tender schedule is issued) | Development Authority<br>Lucknow Development Authority ,<br>Vipin Khand, Gomati Nagar, Lucknow - 226001   |
| 5.  | Period of Contract  | 2 (Two ) years  |
| 6.  | Processing Fee  | Rs.25000.00   |
| 7.  | Bid Download - Closing Date                                       | 20.01.2019 at 3.0PM   |
| 8.  | Bid Submission Closing  | 21.01.2019. at 3.0PM  |
| 9.  | Bid Submission  | Online  |
| 10. | Date & Time of Tender Opening<br>(a) Technical Bid                | 22-01-2019 of 4.0 PM<br>Chief Engineer, Lucknow Development Authority.  |

## RFP for Mechanized Sweeping of roads in Gomati Nagar, Extension, Lucknow

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(b) Price Bid	To be intimated after evaluation of technical eligibility of bidder(s)
11. Place of Tender Opening	Chief Engineer, Lucknow Development Authority Lucknow
12. Officer Inviting	Chief Engineer, Lucknow Development Authority
13. Address and Contact Details	Lucknow Development Authority Vipin Khand, Gomati Nagar Lucknow - 226001

## DISCLAIMER

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The information contained in this Request for Proposal (RFP) document or subsequently provided to Bidders, whether verbally or in documentary or any other form by or on behalf of Lucknow Development Authority (LDA) or any of its employees or advisers, is provided to Bidders on the terms and conditions set out in this RFP document and such other terms and conditions subject to which such information is provided

This RFP document is not an agreement or an offer to the prospective Bidders or any other person. The purpose of this RFP document is to provide interested parties with information that may be useful to them in the formulation of their Proposals pursuant to this RFP document. This RFP document includes statements, which reflect various assumptions and assessments arrived in relation to the proposed assignment. Such assumptions, assessments and statements do not purpose to contain all the information that each Bidder may require. This RFP document may not be appropriate for all persons, and it is not possible for Department, its employees or advisers to consider the objectives, technical expertise and particular needs of each party who reads or uses this RFP document. The assumptions, assessments, statements and information contained in this RFP document, may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments and information contained in this RFP document and obtain independent advice from appropriate sources.

Information provided in this RFP document to the Bidders may be on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. Lucknow Development Authority accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on the law expressed herein.

Lucknow Development Authority, its employees and advisers make no representation or warranty and shall have no liability to any person including any Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP document or otherwise, including the accuracy, adequacy, correctness, reliability or completeness of the RFP document and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP document or arising in any way in this Selection Process.

## RFP for Mechanized Sweeping of roads in Gomati Nagar, Extension, Lucknow

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Lucknow Development Authority also accepts no liability of any nature whether resulting from negligence or otherwise however caused arising from reliance of any Bidder upon the statements contained in this RFP document.

Lucknow Development Authority may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumption contained in this RFP document.

The issue of this RFP document does not imply that LDA is bound to select a Bidder or to appoint the Selected Bidder, as the case may be, for the proposed Assignment and Lucknow Development Authority reserves the right to reject all or any of the Proposals without assigning any reasons whatsoever.

The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Proposal including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by Lucknow Development Authority or any other costs incurred in connection with or relating to its Proposal. All such costs and expenses will remain with the Bidder and Lucknow Development Authority shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by Bidder in preparation for submission of the Proposal, regardless of the conduct or outcome of the Selection Process.



# 1 INVITATION FOR PROPOSAL

## 1.1 Introduction

1.1.1 Lucknow Development Authority, intends to outsource the work of sweeping of the selected road as per Schedule-I within the jurisdiction of Development Authority Lucknow, by deploying mechanical sweeping machines of required specification as annexed under Schedule 2 (“the Project”) and manual labour, from the interested parties having adequate experience in this field and adequate financial strength.

1.1.2 This Request for Proposal (RFP) is for outsourcing the work of Sweeping of the different roads of Development Authority Lucknow within the jurisdiction of Development Authority Lucknow, by deploying mechanical sweeping machines of required specification as annexed under Schedule 2 (“the Project”) for Period of 2 (Two ) years (“the Project”).

1.1.3 Contract (the “Management Contract”) will be drawn up amongst the The Vice Chairman, Development Authority Lucknow and the Operator [i.e. either the individual / single bidder or the Lead Member of the Joint Venture, whichever is acknowledged as the successful bidder].

1.1.4 A “Single Stage” bidding process is planned to be followed for determining the successful bidder. The bidders would be required to meet the minimum threshold Technical Qualification Conditions and qualify for under taking the Project as set out in this RFP document. This qualification assessment would be carried out as part of the current bidding and evaluation process. The Financial Proposal of only those bidders that possess the minimum threshold Technical Qualification Conditions (as per Clause 3.2) and other relevant documents (as per formats provided in Clause 5) would be opened and evaluated.

1.1.5 The RFP document contains information about the Project, bidding process, proposal submission, qualification and financial proposal requirements. All proposals would be evaluated in terms of financial and technical capability of the single entity/ Joint Venture (JV) or consortium of companies.

1.1.6 Interested Bidders may either download the RFP document from the website <https://etender.up.nic.in> by paying fee of Rs.25000.00 online through NEFT/RTGS.

1.1.7 The RFP submissions must be received on 21.01.2019 at 3.00PM in the manner specified in the RFP document at the address given below and Development Authority Lucknow shall not be responsible for any delay in receiving the Proposal and reserves the right to reject and/ or accept any or all the Proposals without assigning any reason thereof.

## 2 Project

- 2.1** The project is to carry out the work of mechanical and manual sweeping of selected roads of city falling under the jurisdiction of the Lucknow Development Authority of, as mentioned in Schedule 1 of the draft Management Contract (Section-II of RFP document). Mechanical washing of all roads and all type of footpaths in commercial markets will be done once a week. The schedule of roads to be swept shall be presented in a manner that roads are swept mechanically on a 13(thirteen) days per month basis, and type B and type C roads shall be swept manually every day, as per part B of Schedule 1. The contract period shall be of 3(three) years.
- 2.2** The total road, to be covered through mechanical sweepers, is 71.39Km,
- 2.3** The brief of the Project is as follows: Detail scope of work is given under annexure 1
- i) The Contract Period shall be of 2 (Two) years.
    - a. Mechanical Sweeping of all roads shall be done 3 days a week with mechanical sweepers of required specifications.
    - b. The illegal dumps on all roads shall be cleaned once in a day.
    - c. For all roads, the footpath shall be washed once a week.
    - d. The pruning of trees shall only be carried out wherein the extended branches appear as encumbrances while movement of mechanical sweeping machines. However, the removal of uprooted tree shall not be part of the obligation of the Operator.
    - e. Wild grass and vegetation on the side berms, footpaths, medians of all roads shall be removed by the Operator once a month, as per the schedule fixed by the Operator, for all the roads.
    - f. The Drain along the roads should be cleaned.
    - g. All solid and semi solid waste from all roads and in front of apartments should be disposed at the Nagar Nigam Lucknow dumping Site.
  - ii) The Operator shall ensure to provide Litter Control Team and Emergency Control Team for cleaning of roads. The Litter Control Team shall be deployed for a specified area and carry out litter control for entire working hours. The Emergency Response Team shall be available at such places wherein the cleaning is required pursuant to the receipt of any complaint during day hours.
  - iii) The Operator shall ensure that the litter control shall be done by the Operator along with the Mechanical Sweeping. During any kind of emergency situation, the litter shall be removed by the Litter Control Team (constituted by the Operator) in response to the complaint being lodged. However, no permanent deployment of manpower shall be there for litter control after the stipulated cleaning of the roads.
  - iv) The Operator shall pick, remove and dispose of the all quantity of loose materials/debris deposited on or along the roads, service lanes, central verge and footpaths/road berms by mechanical sweepers if not possible then manually and dead animal are found on these roads and in the vicinity area under contract area, are to be lifted

## RFP for Mechanized Sweeping of roads in Gomati Nagar, Extension, Lucknow

and disposed off by the contractor The Operator Contractor will be responsible for disposal of road sweeps/Small dead animal to the nearest designated Nagar Nigam, Lucknow dumping Site.

- v) The Operator shall ensure to provide Beat System for the said Project. It shall include:
- a. Creation of 1Digital Beats for every 1 Kms of roads length Beats shall be geo-fenced as per longitude and latitude of starting and ending point.
  - b. Develop &introduce the software for monitoring of cleaning activities for every beats through uploading of real time pictures with the help of mobile app.

### 2.4 Commercial Consideration

#### 2.4.1 Payment with respect to mechanical sweeping of roads:

The work shall be measured in terms of per kilometer road length including service lane, footpath and central verge, complete in all respects as described in the RFP document. The successful bidder/operator shall be required to quote a “Contract Unit Rate per Km road length per month for two way with central verge including washing of footpath and specified roads as detailed out in Schedule-I of the draft Management Contract, (hereinafter referred to as “Contract Fee”) including, footpath and central verge, as described in the nomenclature of the items and shall mean in full carrying out all the required operations, complete in all respects to the satisfaction of Development AuthorityLucknow of and has been detailed out in the draft Management Contract. The following factors shall be applied for calculating rate for other carriageways as mentioned in the table below:

<b><i>Multiplication Factor</i></b>		
<b><i>2 way without center verge (30 m and above)</i></b>	<i>0.75</i>	<i>X Contract Fee for 2 way with center verge.</i>
<b><i>2 way with center verge (30 m and above)</i></b>	<i>1.0</i>	<i>Contract fee</i>
<b><i>2 way with center verge along with service lane (30 m and above)</i></b>	<i>1.25</i>	<i>X Contract Fee for 2 way with center verge.</i>
<b><i>Roads width 24.00mt</i></b>	<i>0.75</i>	<i>X Contract Fee for 2 way with center verge.</i>
<b><i>Roads with 18.00mt</i></b>	<i>0.50</i>	<i>X Contract Fee for 2 way with center verge.</i>
<b><i>Road with 12.0 mtr</i></b>	<i>0.40</i>	<i>X Contract Fee for 2 way with center verge.</i>
<b><i>Road with 09.0 mtr</i></b>	<i>0.25</i>	<i>X Contract Fee for 2 way with center verge.</i>
<b><i>Road with 7.5 mtr</i></b>	<i>0.25</i>	<i>X Contract Fee for 2 way with center verge.</i>
<b><i>Road with 6.0 mtr</i></b>	<i>0.20</i>	<i>X Contract Fee for 2 way with center verge.</i>

The said Contract Fee for mechanical sweeping shall be increased 10 % after the end of every year completed over the last year's Contract Fee.

## **3 GENERAL TERMS AND CONDITIONS**

### **3.1 *The evaluation of the bids will be completed in 2 steps.***

- Step 1: Opening of Technical Proposals and short listing
- Step 2: Opening of Financial Proposals of technically qualified applicants. The entire bidding process has been explained elaborately in Clause 4 of this RFP Document (Section-I).

3.1.1 The Successful Bidder shall be issued Letter of Award (LoA). After issuance of the LoA in writing and acceptance of the same by the Successful Bidder within 7 (seven) days, the Successful Bidder shall enter into a Management Contract with Development Authority Lucknow within 30(thirty) days of conveying his acceptance of the LoA or the date as mutually agreed between the Parties to the Agreement.

### **3.2 *Technical Qualification Conditions***

3.2.1 The Bidder shall be an independent legal entity such as an individual, proprietorship firm(s), registered Partnership Firms, registered Company(ies), registered Society(ies), and registered Trust(s). The bidder shall have the right to use the Technical Capability and/or Financial Capability experience of its Parent Company. However, the bidder should be a wholly owned subsidiary of the Parent Company. However, the bidder applying for this project can also be a Joint Venture of the above stated legal entities or consortium of companies

3.2.2 The selected bidder shall be responsible for providing, finance, procure, operate and maintain the project in accordance with the provisions of the Management Agreement (the "Management Contract") to be entered between the Selected Bidder and the Development Authority Lucknow in the form provided by Development Authority Lucknow as part of the RFP documents pursuant hereto.

3.2.3 No bidder shall apply/submit their proposal individually or can be member of another bidder company.

3.2.4 Any bidder who has been barred by the Development Authority Lucknow or Central/State Government or PSU under GOI, from participating in any project (BOT or otherwise), and the bar subsists as on the date of Application, would not be eligible to submit the proposal under this RFP.

3.2.5 The bidder should be legally competent to enter into a contract as per prevailing Indian Laws.

3.2.6 Bidder that is under a declaration of ineligibility by Development Authority Lucknow or any other Government/State-Government in India at the date of submission of the proposal or thereafter shall not be eligible to submit the proposal.

3.2.7 Only those bidders meeting both the following “Minimum Eligibility Criteria “and other relevant documents as per other provisions of Section-I of the RFP Document will be “Technically Qualified” for the Project.

**a) Technical Capability of Bidder**

The prospective bidder shall be considered ‘technically’ eligible if the following criteria are fulfilled:

- Only a duly registered firm can submit bids. The firm shall provide the certificate of registration, along with GST registration number.
- Completed 3 (three) similar work amounting to Rupees 5 Crores or two similar work amounting to Rupees 8 Crores or one similar work amounting to Rs 10 Crores for a government, state government, local body (i.e. Development Authority, municipal Corporation ), PSU, airport, or port in India in support of experience during last 7 (Seven) years. ‘Similar work’ is taken to mean work of cleaning/sweeping of roads or public places by mechanical road sweepers.
- Experience in mechanical sweeping on Indian roads during the last 5 (five) successive financial years ending as on March 31, 2018. The bidder must own at least 5 (five) mechanical sweepers, as specified in the Technical Specifications detailed out in the RFP document and being proposed by them in the proposal used on highways and roads in their name which is operating for a government, state government, local body (i.e. Development AuthorityLucknow ), PSU, airport, or port in India. The bidder shall be required to submit a proof of ownership to this effect along with the Technical Proposal out of which minimum 3 (three) machines should not be older than 3 (three) years. The ownership of machines should be in the name of the bidder applying for the project and not in the name of subsidiaries / JV members / SPV companies.

Experience of cleaning of at least 50 Km of roads or any other B.T. surface and concrete surface per day using mechanical road sweepers of similar capacity for a minimum period of 5 (five) successive financial years for a government, state government, local body (i.e. Development AuthorityLucknow ), PSU, airport, or port in India.

- Experience in managing manpower of minimum 500 (five hundred) nos. in the field of road sweeping / facilities management for a continuous period of 1 (one) year. A notarized PF and ESIC deposit Challan should be submitted alongwith the PF/ESIC registration details.
- The bidder shall submit the make, model and technical specifications of the machines to be deployed. The manufacturer of the machine should have manufactured and supplied a minimum 50 (fifty) nos. of compact heavy-duty sweeping machines (of the required specification) during the last 3 years. At least 20 (twenty) nos. of these machines, as offered by the bidder, should be working in India with a proven track record.
- Technically qualified bidders shall demonstrate the working of their machines

before financial bids are opened, without any cost implications on the Development Authority Lucknow of

- Note:
  - The entity claiming above experience should have held, in the company owning the eligible Project a minimum of 51% equity during the period for which technical experience is being claimed.
  - Experience of the Bidder as a sub-contractor will not be considered for Technical Capability qualification.
  - In-house work experience shall not be considered for evaluation

### **b) Financial Capability of Bidder**

The prospective bidder shall be considered 'financially' eligible if the following criteria are fulfilled:

- The bidding firm shall have minimum Annual Turnover of Rs. 25 Crores for each year during each of the last three financial years ending March 31, 2018.
- The bidding firm should have a Net worth of at least of Rs. 10 Crores during the last financial year i.e FY ending March 31, 2018.

**Note:** The Net worth shall be calculated as per the following formula and must be certified by the Statutory Auditor of the Bidding Firm.

Net worth for Bidder= (Paid up Share Capital + Reserves and Surpluses) - (Revaluation Reserves, Goodwill, Miscellaneous Expenses not written off and other tangible assets)

- The Bidder must submit a solvency certificate from a scheduled Commercial bank of Rs. 5, 00, 00,000/- (Rupees Five Corers only).
- The bidding firm shall have the following certificates/registration :
  - (i) EPF Registration Certificate
  - (ii) ESI Registration Certificate
  - (iii) GST Registration
- Copies of registration certificate of the firm/company, Memorandum and Articles of Association in case of firm registered under the Companies Act, & copies of Balance Sheet & Income Tax return for the previous three years (2015-16, 2016-17, 2017-18).
- The bidder should have GST No and should have submitted the last GST return.
- The bidder should have valid PAN in its name.
- Bidder or its associates should not have been terminated/blacklisted by any ULB's, Development Authority Lucknow as in the past for non performance.

Associate shall also mean the subsidiaries/ special purpose companies/ JV companies of the bidding company having same share holders with more than 50% voting rights. Bidders should submit an affidavit for the same in Rs. 100/- stamp paper. Bidder shall also submit details of all ongoing litigations of the company and its associates. Any non disclosure shall result in forfeit of EMD and all payments due to the contractor.

### **3.3 Proposal submitted by an Unincorporated Joint Venture or consortium of companies.**

- 3.3.1. There can be a maximum of 3 (three) members in a Joint Venture (JV).
- 3.3.2. Any material changes in the membership of a bidder will be rejected by Lucknow Development Authority (LDA) Proposals submitted by a JV must provide a written agreement (Joint Venture (JV) Agreement) to be signed by each member in that JV which describes the responsibilities of each member in the JV? One of the JV members would be required to be nominated as Lead Member and the same shall also be mentioned in the Joint Venture (JV) Agreement. The Joint Venture (JV) Agreement shall be as per the format attached in Clause 5(J).
- 3.3.3. The Lead Member would need to be experienced in mechanical sweeping work.
- 3.3.4. The Lead Member of the Joint Venture (on behalf of the Joint Venture) would enter into the Management Contract and subsequently carry out all the responsibilities of the Joint Venture and undertake the Project as stipulated in the Management Contract.
- 3.3.5. Members of the JV shall be liable jointly and severally for the execution of the Project in accordance with the terms of the Management Contract and a statement to this effect shall be included in the Joint Venture (JV) Agreement mentioned under Clause 3.3.2 above, as well as in the Proposal and in the Management Contract. DAC may require such documents/undertakings/indemnities as it may deem fit from JV members before or at the time of issuance of Notice of Award/signing of Management Contract.
- 3.3.6. The Lead Member nominated at the time of submission of the Proposal shall continue to be the Lead Member for the entire Contract Period. Such Lead Member shall hold authorization in the form of Power of Attorney. The Proposal must designate one or more person(s) to represent the bidder in its dealings with DAC. Unless specifically advised to the contrary, DAC will assume that the person(s) designated is authorized to perform all tasks, including, but not limited to, providing information, responding to inquiries and entering into contractual commitments on behalf of the Company or the JV as the case maybe. Any and all limitations on the authority of the designated person(s) should be detailed in the Proposal.
- 3.3.7. Each member of the JV shall submit a signed letter (on the company's letter head) with the Proposal, which states that the said member:
  - (a) Has reviewed the entire Proposal.
  - (b) is in accord with each key element of the Proposal, including, but not limited to, its technical and price components, description of the member's responsibilities and commitments to the Project, and the designated

person(s) who will represent the JV during the negotiation process. Any substantive exception or caveat should be addressed in the enclosed letter.

- (c) Has participated in only one Proposal for this Project.
- (d) Each of the JV members will be jointly and severally liable to DA Lucknow.

3.3.8. All pertinent information that may affect the performance of the responsibilities of any JV member – such as ongoing litigation, financial distress, or any other such matter – must be disclosed.

### **3.4 Fees to be paid by the Bidder**

#### **3.4.1 Earnest Money Deposit (EMD)**

- (i) The bid/proposal shall be accompanied by an EMD for a value of Rs. 25.00 Lakhs (Rs Twenty Five Lakh only) to be submitted along with Technical document in form of FDR in original.
- (ii) The EMD of the Successful Bidder will be returned after the signing of the Management Contract.
- (iii) Any bid/proposal submitted without the EMD in the form as specified in the RFP document shall be summarily rejected.
- (iv) The EMD shall be forfeited by Lucknow Development Authority (LDA), in the following cases:
  - a) If the Bidder withdraws its bid/proposal after Technical Proposal opening and during the Proposal Validity Period.
  - b) In case of a Successful Bidder, if the bidder fails within the specified time limit, to sign the Management Contract.

**Note:** EMD of only L1, L2 & L3 bidders would be retained till the Management Contract is signed between the Successful Bidder and Development Authority Lucknow of. The 'EMD' of the other Bidders would be returned within 60 (Sixty) day of opening of Financial Proposals.

*The EMD of the Successful Bidder will be retained till the Management Contract is signed between Development Authority Lucknow of and the Successful bidder*

The cost of the RFP should be paid through E-payment.

#### **3.4.2 Performance Security**

The Successful Bidder, for due and faithful performance of its obligations under the Management Contract, shall be required to provide a "Performance Security" of 5% of the total value of the project cost in the form of Bank Guarantee from a scheduled bank, located in the Lucknow, The Commissioner, Development Authority Lucknow of within 2 (two) weeks of receipt of Notice of Award or the date as mutually agreed between the parties to the Management Contract and the same shall be renewed before one month of the expiry date of submitted Bank Guarantee till the completion



of project.

### **3.5 One Bid per Bidder**

Each bidder shall submit only 1 (One) bid/proposal for the Project. Violation of this shall lead to disqualification of the Bidder. However, it is clarified herewith that the member of one joint venture cannot be member of other joint venture and also, cannot submit bid/proposal independently.

### **3.6 Proposal Preparation and Cost**

All Bidders are required to submit a detailed proposal (the "Proposal" or "Bid") in accordance with the guidelines set forth in this RFP Document. The cost of preparation of Proposal and related expenses shall be borne by the Bidders themselves.

### **3.7 Due Diligence, Inspection and Investigation**

The Bidders shall be deemed to have conducted a due diligence exercise with respect to all aspects of the Project, including a detailed survey of the site/roads, when they submit the Proposal. Interested Bidders are invited to visit and inspect the site/roads at their own expense. Failure to investigate fully the site/roads conditions shall not be a valid ground to relieve the Bidder after the submission of its Proposal or relieve the Bidder from any responsibility for estimating the difficulty or costs of successfully completing the Project.

### **3.8 Validity of Proposal**

- 3.9.1. The Proposal shall remain valid for a period not less than 180 (one hundred and eighty) days from the Proposal Due Date (the "Proposal Validity Period"). Lucknow Development Authority reserves the right to reject any Proposal that does not meet this requirement. Proposal Validity Period and/or EMD shall be extended for a specified additional period at the request of Lucknow Development Authority.
- 3.9.2. A Bidder agreeing to the request will not be allowed to modify his Proposal, but would be required to extend the validity of his EMD for the period of extension.
- 3.9.3. The Proposal Validity Period of the Successful Bidder shall be extended till the date of execution of the Management Contract.

### **3.9 Right to Reject Proposals**

- 3.10.1. Lucknow Development Authority reserves the right to reject any/all proposals including the lowest Proposal or withdraw the invitation of the proposal at any stage without citing any reason. Nothing contained herein shall confer any right upon a Bidder or create any obligation/liability upon Lucknow Development Authority of any type whatsoever.

### **3.10 Misrepresentation/Fraud/Breach of Terms and Conditions**

If it is discovered at any point of time even after execution of the Management Contract, that the Bidder has suppressed any fact or given a false statement or has done misrepresentation or fraud or has violated any of the terms of the Bid, the Bid will be cancelled by Lucknow Development Authority. In such an event, the Bidder / Successful Bidder/Operator will not be entitled to any compensation whatsoever, or refund of any other amount. The Bidder is also subject to be black listed and the EMD forfeited if he is found to have misled or furnished false information in the forms / statements / certificates submitted in proof of qualification requirements or record of performance such as abandoning of work not properly completed in earlier contracts, inordinate delays in completion of the works, litigation history and/or financial failures and/or participated in the previous tendering for the same work and had quoted unreasonable high bidprices.

### **3.11 Disputes**

#### 3.12.1. Dispute Resolution

Any dispute, difference or controversy of whatever nature between the Bidder/Successful Bidder and Lucknow Development Authority shall be settled as per the dispute resolution procedure set below:

(a) Direct discussion between parties:

The Bidder/Successful Bidder and Lucknow Development Authority agree that any Dispute that may arise between them shall be first submitted for direct discussion between the Parties. For this purpose, the notice of Dispute (the "Notice of Dispute") sent by one Party to the other Party under (a) shall be considered an invitation for direct discussion, and it should specify a reasonable time and venue for the conducting of negotiation proceedings. In addition, the Notice of Dispute shall specify the basis of the Dispute and the amount claimed. In the direct discussion proceedings, each Party shall be represented by their representatives/officials or employees with sufficient knowledge and authority over the subject matter of the Dispute in order for the discussion to be meaningful. At the discussion proceedings, the Party that has given the Notice of Dispute shall present an offer of a settlement, which may form the starting point of discussions between the two Parties during the discussion proceedings.

(b) Arbitration or adjudication:

- a. In the event that the parties are unable to resolve the Dispute through Direct Discussion under Clause (a) provided above, the Parties shall submit the Dispute for arbitration in accordance with the Arbitration and Conciliation Act, 1996. There shall be a Board of 3 (three)

arbitrators of whom 1 (one) shall be appointed by them Lucknow Development Authority, 1 (one) shall be appointed by the Bidder/Successful Bidder and the third shall be appointed by the 2 (two) arbitrators appointed as aforesaid.

- b. The arbitrators shall make a reasoned award, and any award made pursuant to this point (b) shall be final and binding on the Parties as from the date on which it is made, and the Bidder/Successful Bidder and the Lucknow Development Authority agree to undertake to carry out the award without delay.
- c. The arbitration proceedings shall be conducted in the English language and in Lucknow only.
- d. The cost incurred on the process of arbitration including inter alia the fees of the arbitral tribunal and the cost of the proceedings shall be borne by the Parties in equal proportions. Each Party shall bear its own legal fees incurred as a result of any Dispute under this clause.
- e. The rights of the parties shall remain in full force and effect, pending the award in any arbitration proceeding here under. During the bidding process no dispute of any type would be entertained. Even in such cases where Lucknow Development Authority asks for additional information from any Bidder, the same cannot be adduced as a reason for citing any dispute.

## **4 TENDERING PROCEDURE AND SCHEDULE**

### **4.1 Pre-Bid Meeting**

- a) The purpose of the Pre-Bid Meeting will be to clarify and discuss issues with respect to the Project, the RFP Document or any other related issues.
- b) The Bidder or his authorized representative is invited to attend the Pre-bid Meeting, which shall take place in the office of Development Authority Lucknow.
- c) The Bidders designated representatives are invited to attend the Pre-bid meetings at their own cost, to be held on 10.01.2019 at 12:00 noon at Masood Hall, Lucknow Development Authority, Vipin Khand, Gomati Nagar, Lucknow.

### **4.2 Amendment of RFP Document**

4.2.1. At any time prior to the Proposal Due Date, Lucknow Development Authority may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP Document through the issuance of Addenda. This will be uploaded on the e-tender Website of Lucknow Smart City Limited and shall be binding upon all the prospective bidders.

### **4.3 Preparation and submission of Proposal**

4.3.1. Procedure for Bid Submission:

- a) Bidders shall be required to submit the bids online.
- b) The participating bidders in the tender should register themselves on e-procurement platform in the website <https://etender.up.nic.in>.
- c) The bidders who are desirous of participating in e-procurement shall submit their technical bids, financial bids as per the standard formats. The bidders should scan and upload the below mentioned documents and submit all the hard copies duly self attested hard bound to The Chief Engineer, Lucknow Development Authority, Lucknow.
  - i. Proof of EMD for Rs. 25.00 Lakhs submitted.
  - ii. Valid Registration Certificate of the company/firm issued by the Registrar of Firms.
  - iii. Articles of association of the Company/firm (self attested).

- iv. Valid registration Certificate and latest Clearance Certificate and turnover figures issued by the chartered accountant (self attested) Income Tax clearance certificate (upto previous financial year) self attested.

4.3.2. The bidders shall be required to submit the Proposal (including both Technical Proposal and Financial Proposal) online only and a hardcopy of only Technical Proposal shall be submitted at the office of the, The Chief Engineer, Lucknow Development Authority, Lucknow.

4.3.3. In case of a Joint Venture, wherever required, the Proposal must contain such information individually for each member of the Joint Venture.

4.3.4. All proposals/bids shall be signed by the duly 'Authorized Signatory' of the Bidder. In case of a Joint Venture, the Proposal shall be signed by the duly Authorized Signatory of the Lead Member. Bidders shall submit a supporting Power of Attorney authorizing the signatory of the Proposal to commit the Bidder and agreeing to ratify all acts, deeds and things lawfully done by the said attorney. In case of a Joint Venture, such Power of Attorney shall be signed by all members of the Joint Venture and shall be legally binding on all of them.

4.3.5. The Authorized Signatory shall initial the Proposal on each page. He shall also initial all the alterations, omissions, additions, or any other amendments made to the Proposal, before submission.

4.3.6. Bidders are required to submit only 1(one) set of the Technical Proposal and one set of financial bid.

### **4.4 Language and Currency**

4.4.1. The Proposal and all related correspondence and documents shall be written in English language. If any supporting document attached to the Bid is in any other language, the same will be supported by an English translation and in case of any ambiguity the translation shall prevail.

4.4.2. The currency for the purpose of the proposal/bid shall be Indian National Rupee (INR).

### **4.5 Bidder's Responsibility**

4.5.1. It would be deemed that prior to the submission of Proposal; the Bidder has made a complete and careful examination of:

- a. The requirements and other information set forth in this RFP Document.
- b. The various aspects of the Project including, but not limited to the following:
  - The site, existing roads, access roads, service roads, pavements etc. in the vicinity of the site;

- All other matters that might affect the Bidder's performance under the terms of this RFP Document, including all risks, costs, liabilities and contingencies associated with the Project.

4.5.2. Lucknow Development Authority shall not be liable for any mistake or error or neglect by the Bidder in respect of the above. Proposals that are not substantively responsive to the requirements of this RFP Document will be rejected.

### **4.6 Sealing and Marking of Proposals**

4.6.1. The proposal shall be sealed, marked and submitted as explained below:

- a) Envelope No. 1: The proof of the EMD submitted.
- b) Envelope No. 2: duly marked as "Technical Proposal" and shall contain the following:

Relevant documents (like Certificate of Incorporation, Joint Venture (JV) Agreement (if applicable), audited financial statements and evidence of experience like client certificate, details of financing arrangements etc) confirming the "Technical Qualification Conditions" laid down in Clause 3.2;

- Letter of Application and Interest (As per Format A);
  - General Information on the Bidder (As per Format B);
  - Power of Attorney for Signing of Application (as per Format E);
  - Affidavit (As per Format D);
  - Hard copy RFP Document and addendum (if any) duly signed (on each page) by an authorized representative as a token of acceptance;
  - Power of Attorney by Each Member of the JV in Favour of Lead Member (as per Format G);
  - Joint Venture Agreement (as per Format H), if applicable;
  - A letter (on company's letter head) from all the JV members as laid down in Clause 3.3.7.
  - All required submissions, if the Bidder is applying through JV and as stated in the RFP Document.
- c) 'Financial Proposal' (as per Format C) should be submitted online only.
  - d) All the above envelopes shall be enclosed in an outer cover/ envelope marked as "RFP for Mechanical Sweeping/washing of footpaths of different roads of in

Lucknow City” before closing of bidding time.

- e) The Outer envelope shall be addressed to: The Chief Engineer, Lucknow Development Authority , Lucknow

4.6.2. If the envelope is not sealed and marked, as instructed above, Lucknow Development Authority assumes no responsibility for the misplacement or premature opening of the Proposal submitted. Authenticity of documents submitted online will prevail.

4.6.3. Any Proposal received by Lucknow Development Authority after 21.01.2019 till 03:00 pm on the Proposal Due Date will be summarily rejected.

### **4.7 Opening of Proposals**

4.7.1. The Technical Proposals received shall be opened on 22.01.2019 at 04:00 PM.

4.7.2. Lucknow Development Authority reserve the right to reject any Proposal, if

1. The information and documents have not been uploaded as requested and in the formats specified in the RFP document.
2. There are inconsistencies between the Proposal and the supporting documents.
3. It does not mention the Proposal Validity Period as set out in Clause 3.9.
4. There are conditions proposed with the Technical and/or Financial Proposals.
5. It provides the information with material deviations.

4.7.3. A material deviation or reservation is one:

- a) Which affects in any substantial way, the scope, quality, or performance of the Project, or
- b) Which limits in any substantial way, inconsistent with the RFP Document, Lucknow Development Authority rights or the Bidder's obligations, or
- c) Which would affect unfairly the competitive position of other Bidders' presenting substantially responsive proposals.

4.7.4. No request for modification or withdrawal shall be entertained by Lucknow Development Authority in respect of such Proposals.

### **4.8 Evaluation of Proposals**

The evaluation will be done in 2 (two) steps as explained below:

4.8.1. In Step-I, The technical bid will be checked. The Proposals not meeting the prescribed

Technical and Financial Capability criteria as per Clause 3.2 will be rejected out-rightly. All Bidders meeting the requirements of the Step-I of the evaluation will be considered responsive to be considered for the next stages.

- 4.8.2. In Step-II of evaluation, the Financial Proposals of only those Bidders who have passed Step-I shall be opened by Lucknow Development Authority in presence of the nominees of the Bidders, who choose to attend the same. Bidders shall be ranked L1, L2, L3 etc. in increasing order of their Financial Proposals. The selection will be made on the basis of the lowest Contract Unit Rate per km road length per month (L1) for the contract (both Mechanical and Manual).
- 4.8.3. In the event that the lowest Bidder withdraws or is not selected for any reason in the first instance, Development Authority Lucknow may invite the remaining Bidders in accordance to their rank in increasing order of their Financial Proposals to match the Proposal of the aforesaid lowest Bidder.
- 4.8.4. The Proposals (Financial Proposal and Technical Proposal) should be unconditional and any conditionality attached with the Proposal(s) may result in the rejection of the proposal.
- 4.8.5. Financial Proposals of Bidders who do not qualify the Step-I of evaluation will not be opened and will be returned unopened.

### **4.9 Confidentiality**

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

### **4.10 Execution of Management Contract**

- 4.10.1. The Successful Bidder shall be required to sign the Management Contract within 30(thirty) days of conveying its acceptance of the LoA to Lucknow Development Authority in writing or the date as mutually agreed between the Parties to the Management Contract.
- 4.10.2. Failure to meet the above conditions will result in a breach and Lucknow Development Authority shall be entitled to cancel the award without being liable, in any manner whatsoever, to the Bidder and to appropriate the Proposal Security and/or any other amount deposited till that time as "Damages".
- 4.10.3. The cost of stamp duty for execution of Management Contract, registration charges and any other related legal document action charges and other incidental charges will be borne by the



Successful Bidder.

#### **4.11 Bids of other Bidders**

- 4.11.1. Lucknow Development Authority shall return the EMD received from the Bidders who have not qualified in Stage–I of the evaluation. The EMD shall be returned within 60 days without payment of any interest.
- 4.11.2. EMD received from all the short listed Bidders after Stage–II of evaluation (except L1, L2 and L3) will be returned, without payment of any interest.

## 5 PRESCRIBED FORMATS

### A. Letter of Application & Interest

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

The Chief Engineer  
Lucknow Development Authority  
Vipin Khand Gomati Nagar Lucknow 226001

Subject: RFP for Mechanized sweeping of road in Gomati Nagar Extension, Lucknow

Dear Sir or Madam,

1. Being duly authorized to represent and act for and on behalf of (here in the applicant), and having studied and fully understood all the information provided in the bid document, the undersigned hereby apply as a bidder for "Mechanized Sweeping of Roads in Gomati Nagar Extension, Lucknow" according to the terms & conditions of the RFP Document issued by Lucknow Development Authority.
2. Our Technical & Financial Proposals are as per the requisite formats along with the supporting documents, duly filled are submitted online as specified.
3. The EMD has been submitted online as per RFP.
4. Lucknow Development Authority and its authorized representatives are hereby authorized to conduct any inquiries / investigation to verify the statements, documents and information submitted in connection with the application and to seek clarification from our banker regarding any financial and technical aspects. This letter of application will also serve as authorization to any individual or authorized representative of any institution referred to the supporting information, to provide such information deemed necessary as requested by yourselves to verify statements and information provided in the application or with regard to the resources, experience and competence of the applicant.
5. Lucknow Development Authority and its authorized representatives may contact the following persons for any further information:

Name of the person (s):...

Address: ...

Phone: ...

Fax: ...

6. This application is made with full understanding that:

Bidder

## RFP for Mechanized Sweeping of roads in Gomati Nagar, Extension, Lucknow

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- (a) Lucknow Development Authority reserves the right to reject or accept any Bid/Proposal, cancel the bidding process, and/or reject all Bids.
  - (b) Lucknow Development Authority shall not be liable for any of the above actions and shall be under no obligation to inform the applicant of the same.
7. We, the undersigned declare the statements made and the information provided in the duly completed application forms uploaded, as complete, true and correct in every detail.
  8. We hereby confirm that we have read, understood and accepted all the detailed terms and conditions of this RFP Document and Project related Information as required for the Proposal. We have also visited the site/roads for the assessment and have made our own due diligence and assessment regarding the Project.
  9. We agree to keep our Proposal valid for 180 (One Hundred Eighty) days from the Proposal Due Date and not to make any modifications in its terms and conditions not acceptable to Lucknow Development Authority. Should this Proposal be accepted, we hereby agree to abide by and fulfill all the terms, conditions and provisions of the aforesaid documents.
  10. This application is made with the full understanding that the validity of Proposal submitted by us will be subject to verification of all information, terms and conditions submitted at the time of bidding and its final acceptance by Lucknow Development Authority. We agree that, without prejudice to any other right or remedy, Lucknow Development Authority shall be at liberty to forfeit the said EMD absolutely.

Authorized signatory  
Name and seal of Bidder

Date:  
Place:

**B. General Information of the Bidder**

1. Company Information:

- (a) Name:
- (b) Country of Incorporation:
- (c) Address of Corporate Headquarters and its branch office(s), if any, in India:
- (d) Status of the Bidder (Whether an individual, proprietorship firm(s), registered Partnership Firms, registered Company (ies), registered Society (ies), or registered Trust(s). Also, whether applying as a single bidder or in Joint Venture of the above stated legal entities:

2. Details of individual(s) who will serve as the point of contact/communication for Development Authority Lucknow within the Company:

- (a) Name:
- (b) Designation:
- (c) Company:
- (d) Address:
- (e) Telephone Number:
- (f) Fax Number:
- (g) E-Mail Address:

**3. In case of Joint Venture:**

- a. The information above (1 & 2) should be provided for all the members of the Joint Venture.
- b. Information regarding role of each member should be provided:

Sr. No.	Name	Role
1		
2		
3		

Signed

\* Specify whether Lead Member / Ordinary Member  
(Name of the Authorized Signatory)

For and on behalf of (Name of the Bidder) Designation  
Place: Date:

To be enclosed:

- 1. Documents certifying Bidder's legal status/ Certificate of incorporation /registration (duly certified/notarized).

## RFP for Mechanized Sweeping of roads in Gomati Nagar, Extension, Lucknow

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2. In case of a Joint Venture, Joint Venture Agreement (duly certified/notarized).
3. Latest brochures / organization profiles, etc. (duly certified/notarized, wherever possible).

### **C. Format for Financial Proposal**

The Chief Engineer  
Lucknow Development Authority  
Vipin Khand Gomati Nagar,  
Lucknow - 226001

Subject: RFP for Mechanized Sweeping of roads in Gomati Nagar extension Lucknow City.

Dear Sir/ Madam,

We hereby submit our Financial Proposal for the captioned Project.

If the Project is awarded to us, we agree to charge the following from Lucknow Development Authority as per the terms given in the Request for Proposal (RFP) Document.

#### **(Mechanical Sweeping) including all other scope of works**

1. As quoted in the Financial Bid.

**Note:** To be increased as per the percentage increase provided in the Dearness Allowance (DA) rates of over the last year's Contract Fee.

We are making this Financial Proposal after taking into consideration all the terms and conditions stated in the RFP Document and after careful assessment of the Project, all risks and contingencies and all other conditions that may affect the Financial Proposal.

We agree to keep our offer valid for 120 days from the due date of submission of this proposal.

Authorized signatory  
Place:

Date: Name and seal of Bidder

**D. Affidavit**

(To be given separately by each Joint Venture member in case of a Joint Venture or otherwise by the Bidder on a Stamp Paper of Rs. 100)

I, \_\_\_\_\_, s/o \_\_\_\_\_, resident of \_\_\_\_\_, the (insert designation) of the (insert name of the single Bidder/Joint Venture member, in case of a Joint Venture), do solemnly affirm and state as follows :

1. That I am the authorized signatory of \_\_\_\_\_ (insert name of Company/Joint Venture member) (hereinafter referred to as "Bidder / Joint Venture Member") and I am duly authorized by the bidder organization / Joint Venture to swear and depose this Affidavit on behalf of the bidder organization / Joint Venture.
2. That I have submitted information with respect to our eligibility for the Request For Proposal (RFP) for Mechanized Sweeping as per schedule 1 and I further state that all the said information submitted by us is accurate, true and correct and is based on our records available with us.
3. That, we hereby also authorize and request any bank, authority, person or firm to furnish any information, which may be requested by Development Authority Lucknow to verify our credentials / information provided by us under this tender and as may be deemed necessary by Development Authority Lucknow.
4. That if any point of time including the Contract Period, in case of Development Authority Lucknow requests any further/additional information regarding our Financial and/or Technical capabilities, or any other relevant information, we shall promptly and immediately make available such information accurately and correctly to the satisfaction of Development Authority Lucknow.
5. That, we fully acknowledge and understand that furnishing of any false or misleading information by us in our RFP shall entitle us to be disqualified from the tendering process for the said Project. The costs and risks for such disqualification shall be entirely borne by us.
6. That all the terms and conditions of the Request for Proposal (RFP) Document has been duly complied with.

DEPONENT

(Name, Designation and Address)

VERIFICATION:-

I, the above named deponent, do verify that the contents of paragraphs 1 to 6 of this affidavit are true and correct to my knowledge. No part of it is false and nothing material has been concealed.

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

DEPONENT (Name, Designation and Address)

**E. Format for Power of Attorney for Signing of Application:-**

Know all men by these presents, we/ I .....(name and address of the registered office) do hereby constitute, appoint and authorize Mr./Ms.....(name and residential address) as our attorney, to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to our Bid/ Proposal for the Project envisaging Mechanical and Manual Sweeping of roads in Gomati Nagar Extension, Lucknow including signing and submission of all documents and providing information/responses to Development Authority Lucknow, representing us in all matters before Development Authority Lucknow, and generally dealing with Development Authority Lucknow in all matters in connection with our bid/proposal for the said Project.

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

For..... Accepted  
..... (Signature)  
(Name, Title and address) of the Attorney

Note:

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

**F. Left Blank**



**G. Power of Attorney by Each Member of the JV in Favour of Lead Member**

Dated -----

**POWER OF ATTORNEY**

**TO WHOMSOEVER IT MAY CONCERN**

WHEREAS we have decided to participate in the bidding process for the “ Mechanized Sweeping of Roads in Gomati Nagar Extension, Lucknow” (the “Project”) as member of ..... [name of the JV] independently, we, ...[name of authorizing company/agency], a ..... incorporated under the laws of ....., the registered address of which is ....., to lawfully represent and act on our behalf as the Lead Member of the JV to sign any qualification statement, proposal, conduct negotiations, sign contracts, incur liabilities and receive instructions for us and on our behalf and execute all other necessary matters in connection with the Project. We hereby confirm that we are jointly and severally liable, together with other members of the JV, to Development Authority Lucknow for all of the obligations of the JV in respect of our qualification statement, technical and financial proposal for the Project, in accordance with the RFP document for the Project issued on ..... and as amended prior to date hereof

We hereby ratify and confirm that all acts done by our said attorney ..... (name of lead member) shall be binding on us as if the same has been done by us personally.

We hereby also ratify and confirm that if we are selected as the Successful Bidder, then the Lead Member of the Joint Venture shall sign the Management Contract and all the Joint Venture members shall be jointly and severally liable towards the Project, throughout the Contract Period.

IN WITNESS WHEREOF, we have hereunto set our respective hands this -----day of --  
-----2016 in the presence of the following witnesses

Witness 1

Witness 2

Signature -----

Signature -----

Name -----  
Address -----

Name -----  
Address -----

By ----- [the Authorizing Company]  
Signature ----- [Signature of authorized signing officer]  
Name -----

-----  
[Name of authorized signing officer]  
Title

-----  
[Title of authorized signing officer]

**H. Draft Joint Venture Agreement**

*(To Be Made On Stamp Paper of Requisite Value and Notarized)*

This Joint Venture Agreement (the “AGREEMENT”) made at ...on this...day of ..., 2018

**BY AND AMONGST**

M/s \_\_\_\_\_ {*Lead Member (JV Member 1)*}, a \_\_\_\_\_ incorporated under \_\_\_\_\_ (*name of the relevant act/law of under which registered in the Country of Registration*) and having its registered office / a company incorporated under the Laws of \_\_\_\_\_ (hereinafter referred to as “\_\_\_\_\_”, which expression shall unless repugnant to the context or meaning thereof be deemed to mean and include its successors in interest, subsidiaries and assigns) of the ONE PART;

AND

M/s \_\_\_\_\_ (*JV Member 2*), a \_\_\_\_\_ incorporated under the \_\_\_\_\_ and having its registered office / a company incorporated under the Laws of \_\_\_\_\_ (hereinafter referred to as “\_\_\_\_\_”, which expression shall unless repugnant to the context or meaning thereof be deemed to mean and include its successors in interest, subsidiaries and assigns) of the SECOND PART;

AND

M/s \_\_\_\_\_ (*JV Member 3*), a company incorporated under the \_\_\_\_\_ and having its registered office / a company incorporated under the Laws of \_\_\_\_\_ (hereinafter referred to as “\_\_\_\_\_”, which expression shall unless repugnant to the context or meaning thereof be deemed to mean and include its successors in interest, subsidiaries and assigns) of the THIRD PART

(\_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ shall be individually referred to as the “Party” and jointly referred to as the “Parties” or “JV Members”).

**WHEREAS:**

- A. The Development Authority Lucknow (hereinafter referred to as the “DALucknow ”), invited Proposals for the work of ‘Mechanical Sweeping of Roads of Lucknow City’ (hereinafter referred to as the “Project”).
- B. M/s \_\_\_\_\_, M/s. \_\_\_\_\_ and M/s. \_\_\_\_\_ have agreed to consolidate their resources and experience, and apply jointly as a Joint Venture (hereinafter referred to as the “Joint Venture”), vide this Joint Venture Agreement, for the

## RFP for Mechanized Sweeping of roads in Gomati Nagar, Extension, Lucknow

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purpose of developing and completing the Project, within time frame stipulated in the Request for Proposal Document (hereinafter referred to as the "RFP document").

- C. M/s \_\_\_\_\_, M/s. \_\_\_\_\_ and M/s. \_\_\_\_\_ have therefore agreed to enter into this Joint Venture Agreement in respect of the submission of the Bid/ Proposal for the Project on the terms set out below.

### **NOW THEREFORE IN CONSIDERATION OF THE PREMISES AND THE MUTUAL CONVENANTS HEREIN CONTAINED THE PARTIES HEREBY AGREE AS FOLLOWS:**

1. The recital herein contained shall constitute and integral and operative part of this Agreement.
2. The Parties hereto agree to consolidate their resources and hereby form a Joint Venture to jointly prepare, submit and Bid for the Project, which has financing and commercial benefits, as detailed in the RFP document issued by Development Authority Lucknow for the implementation/execution and completion of the Project.
3. The Parties hereto agree that \_\_\_\_\_ shall be the Lead Member and \_\_\_\_\_ and \_\_\_\_\_ shall be the JV Members 2 & 3 respectively of the Joint Venture.
4. The Parties shall mutually and jointly take all the decisions in respect of the Project on behalf of the Joint Venture. \_\_\_\_\_ (*Lead Member*) shall be authorized to act on behalf of the Joint Venture as their representative for implementation/execution and completion of the Project.
5. \_\_\_\_\_ undertakes that it has the necessary qualification to fulfill technical and financial capability criteria for the implementation/execution and completion of the Project as detailed in the RFP Document {including the draft Management Contract (Section-II of the RFP document)}.
6. \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ shall be jointly and severally liable for the implementation, operation and maintenance of the Project in accordance with the terms of the RFP Document. It is further unanimously agreed by the Parties that the Lead Member, alongwith other JV Members shall:-
  - a) coordinate the day to day activities of the Joint Venture;

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- b) undertake to be jointly and severally liable/responsible for all the obligations and liabilities relating to the Project, in accordance with the terms of the RFP Document and the Management Contract with Development Authority Lucknow till the end of the Contract Period; and
- c) Complete all works assigned under the RFP Document (including Management Contract) within the time period stipulated in the RFP document.

7. The role and the responsibility of each Party for the implementation, operation & maintenance and execution of the Project shall be as follows:

Name of Member	Type of Member	Role & Responsibility
_____	JV Member 1 (Lead Member)	_____
_____	JV Member 2	_____
_____	JV Member 3	_____

- 8. Confidentiality – All information, document, etc. exchanged between the Parties related to this agreement or the preparation of any bid or the performance of the Project shall remain confidential and shall not be revealed to third parties for a certain time period to be agreed upon. Unless otherwise required by law, the Parties undertake not to disclose to any third party or any else and / or use any Information, without prior consent of the other Party.
- 9. Term and Duration – This Agreement shall come into effect on the date of submission of the Bid/Proposal for the implementation/execution and completion of the Project. This Agreement shall terminate upon the successful completion of the Project and may be extended further for such period as may be required by the Development Authority Lucknow. This Agreement can be terminated only upon Joint Venture’s Bid for the Project is conclusively rejected by the Development Authority Lucknow.
- 10. Costs/Expenses – All out-of-pocket expenses/costs of and incidental to this Agreement including stamp duty and registration fees, if any shall be borne and paid by the Parties. Each Party shall pay and bear their own advocated/solicitors fees in the preparation of this Agreement.

11. Governing Law – This Agreement shall in all respect be governed, construed and interpreted in accordance with laws of Republic of India.

12. Settlement of Disputes – Any disputes arising out of this Agreement shall be amicably settled by the authorized representatives of the Parties, failing with any such disputes shall be resolved by Arbitration in accordance with the Arbitration and Conciliation Act, 1996, by one or more arbitrators appointed in accordance with the said Act. This Clause shall survive the termination of this Agreement.

Language of Arbitration shall be English. The venue of the Arbitration proceedings shall be in \_\_\_\_\_, India. The Parties jointly and severally undertake that the implementation/execution and completion of the Project shall not be affected during the dispute(s) or the settlement of dispute(s) period.

The Award rendered by the Arbitral Tribunal shall be final and binding upon the Parties.

13. In the event of a dispute between the Parties over the subject of this Agreement, the prevailing party shall be entitled to reasonable advocates/solicitors' fees and costs incurred in the resolution of such dispute.

14. Amendments – This Agreement can be amended or suppressed by further agreement made in writing at the request of any of the Parties after unanimous approval by the Parties and by obtaining prior consent and written approval from Development Authority Lucknow.

15. Notices – Any notices, requests, demands or any communications from any party to the other party under this Agreement shall be by Regd./Speed mail or facsimile transmission sent to the addresses as indicated in this Agreement. Any party may change its address but shall promptly inform Development Authority Lucknow and the other Parties/JV Members of any such change.

16. Language – The official language of this Agreement and all future agreements shall be English

RFP for Mechanized Sweeping of roads in Gomati Nagar, Extension, Lucknow

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- 17. Assignment – None of the Parties to this Agreement shall have the right to assign its benefits or liabilities under this Agreement to any other company, firm or person without obtaining prior consent and written approval of Development Authority Lucknow.
  
- 18. Entire Agreement – This Agreement constitutes the entire agreement between the Parties and supersedes all prior writings, agreements or understandings relating to the subject matter thereof.

**IN WITNESS WHEREOF** the Parties hereto have caused this Agreement to be executed by their duly authorized representatives the day and year first above written.

**SIGNED AND DELIVERED BY** \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**SIGNED AND DELIVERED BY** \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**SIGNED AND DELIVERED BY** \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Witness:  
1. \_\_\_\_\_

## RFP for Mechanized Sweeping of roads in Gomati Nagar, Extension, Lucknow

SI.No	Stretch	Location	Length (Km)
1	Stretch 1	45.0 mtr wide road in Sector-1, 4 , 5 & 7	6.39
2	Stretch 2	30.0 mtr wide road in Sector-1 & 4	3.26
3	Stretch 3	24.0 mtr wide road in Sector-1 , 4 & 7	1.42
4	Stretch 4	18.0 mtr wide road in Sector-1, 4, 5 , 6 & 7	15.50
5	Stretch 5	12.0 mtr wide road in Sector-1, 4, 5 & 6	5.15
6	Stretch 6	9.0 mtr wide road in Sector-1, 4, 5 & 6	21.44
7	Stretch 7	7.5 mtr wide road in Sector-1, 4 & 6	9.90
8	Stretch 8	6.0 mtr wide road in Sector-1, 4 & 6	8.33
<b>TOTAL</b>			<b>71.39 Km</b>

## Schedule 2

### Technical specifications of required Compact heavy duty sweeper

#### Technical Specification for Heavy Duty Sweeper (Self Propelled Heavy-Duty Sweeper)

S. No.	Description	Indicative/Desired Specifications
1	Sweeper Type	Compact heavy duty sweeper with a single engine & with at least 100KW, hydrostatic drive, center broom and two side brooms.
2	Minimum Sweeping width	3000 mm
3	Container volume and material of construction	Minimum 4-5 cubic meters & Stainless Steel
4	Dust Control	By water sprinkling nozzles on side brushes
5	Water tank	Minimum 500 liters capacity
6	Environmental compliance	Euro IV / BS IV or above for the machine with PM10 compliance
7	Sweeping speed & Travel speed	8-10 KM / Hour & 40KM/ Hour
8	Engine rating	125 – 150 HP
10	Conveyor	Heavy duty construction and collect all types of material with the help of brooms
11	Brushes	Prefab, disposable, polypropylene / nylon with steel reversible core of at least 1300 mm cylindrical width and 600 mm dia. Central brushes with side brooms with minimum 1000 mm diameter and speed control from cab Front broom with suitable controls to take dust out from various profiles and corners of the road
12	Hopper dumping	Front or Rear dumping from minimum 2000 mm height to directly dump in the storage bin or dumper
13	Wander Hose	4.0 - 5.0 meters length & 125mm diameter
14	Hydraulic System / Controls	All controls of sweeping and traction should be hydraulic
15	Footpath washing system	Machine should be equipped with washing spray gun extendible upto 3 meters
16	Road washing capability	Rear washing Bar



**Annexure – 1**

**Detailed Scope of Work on every road Km with center verge**

Sl.	Description	Area	Frequency	No's of Day
1	Mechanized Sweeping	Left & Right side of carriage ways & Centre verge	Alternative day	Minimum 3 days in week & 13 days in month
2	Washing	Paved footpath & medians, roundabout, bus stand street furniture, signages	Once in a week	Minimum 1 day in week & 4 days in month
3	Litter Collection	ROW	Daily -Day & Night	26
4	Debris Clearance	ROW	Daily	26
5	Wild Grass Removal	ROW	Monthly	1
6	Pruning Of Trees	ROW	3 Monthly	1 in 90 days
7	Lifting of Dead Animal	ROW	Immediate	26
8	GIS Mapping & monitoring	ROW	Daily	26

**Annexure – 2**

**BANK GUARANTEE BOND FOR PERFORMANCE WARRANTY**

(To be executed by the State Bank of India or any other scheduled Bank recommended by Reserve Bank of India on non-judicial stamp paper)

To

The Vice Chairman,  
Lucknow Development Authority  
Lucknow

Dear Sir/Madam,

Sub: Your Contract No. \_\_\_\_\_ dated \_\_\_\_\_  
for \_\_\_\_\_

1. You, on behalf of \_\_\_\_\_, have entered into a contract with reference no as given above with \_\_\_\_\_ (herein after referred to as the contractor) for the development, fabrication and supply of \_\_\_\_\_ (herein after referred to as stores) for the price and on the terms and conditions contained in the said contract.
2. In accordance with the terms of said contract the contractor has undertaken to produce a bank guarantee for Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only) being \_\_\_\_\_ % of the total value of the said stores supplied to you, for the due fulfillment of its obligations to the \_\_\_\_\_ for due performance as per the contract during warranty period.
3. In consideration thereof, we hereby expressly, irrevocably and unconditionally undertake and guarantee as principal obligors on behalf of the contractor that in the event that the \_\_\_\_\_ submits a written demand to us that the contractor has not performed according to the contractual obligations included in the said contract, we will pay you on written demand, without demur and without reference to the contractor any sum up to a maximum amount of Rs \_\_\_\_\_ (Rupees \_\_\_\_\_ only). Your demand shall be conclusive evidence to us that such repayment is due under the terms of the said contract. Payment by us to you will be made within thirty (30) days from receipt of your written request making reference to this guarantee and on demand.
4. This guarantee shall not be revoked without your express consent and shall not be affected by your granting any indulgence to the contractor, which shall include but not be limited to postponement from time to time of the exercise of any powers vested in you or any right which you may have against the contractor and to exercise the same in any manner at any time and either to forbear or to enforce any covenant contained or implied in the said contract or any other course or remedy or security available to you, and our Bank shall not be released from its obligations under this guarantee by your exercising any of your rights with

Bidder

## RFP for Mechanized Sweeping of roads in Gomati Nagar, Extension, Lucknow

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reference to matters aforesaid or any of them or by reason of any other act or forbearance or other acts of omission or commission on your part or any other indulgence shown by you or by any other matter or thing whatsoever which under law would, but for this provision, have the effect of relieving our Bank from its obligation under this guarantee.

5. Notwithstanding anything herein contained, our liability under this guarantee is restricted to Rs \_\_\_\_\_ (Rupees \_\_\_\_\_ only) and the guarantee shall remain in force up to and including the \_\_\_\_\_ day of being reported to us by you and returned to us duly discharged.
6. Unless a demand or claim under this guarantee is made on us in writing on or before the aforesaid expiry date as provided above or unless this guarantee is extended by us all your rights under this guarantee shall be proscribed and we shall be discharge from the liabilities hereunder.
7. This guarantee shall not be affected by any change in the constitution of our Bank or of the contractor or for any other reason whatsoever.

Date:

Sd.....

Place:

Bankers

Seal of the Bank

Witness:

1. ....

2. ....

**Request for Proposal for  
Mechanized Sweeping of Roads  
in Gomati Nagar Extension, Lucknow**

## **Section-II**

# **FINANACIAL BID/ DRAFT MANAGEMENT CONTRACT**

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## DRAFT MANAGEMENT CONTRACT

**THIS MANAGEMENT CONTRACT** is entered into on the \_\_\_\_\_ day of \_\_\_\_\_, 2019 at \_\_\_\_\_,

### BETWEEN

**Lucknow Development Authority**, , acting through the ..... (Here in after referred to as the “**LDA**” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) of **One Part**;

### AND

\_\_\_\_\_, a \_\_\_\_\_ incorporated under the provisions of the \_\_\_\_\_, having its registered office at \_\_\_\_\_, acting through its \_\_\_\_\_, (hereinafter referred to as the “**Operator**” which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns and substitutes) of the **Other Part**.

**WHEREAS** LDA has decided to outsource the work of sweeping of selected roads of city within the jurisdiction of Lucknow City, by deploying mechanical sweeping machines of required capacity (hereinafter referred to as the “**Project**”). (*The details w.r.t the road network and facilities present has been laid down in Schedule – I*).

**AND WHEREAS** LDA undertook a single-stage bidding process for the selection of a suitable Operator, through a competitive bidding process. After issuing a Request for Proposal (RFP) document dated \_\_\_\_\_2018,LDA invited Proposals from the prospective Bidders to implement the said Project. Pursuant to the evaluation of the Proposals that were received from interested Bidders, LDA accepted the Proposal submitted by the “**Successful Bidder**” i.e. \_\_\_\_\_ and a Letter of Award (LoA) bearing no. \_\_\_\_\_ dated \_\_\_\_\_ was issued to the Successful Bidder.

**AND WHEREAS** following the acceptance of the Letter of Award (LoA) and submission of the Performance Security of Rs. \_\_\_\_\_ (\_\_\_\_\_) Lakh by the Successful Bidder to LDA. LDA hereby agrees and grants to the Operator, the rights under this Management Contract on the mutually agreed terms and conditions for the Contract Period.

**NOW THEREFORE**, in view of the mutual promises and consideration set out herein, the LDA and the Operator (each individually a “Party” hereto, and collectively the “Parties”) hereby agree to be bound by the provisions of this Management Contract:



# 1 DEFINITIONS AND INTERPRETATION

IT IS AGREED as follows:

## 1.1 Definitions

In this Management Contract, unless repugnant to the context in which these words and expressions appear the words and expressions defined below shall have the meanings assigned to them:

- **“Applicable Laws”** means all laws, which are applicable to the Project and/or the Operator extending to the State of Uttar Pradesh, having been enacted or brought into force by Government of India including regulations and rules, policies made there under, and judgments, decrees, injunctions, writs and orders of any Court of Record, as may be in force and effect during the subsistence of this Management Contract;
- **“Applicable Permits”** means all clearances, permits, authorizations, consents and approvals under or pursuant to Applicable Laws, required to be obtained and maintained by the Operator, in order to implement the Project in accordance with this Management Contract;
- **“Arbitration Act”** means the Arbitration and Conciliation Act, 1996 and shall include any modifications to or any re-enactment thereof as in force from time to time;
- **“Change in Law”** means the occurrence of any of the following after the date of this Management Contract:
  - (a) The enactment of any new Indian Law;
  - (b) The repeal modification or re-enactment of any existing Indian Law;
  - (c) The commencement of any Indian Law which has not entered into effect until the date of this Management Contract;
  - (d) A change in the interpretation or application of any Indian Law by a court of record as compared to such interpretation of application by a court of record prior to the date of this Agreement; or
  - (e) Any change in the rates of the taxes.
- **“Competent Authority”** means any agency, authority, department, ministry, public or statutory Person of the Government of India, or any local authority, or any other sub-division thereof with authority over aspects of implementation of the Project having jurisdiction over all or any part of the Project Facility/ Site or the performance of all or any of the services or obligations of the Operator under or pursuant to this Management Contract;
- **“Compliance Date”** means the later of the date of issuance of the Compliance Certificate to the LDA or the Operator under Article 2.3;

## RFP for Mechanized Sweeping of roads in Gomati Nagar, Extension, Lucknow

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- **“COD”** means the commercial operations date of the Project on which the LDA Issues an Implementation Completion Certificate and the Operator commences commercial operations. It is clarified here that the Contract Period of 2 (Two) years shall commence from COD;
- **“Condition Precedent”** means the conditions set out in Article 2 hereof;
- **“Contract Period”** is the period for which this Management Contract is granted i.e. 2 (Two) years, commencing from the COD and as varied from time to time as per the provisions of this Management Contract;
- **“Control Centre”** means the space as provided by the Owner, wherein the Operator shall install the required equipments including the GPS monitoring device in order to monitor the work being carried out by the Mechanical Sweepers and Manual Sweepers on the road;
- **“Cleaning of roads, service lane(s), central verge(s) and footpath(s)/road berm(s)”** means all things necessary to achieve commercial operation of the Project in accordance with this Management Contract. The work shall consist of cleaning of roads, picking, removal and disposal of loose materials/debris deposited on or along the road, service lane, central verge, footpath(s), road berm(s), including cleaning of bell mouths, gully gratings along the road alignments by mechanical sweepers (and by manual staff where mechanical sweepers cannot operate). Also, the Operator shall report regarding the lying of dead animals, if any on these roads and in the vicinity of the area under contract to LDA and disposal of litter wastes to the nearest Dumping Station by means of covered dumpers.
- **“VC”** means the Vice Chairman, Lucknow Development Authority, ;
- **“Cure Period”** means the period specified in this Management Contract for curing any breach or default of any provision of this Management Contract by the Party responsible for such breach or default;
- **“Day”** means calendar day, **“Month”** means 30 (thirty) days and **“Year”** means 365 (Three Hundred and Sixty Five) days. However, the monthly rates as quoted by the Operator shall be based on the number of days any activity has been carried out by the Operator;
- **“Directive”** means any present or future requirement, instruction, direction, order, rule or regulation issued by any Competent Authority which is legally binding or which is notified by the LDA or to the Operator and any modification, extension or replacement thereof from time to time in force;
- **“Dispute Resolution Procedure”** means the procedure for resolution of disputes set forth in Article 12;
- **“Emergency”** means a condition or situation that is likely to endanger the security of the individuals on or about the Project including the users thereof or which poses an immediate threat of material damage to any of the Project Facility;

- **“Encumbrance”** means any encumbrance such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect on the security or other such obligations and shall include without limitation any designation of loss payees or beneficiaries or any such similar arrangement under any insurance policy pertaining to the Project and physical encumbrances and encroachments on the Project Site. Also, the old impacted soil, choked drains, fallen leaves/ trees, construction materials deposited on the Project Site, Waste dumped etc shall be removed by LDA and thereby, transferred to the Operator for further cleaning;
- **“Financial Year”** means the year commencing from 1st April of any calendar year to the 31<sup>st</sup> March of the next calendar year except in the first and the last calendar year of the subsistence of this Management Contract. In the first year of subsistence of this Contract, it means the period from the Compliance Date to the 31<sup>st</sup> March of next calendar year. In the last year of subsistence of this Management Contract, it means the period from 1st April to the Transfer Date;
- **“Force Majeure”** or **“Force Majeure Event”** shall mean an act, event, condition or occurrence specified in the Article 11;
- **“Good Industry Practice”** means those practices, methods, techniques, standards, skill, diligence and prudence which are generally and reasonably expected and accepted from a reasonably skilled, prudent and experienced operator engaged in operations and maintenance of projects akin to the Project and in accordance to this Management Contract;
- **“Implementation Period”** means the period beginning from the Compliance Date and ending on the COD;
- **“Machine”** means as per Technical Specifications detailed out in Schedule – II;
- **“Material Adverse Effect”** means consequences of events outside the control of the Affected Party which (a) render any right vested in a Party by the terms of this Management Contract ineffective, or (b) significantly impairs or frustrates the ability of any Party to observe and perform in a timely manner its obligations under this Contract, or (c) frustrates a material provisions of this Management Contract;
- **“Material Breach”** means a breach by either of the Party of any of its obligations under this Agreement which has / is likely to have a Material Adverse Effect on the Project and which such Party shall have failed to cure within the Cure Period;
- **“LDA ”** means the Lucknow Development Authority, ;
- **“Management Contract”** means and includes this signed Management Contract (including the Schedules of the Management Contract), the “Letter of Award” issued by LDA, the written clarification(s), addendums, amendments, etc. to the RFP Document issued subsequently to the Bidders and all other documents/papers attached as annexure/ appendix);

## RFP for Mechanized Sweeping of roads in Gomati Nagar, Extension, Lucknow

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- **“Operation and Maintenance Period”** is the period commencing from COD and ending at the expiry of the Contract Period;
- **“Party”** means any of the parties to this Management Contract and **“Parties”** means the parties to this Management Contract;
- **“Performance Security”** means the Performance Security as set out in Article 3.4 from a scheduled bank approved by the LDA and to be submitted within the Implementation Period;
- **“Project”** means the cleaning of roads, service lane(s), central verge(s), footpath(s), road berm(s) of City within the jurisdiction of LDA, by deploying mechanical sweeping machines of required capacity, and manual sweeping staff of required numbers, which the Operator shall be required to keep in good and clean condition in accordance with the provisions of this Management Contract and Schedules hereof;
- **“Project Agreements”** means collectively, this Management Contract, any contract of design, sanitary inspector, procurement and any other material contract (other than the Financing Documents) entered into or may hereafter be entered into by the Operator in connection with the Project;
- **“Project Facility”** means collectively the facilities on the Project Site i.e. carriageway, service lane, central verge and footpath(s)/ road berm(s) to be kept clean for use of the users by implementing the Project;
- **“Project Site”** means the road site(s) particulars whereof are set out in Schedule-I of this Management Contract;
- **“Junior Engineer”** means the Junior Engineer designated by LDA under written communication to the Operator to undertake the supervision of work during the Contract Period and to undertake, perform and carry out the duties, responsibilities, services and activities set forth in this Management Contract;
- **“Schedules”** mean the schedules to this Management Contract;
- **“Specifications and Standards”** means the specifications and standards relating to the quality, capacity and other requirements for the Project as set forth and any modifications thereof, or additions hereto as included in the design and inspection for the Project submitted by the Operator to, and expressly approved by LDA;
- **“Statutory Auditor”** means a reputed firm of Chartered Accountants duly licensed to practice in India acting as statutory auditor of the Operator;
- **“Tax”** means the existing tax, duty, levy whatsoever charged, imposed or levied under Applicable Laws;

- **“Termination”** means termination of this Management Contract pursuant to a Termination Notice or otherwise in accordance with the provisions of this Management Contract but shall not, unless the context otherwise requires include the expiry of this Management Contract due to expiry of the Contract Period in the normal course;
- **“Termination Date”** means the date on which the Termination occurs which shall be the date on which the Termination Notice has been delivered or deemed to have been delivered by a Party issuing the same to the other Party in accordance with the provisions of this Management Contract;
- **“Termination Notice”** means the communication issued in accordance with this Management Contract by a Party to the other Party terminating this Management Contract;
- **“Termination Payment”** means the aggregate of the amounts payable by LDA to the Operator under this Management Contract upon termination;
- **“Total Project Cost”** means the lowest of the following:
  - Actual capital cost of the Project upon completion of the Project as certified by the Statutory Auditor; or
  - Total Project Cost as set forth in the Financing Documents.

### ***1.2 Principles of Interpretation***

- a. Article numbers, headings and marginal headings in the conditions of this Contract are solely for the purpose of reference and shall not impact the interpretation of this Management Contract.
- b. Words importing Person or Parties shall include firms and corporations and any organization having legal capacity to sue and be sued in its name.
- c. Words importing the singular shall include the plural and vice-versa where the Management Contract requires.
- d. Words importing one gender include other genders.

### ***1.3 Priority of Documents***

The documents forming this Management Contract are to be taken as mutually explanatory of one another. If there is an ambiguity or discrepancy in the documents, the LDA shall issue any necessary clarification or instruction to the Operator, and the priority of the documents shall be as follows:

## RFP for Mechanized Sweeping of roads in Gomati Nagar, Extension, Lucknow

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- a. This signed Management Contract (including its Schedules), along with any Addendums issued to the RFP document dated ...;
- b. Instructions to Bidders (ITB) {Section I of the RFP document dated ...}, enclosed/ attached with this signed Management Contract; and
- c. All other documents enclosed/ attached with this signed Management Contract.

## 2 CONDITIONS PRECEDENT

Subject to express terms to the contrary, any legitimate rights arising in law, the rights and obligations under this Management Contract shall take effect only upon the fulfilment of all the Conditions Precedent set out in Articles 2.1 and 2.2 on or before the expiry of a period of 30 (thirty) days from the date of this Management Contract. However, the LDA may at any time at its sole discretion waive fully or partially any of the Conditions Precedent of the Operator.

### 2.1 *Conditions Precedent for the LDA*

The LDA shall have:

- (i) Handed over to the Operator the physical possession of the Project Site only for cleaning of road as per the scope of this Management Contract, for the period co-terminus to the Contract Period (the exact road details laid down in Schedule - I) free from Encumbrances. If LDA due to activities such as (i.e. development/ permanent closure/ construction/ re-carpeting/ demolition drives/ dharnas etc.) is not able to provide the possession of earmarked roads to the Operator (also at any time during the Contract Period) for mechanical and manual sweeping for a maximum period of 7 (seven) days, LDA shall allocate alternative roads of similar or greater length within the radius of 10 km of all such roads which have become inaccessible for sweeping. However, if under any circumstances, LDA is not able to provide such road(s) or any other alternative road within the stipulated time period then LDA shall be liable to pay 75% (seventy five) of the applicable Contract Fee to the Operator till the roads are made available to the Operator;
- (ii) Handed over the physical possession of Control Centre and paved space for workshop, washing bay, parking, administrative office, store, canteen etc. to the Operator;
- (iii) Constituted and appointed the Steering Group, within a period of 15 (fifteen) days from the date of this Management Contract in accordance with the terms hereof;
- (iv) Appoint a Junior Engineer, within a period of 5 (five) days from the Date of this Management Contract.
- (v) Ensure to make payment to the operator within 30 days of invoice raised Corporation will open an escrow account jointly with bidder with a reserve of fund equivalent to 3 month invoicing at all times.

### 2.2 *Conditions Precedent for the Operator*

The Operator shall have:

- (i) Made arrangements for financing the Project and executed the Financing Documents and delivered to LDA notarized true copies thereof along with soft copies;
- (ii) Submitted to the Junior Engineer and LDA, a programme supported with BAR chart for purchase/arrangement of new mechanical sweeper(s)/vehicle(s) fitted with GPS / wireless / mobile phone system of required technical specifications and standards;

- (iii) Provided an undertaking that all of the Representations and Warranties of the Operator set forth in Article 5.2 are true and correct as on the date of this Management Contract and as on the Compliance Date and thereafter.

Provided that upon request in writing by the Operator, LDA may, at its sole discretion, waive fully or partially any or all the Conditions Precedent set forth in this Article 2.2.

### ***2.3 Compliance Certificate***

- (a) Each Party hereto shall use all reasonable endeavours at its cost and expense to procure the satisfaction in full of its respective Conditions Precedent set out above within 30 (thirty) days of date of this Management Contract.
- (b) Upon satisfaction in full of all Conditions Precedent for a Party, the other Party shall forthwith issue to such Party a compliance certificate with all the Conditions Precedent (the “Compliance Certificate”).
- (c) The later of the date of the issuance of the Compliance Certificate to the Operator or the LDA shall be the “Compliance Date”, whereupon the obligations of the Parties under this Management Contract shall commence and whereon the LDA shall issue the “Notice to Commence” of the Works to the Operator.

### ***2.4 Non-fulfillment of Conditions Precedent***

- (a) In the event that any of the Conditions Precedents relating to the Operator have not been fulfilled within 30 (thirty) days of the signing of this Management Contract and also, LDA has not waived them fully or partially, this Management Contract shall cease to have any effect as of that date and shall be deemed to have been terminated by the mutual agreement of the Parties and no Party shall subsequently have any rights or obligations under this Management Contract and LDA shall not be liable in any manner whatsoever to the Operator or persons claiming through or under it.
- (b) In the event that the Operator has fulfilled its Conditions Precedent and LDA has not procured fulfillment of any or all of the Condition Precedents set forth in Article 2.1 within the period specified in respect thereof, the LDA shall pay to the Operator damages equivalent to an amount calculated at the rate of 0.1% (zero point one per cent) of the Performance Security for each day’s delay until the fulfillment of the Conditions Precedent, subject to a maximum of 10% (ten per cent) of the Performance Security. In the event when the maximum damages as above has become payable and the LDA has still not been able to procure fulfillment of any or all the condition Precedent set forth in Article 2.1 and the period for achievement of the same has not been mutually extended then the LDA shall be liable to return, to the Operator, the Performance Security submitted before the signing of the Management Contract.



- (c) In the event the LDA has terminated this Agreement under Article 2.4 (a) due to non-fulfilment of Conditions Precedent by the Operator, LDA shall not be liable in any manner whatsoever to the Operator or its Operators, agents and employees.
- (d) In the event that possession of the Project Site has been delivered to the Operator prior to the fulfillment in full of the Conditions Precedent, upon the termination of this Management Contract the Facility shall immediately revert to the LDA, free and clear from any Encumbrances, irrespective of any outstanding claims between the Parties or any other claims, disputes etc. whatsoever between the Parties.
- (e) Instead of terminating this Management Contract as provided in paragraph (a) above or as the case may be, the Parties may extend the time for fulfilling the Conditions Precedent by mutual agreement.

### **3 CONTRACT PERIOD, IMPLEMENTATION PERIOD AND CONSIDERATION TO LDA**

#### **3.1 Contract Period**

3.1.1 The Contract Period for “*the Project*” shall commence from COD and extend for a period of 2 (Two) years from such date (the “Contract Period”) and during which the Operator is authorized to implement the Project in accordance with the provisions hereof. For avoidance of doubt, the Contract Period shall not include Implementation Period. However, the said Contract Period may be extended pursuant to the mutual agreement between both the parties.

3.1.2 It is hereby made clear that:

- i) In the event of the Contract Period being extended by LDA beyond the said period in accordance with the provisions of this Management Contract, the Contract Period shall include the period/ aggregate period by which the Contract is so extended, and
- ii) In the event of Termination, the Contract Period shall mean and be limited to the period commencing from COD and ending with the date of Termination of this Management Contract.

3.1.3 At the end of the Contract Period or upon prior/sooner termination of this Management Contract for any reason whatsoever, all rights given under this Management Contract shall cease to have effect and the Project Site shall revert to the LDA , in good working condition. However, the machines/vehicles as brought in by the Operator and the infrastructure as created by the Operator for proper functioning, during the Contract Period, shall be taken back by the Operator.

#### **3.2 Implementation Period**

- a. The “Implementation Period” shall be a period of 4 (four) months (starting from the Compliance Date), wherein the Operator shall be required to:
  - i. Complete all the requirements i.e. purchase/arrangement of new Mechanical Sweeping machine/vehicle(s) fitted with GPS/wireless system of required technical specifications and standards;  
It is to be noted that the capacity and minimum number of Mechanical Sweeping machines/vehicles shall be as detailed out in Schedule-II to the Management Contract.
  - ii. Provide to the Junior Engineer, its complete programme for different stages of execution, planning, designing, fabrication and erection etc. of the Project;
  - iii. Submit Performance Security to LDA ;

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- iv. Obtain all Applicable Permits, permissions and approvals required for the Project.

Note: The said Implementation Period shall be same for Phase II roads, which shall commence from the date the Phase-II roads, have been transferred to Operator.

- b. The Operator guarantees that the time for completion of Implementation for the Project shall be achieved in accordance with the provisions of this Management Contract and not later than the Implementation Period, as specified in Article 3.2 (a), from the Compliance Date.
- c. In the event that Implementation Completion is not achieved for any reason other than Force Majeure or reasons attributable to the LDA or any competent authority, the Operator shall, subject to sub-clause (d) below, pay to the LDA damages for delay beyond the date of Implementation Completion to the extent of 0.05% of the Performance Security per day for every day of delay or part thereof until Implementation Completion is achieved. Provided that nothing contained in this sub-clause (c) shall be deemed or construed to authorize any delay by the Operator in achieving Implementation Completion.
- d. In the event that Implementation Completion does not occur within 90 (ninety) days from the scheduled date of Implementation Completion, the LDA shall be entitled to terminate this Agreement. Provided that instead of terminating this Management, the LDA may at its sole option extend the time for achieving Implementation Completion on such terms and conditions as it deems fit in its sole discretion

### 3.3 Contract Fee

- (a) The Operator shall be deemed to have satisfied itself as to the correctness and sufficiency of the Contract Fees.
- (b) (i) Payment with respect to Mechanical Sweeping of Roads:

The Contract Fee, for Mechanical Sweeping of Roads, shall be Rs \_\_\_\_\_ per Km road length per month for multiple lane carriageway with center verge (without service lane) to be swept on a 3 (three) days a week basis, for all roads)for (hereinafter referred to as “Contract Fee”), to be paid monthly by LDA to the Operator. The following factors shall be applied for calculating fee applicable for the roads with/without centre verge and drain along the roads.

<b>Multiplication Factor</b>		
<b>2 way without center verge (30 m and above)</b>	0.75	X Contract Fee for 2 way with center verge.
<b>2 way with center verge (30 m and above)</b>	1.0	Contract fee
<b>2 way with center verge along with service lane (30 m and above)</b>	1.25	X Contract Fee for 2 way with center verge.
<b>Roads width 24.00mt</b>	0.75	X Contract Fee for 2 way with center verge.

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<b>Roads with 18.00mt</b>	0.50	X Contract Fee for 2 way with center verge.
<b>Road with 12.0 mtr</b>	0.40	X Contract Fee for 2 way with center verge.
<b>Road with 09.0 mtr</b>	0.25	X Contract Fee for 2 way with center verge.
<b>Road with 7.5 mtr</b>	0.25	X Contract Fee for 2 way with center verge.
<b>Road with 6.0 mtr</b>	0.20	X Contract Fee for 2 way with center verge.

(ii) Payment with respect to Manual Sweeping of Roads:

The Contract Fee for Manual Sweeping of Roads shall be Rs \_\_\_\_\_ **per Beat**, to be paid monthly by LDA to the Operator, **for sweeping on a 6 (six) days a week basis for those roads on which mechanical sweeping is not possible.**

*However, the payment shall be released on the basis of rates agreed between LDA and Operator, after making the actual measurement(s) of the work done by the Operator.*

*Also, the Contract Fee and the above stated factors shall be applicable for all types of lanes (i.e. 4 lane/6 lane/8 lane).*

- (c) The Contract Fee with respect to mechanical sweeping shall be increased 10% every year over the last year's Contract Fee..
- (d) The Contract Fee shall be payable by LDA to the Operator from the COD till the end of the Contract Period or any extension thereof.
- (e) The Contract Fee shall be released by LDA within a period of 7 (seven) days from the date of receipt of invoice/bill from the Operator. However, if there is any administrative delay on the part of LDA, in order to ensure continuous services to be provided by the Operator, LDA shall release 75% (seventy five percent) of the monthly Contract Fee to the Operator within a period of 15 (fifteen) days from the date of receipt of the invoice/bill and the balance 25% (twenty five percent) may be released within a maximum period of 30 (thirty) days from the date of receipt of invoice/bill. However, in the event of delay for more than four weeks and not exceeding eight weeks, in payment to the Operator, from the date of receipt of invoice/bill raised by the Operator, LDA shall be required to pay the Operator interest at the rate of SBI Base Rate. In the case of delay beyond eight weeks, it shall be an LDA event of default.

### 3.4 Performance Security

- 3.4.1 The Operator shall, for the due, faithful and punctual performance of the Operator's obligations hereunder during the Contract Period, has delivered to LDA, a Bank Guarantee from a bank acceptable to LDA and payable at Lucknow for a sum equivalent to 10% (ten percent) of the total yearly value of the project, to be paid annually, substantially in the form set forth in "Schedule III", (the "Performance Security"). The said Performance Security shall be renewed every year, through out the Contract Period.

### **3.4.2 Appropriation of Performance Security**

- (a) In the event the Operator being default of the due, faithful and punctual performance of its obligations under this Management Contract during the Contract Period and failing to remedy such default within the Cure Period of 30 (thirty) days or having any dues to LDA outstanding under this Management Contract, LDA in consultation with the steering group shall, without prejudice to its other rights and remedies hereunder or in law, after intimation to the Operator, be entitled to encash and appropriate the relevant or delinquent amounts from the Performance Security as damages for such default or dues.
- (b) Upon such encashment and appropriation of the Performance Security by LDA shall by notice grant 30 (thirty) days period to the Operator to replenish, in case of partial appropriation, to its original level of Performance Security and in case of appropriation of entire Performance Security, to provide a fresh Performance Security and the Operator shall, within the time so granted replenish or furnish to LDA a fresh Performance Security as aforesaid, failing which LDA shall be entitled to terminate this Management Contract under Article 9. The provisions of this Article 3.4 shall apply mutatis mutandis to such fresh Performance Security.
- (c) Upon replenishment or furnishing of a fresh Performance Security, the Operator shall be granted an additional Cure Period of 30 (thirty) days for remedying its default. If the Operator continuing to be in breach of the provisions of this Management Contract after such Cure Period, LDA shall be entitled to terminate this Management Contract under Article 9 and to encash and appropriate the Performance Security as damages.

### **3.4.3 Release of Performance Security**

- (a) Subject to the provisions hereof, LDA shall return the Performance Security to the Operator within 15 (fifteen) days of the date of transfer of Project Site to LDA, provided that there are no outstanding claims of LDA on the Operator and vice versa.

## 4 OBLIGATIONS OF THE LDA

### 4.1 General Obligations

It shall be LDA's obligation to ensure that the following are made available or executed by LDA:

- (i) LDA is vested with the rights as overseer and the title of interest, ownership and rights with regard to the Project Site shall vest with LDA except that these will be cleaned by the Operator as per the provisions of this Management Contract;
- (ii) Any liability, arising out of providing the Project Site free of encumbrances, unless expressly provided for in this Management Contract, shall be borne solely by LDA. LDA shall indemnify the Operator and shall hold it harmless from any claim or consequential cost that may arise as a result of any such terminations;
- (iii) Upon request from the Operator, LDA shall provide reasonable assistance and facilitation in procuring clearances/approvals which are necessary for the implementation of the Project and which are in its authority to grant or cause to be granted subject to the Operator complying with the eligibility criteria for the grant of such clearances. However, notwithstanding the contents of any other provision of this Management Contract, the end responsibility for obtaining all such approvals/clearances whether from any Department or any other authorised agency/Government of India or any other statutory body shall be that of the Operator;
- (iv) LDA would ensure that from the Compliance Date and till the completion of the Contract Period, the Operator has access to the Project Site for the purpose of carrying out the Operator's obligations under this Management Contract;
- (v) Contract shall take electricity connection from the LESA. The Operator shall have to apply for an electric connection and commercial charges shall apply on electric consumption.
- (vi) LDA shall ensure to provide performance certificate to the Operator as and when required by the Operator for using the same for any other business opportunity. LDA shall not delay in providing/issuing the same to the Operator;
- (vii) LDA shall provide water connection to the Operator and charges shall be paid by the Operator with respect to the use of water for the purposes related to the Project. However, if at any time due to some unavoidable circumstances the release of regular water is not possible, the Operator shall be required to make its own arrangement at its own cost;
- (viii) LDA shall recognize and undertake not to, in any manner, violate or cause breach of the terms of this Management Contract.

## ***4.2 Representation and Warranties of the LDA***

LDA represents and warrants to the Operator that:

- (i) LDA has full power and authority to execute, deliver and perform its obligations under this Management Contract and to carry out the transactions contemplated hereby;
- (ii) LDA has taken all necessary actions to authorize the execution, delivery and performance of this Management Contract, including allotment of space for Control Centre, workshop, washing bay, parking, administrative office, store, canteen etc. to the Operator for installation of equipment required for the same;
- (iii) This Management Contract constitutes a legal, valid and binding obligation enforceable against LDA in accordance with the terms hereof;
- (iv) LDA is subject to civil and commercial laws of India with respect to this Management Contract;
- (v) The Operator shall have complete, lawful and uninterrupted possession of the Project Site by way of license in accordance with this Management Contract.

## 5 OBLIGATIONS OF THE OPERATOR

### 5.1 *General Obligations*

The Operator shall observe, undertake, comply with and perform, in addition to and not in derogation of its obligations elsewhere set out in this Management Contract, the following:

- (a) Take over the possession of the Project Site from the LDA, provided it is being delivered in accordance with the provisions of Article 2.1 and safeguard and use the Project Site solely for the purpose of discharging its obligations under this Management Contract.
- (b) Comply and observe at all times with all Applicable Permits, approvals, Applicable Laws, all central/ state government/ semi-government/ local body's rules and regulations applicable to rendering of such services and in the performance of its obligations under this Management Contract and also, complying with all the inter disciplinary measures as followed by LDA.
- (c) Ensure to be fully conversant with all the laws applicable to the work under the Management Contract.
- (d) Obtain any and all permits, necessary approvals, clearances and sanctions from the Competent Authority(ies), for necessary facilities like power, fire fighting, telecommunications, etc. as and when required, for the Operator and its employees to perform their obligations under this Management Contract, at its own cost.
- (e) Make own arrangements to obtain the import licenses, if required for the import of machines and equipment at the Project Site, as required for this Project.
- (f) Ensure to get all the machines/vehicles registered under the competent authority who are recognised for such registrations.
- (g) Ensure that the services supplied conform to the standards of the technical specifications and where no applicable standard is mentioned, the standards shall be equivalent or superior to the official standard whose application is appropriate to the country of origin of the goods and suitable to Indian weather conditions and usage.
- (h) Ensure not to reassign the work under the Management Contract to any other third party without prior written approval of LDA.
- (i) At all times, to afford access to the Project Site to the authorized representatives of LDA, senior lenders, other persons duly authorized by any Governmental Agency having jurisdiction over the Project, to inspect the Project and to investigate any matter within their authority and upon reasonable notice.



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- (j) Ensure not to pose any problem/nuisance to the general public. The Operator shall be solely responsible for the behaviors and honesty of its workforce.
- (k) Ensure not to dump or dispose of litter waste, garbage, or recyclables waste on any street, alley or other publicly owned property unless expressly authorized by LDA.
- (l) In the event of any accident/damage to third party by any of the vehicle/equipment of the Operator, LDA shall be completely free from any liability of any nature occurred on account of the accident. The Operator shall be fully and exclusively responsible for the liabilities arising on account of accident and damage to the vehicle, manpower or to the third party. The Operator shall be fully and solely responsible for any death or bodily injury to his staff member or any other person in the employment of the Operator or to any other person during the performance of the contractual services. This includes any third party claims.
- (m) Solely responsible for any consequences under various laws, arising out of any accident caused by vehicles, equipments or his employees to the property or personnel of LDA.
- (n) Make efforts to maintain harmony and good industrial relation among the personnel employed in connection with the performance of the Operators obligations under this Management Contract and shall be solely responsible for compliance with all labour laws and shall be solely liable for all possible claims from any third party and employment related liabilities of its staff employed in relation with the Project and hereby indemnifies LDA against any accident claims, damages, expenses or losses in this regard and that in no case and shall for no purpose shall LDA treated as employer in this regard.
- (o) Neither place or create nor permit any other person claiming through or under the Operator to create or place any Encumbrance over all or any part of the Project Site or on any rights of the Operator therein, save and except as expressly set forth in this Management Contract.
- (p) Shall be responsible for safety, soundness and durability of the Project structure built on the site for workshop, washing bay, parking, administrative office, store, canteen, including all structures forming part thereof and their compliance with the Specifications and Standards.
- (q) In case of loss due to theft or damage to the Project Facility, due to the negligence of the Operator, the Operator shall be responsible for making good the same immediately at its own cost and shall continue to keep them available for public use, at all times, within the Contract Period.
- (r) To pay at its own cost all applicable existing taxes / charges / fees including Goods and Service Tax (GST), stamp duty, registration charges and any other related legal documentation charges, if any, in respect of the said Project, as leviable on the date of submission of Commercial Proposal. However, for any future taxes/charges/levies/ fees, LDA shall reimburse the same to the Operator.
- (s) Shall ensure that the operation, maintenance and management of the Project Site provided therein are both in conformity with the relevant norms and Maintenance Manual, prepared in accordance to this Management Contract.

- (t) Shall have the right to get the name of the Company published on the Mechanical Sweepers and all other equipments as brought in by the Operator for the said Project.
- (u) Carry out its duties in regard to the Project in accordance with the provisions of the Management Contract and the Schedules thereof.
- (v) On expiry of the Contract Period, within a maximum period of 30 (thirty) days, to leave the entire Project Site in a clean and safe condition to the satisfaction of LDA. However, all the machines/vehicles, super structure created and any other assets as brought in by the Operator shall be taken away by the Operator.
- (w) Shall be solely and primarily responsible to LDA for observance of all the provisions of this Management Contract on behalf of its employees and representatives.
- (x) Shall be liable for and shall indemnify, protect, defend and hold harmless LDA, LDA's officers, employees, etc. from and against any and all demands, claims, suits and causes of action and any and all liability, costs, expenses, settlements and judgments arising out of the failure of the Operator to discharge its obligations under this article / Management Contract and to comply with the provisions of Applicable laws and Applicable permits.
- (y) The Operator shall acknowledge and recognize that time is of the essence of this Management Contract and that the performance of its obligations shall be construed accordingly.
- (z) Hand back the Project Site to LDA, at the end of the Contract Period.

### ***5.2 Representations and Warranties of the Operator***

The Operator represents and warrants to the LDA that:

- a. It is duly organised, validly existing and in good standing as per the laws of the jurisdiction.
- b. It has full power and authority to execute, deliver and perform its obligations under this Management Contract and to carry out the transactions contemplated hereby.
- c. It has taken all necessary actions under Applicable Laws and its constitutional documents to authorise the execution, delivery and performance of this Management Contract.
- d. It has the financial standing and capacity to undertake the Project.
- e. This Management Contract constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof.
- f. It is subject to civil and commercial laws of India with respect to this Management Contract and it hereby expressly and irrevocably waives any immunity in any jurisdiction in respect thereof.

- g. All the information furnished in the Operator's bid/proposal is, and shall be, true and correct as on the date of this Management Contract & throughout the Contract Period / subsistence of the Management Contract and the Balance Sheet and Profit and Loss Account of the Operator for each of the financial years after the date of this Management Contract furnished to the LDA shall give true and fair view of the affairs of the Operator. If in case any false or misleading information, as furnished by the Operator (as a bidder) in its bid/proposal, is found at a later stage after the signing of the Management Contract, it shall entitle LDA to terminate the said signed Management Contract between the Parties. The costs and risks for such termination shall be entirely borne by the Operator.
- h. The execution, delivery and performance of this Management Contract shall not conflict with, result in the breach of, constitute a default under or accelerate performance required by any of the terms of the Operator's Memorandum and Articles of Association or any Applicable Laws or any covenant, Contract, 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.
- i. There are no actions, suits, proceedings, or investigations pending or, to the Operator's knowledge, threatening 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 or constitute a default of the Operator under this Management Contract, which individually or in the aggregate may result in any Material Adverse Effect on its business, properties or assets or its condition, financial or otherwise, or in any impairment of its ability to perform its obligations and duties under this Management Contract.
- j. The Operator 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 Competent Authority which may result in any material adverse effect or impairment of the Operator's ability to perform its obligations and duties under this Management Contract.
- k. No representation or warranty by the Operator contained herein or in any other document furnished by it to the LDA, or to any Competent Authority in relation to Clearances shall contain any untrue statement of material fact or nor shall there be any omission to state a material fact necessary to make such representation or warranty not misleading.
- l. The Operator warrants that no sums, in cash or kind, have been paid or will be paid by or on behalf of the Operator, to any person by way of commission or otherwise for securing the Contract, or influencing or attempting to influence any officer or employee of the LDA for the purpose of entering into this Management Contract.

### **5.3 Limitations**

- a. The Operator shall not be authorized to incur any expenditure on behalf of the LDA, or

to enter into any commitment as agent of the LDA, unless specifically and explicitly authorized by LDA under the terms of this Management Contract.

- b. The Operator shall not amend, terminate, modify or supplement any contract on behalf of or in the name of the LDA.

### **5.4 Change of Scope**

#### **5.4.1 Change of Scope**

LDA may notwithstanding anything to the contrary contained in this Management Contract require provision of such addition to the works and services on or about the Project as contemplated in this Management Contract (“Change of Scope”), the Operator shall carry out such additions on such terms and conditions as mutually agreed upon.

### **5.5 Obligations of Parties**

Each Party shall

- a. Comply with and perform its respective obligations under this Management Contract and shall work and cooperate in good faith with the other Party with respect to all the obligations and rights hereunder of the other Party;
- b. The Parties understand that the title to and ownership of the Project Site shall at all times vest in LDA and shall not under any circumstance whatsoever pass over or be deemed to pass over to the Operator or persons claiming by, under or through the Operator. Similarly, the title to and ownership of the plants and machinery owned by the Operator shall at all times rest with the Operator;
- c. In relation to the Emergency De-commissioning, the Parties agree that:
  - i. If LDA, in public interest, is of the opinion that there exists an Emergency or any other situation, which warrants de-commissioning and closure of whole or any part of the project facility, LDA shall notify to the Operator to de-commission and close the whole or the relevant part of the Project for so long as such Emergency and the consequence thereof warrant. The LDA may issue such directions, as it may deem appropriate to the Operator for delaying such Emergency and the Operator shall abide by the same.
  - ii. The Operator shall re-commission the project facility or the affected part thereof on receiving the instructions from LDA in this regard.
  - iii. In case the de-commissioning or closure is of permanent nature or extend beyond 7 (seven) days, then LDA shall allocate alternative roads of similar or greater length within the radius of 10 km of all such roads which have become inaccessible for sweeping. However, if under any circumstances, LDA is not able to provide such

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road(s) or any other alternative road within the stipulated time period then LDA shall be liable to pay 75% (seventy five) of the applicable Contract Fee to the Operator till the roads are made available to the Operator.

## **6 STEERING GROUP**

### ***6.1 Constitution***

Within 15 (fifteen) days from the date of this Management Contract, a Steering Group shall be constituted by the LDA, comprising of the ..., ... and Junior Engineer and a representative of the Operator. The Steering Group shall be headed by the concerned Nodal Officer.

### ***6.2 Functions***

The Steering Group shall hold meetings atleast once every fortnight to review the progress during the Implementation Period and once every month during the Operations Period with a view to eliminate the procedural delays and address practical difficulties such as problem relating to shifting of utilities (if any), problems in getting electricity connections, obstructions by habitual litter miscreant/wrongdoers, strikes of the labors etc. The Steering Group shall carry out such other functions and exercise such powers as may be prescribed/conferred by the Commissioner from time to time.

## **7 OPERATIONS AND MAINTENANCE PERIOD**

### ***7.1 Commencement and Duration***

The Operation and Maintenance Period shall commence from the Operations Date and terminate at the Transfer Date.

### ***7.2 Obligations of the Operator during Operations and Maintenance (O&M) Period***

During the Operations and Maintenance Period (“Operations and Maintenance Period”) the Operator shall be responsible for performing all the obligations as stated in the Management Contract and complying with the Scope of Work

### ***7.3 Scope of Work During Operations and Maintenance (O&M) Period***

In addition to what is provided elsewhere in this Management Contract, the Operator shall have the following obligations and responsibilities during the Operations and Maintenance Phase:

- i) The Operator shall be responsible, at its own cost, for complete cleaning of the Project Site and all its components.
- ii) In order to maintain high standard of public image, the Operator shall fix a schedule for cleanliness and maintenance of the equipment.
- iii) The Operator shall ensure to render the services based on 8 (eight) hours operational shift.
- iv) For the operation of the machine, ensure to provide 1 (one) skilled operator having valid driving license and minimum one labor known to all operational activities of the machine on each machine per shift 8 (eight) hours on all the working days of the calendar year. There would not be any services to be rendered on national holidays (along with Holi and Diwali), and shall be considered as paid holiday for both mechanical and manual sweeping. Also, 1 (one) weekly off day will be observed by mechanical and manual sweeping teams.

Furthermore, during situations such as visits of VIPs, the Operator shall be required to render operational service even on National holidays. However, in such circumstances, additional payment shall be payable to the Operator for rendering operational services on these events.

- v) The Operator shall ensure that the work of cleaning of carriage way shall be undertaken/carried out preferably during the night hours i.e. from 9 PM to 6 AM, when

traffic density is minimum. However, depending on the requirement of both the parties to the Management Contract, the said timings can also be changed.

Provided that if due to heavy rains during the stipulated time period the Operator is not able to conduct mechanical/manual sweeping, then the Operator shall be required to clean the roads immediately after the rain discontinues and roads/ carriageways becomes conducive for cleaning with mechanical/manual sweeping. It is to be noted here that if due to heavy rains, there is blockage of water then the de-silting of roads / carriage ways / drains etc. shall be carried out by LDA. In such circumstance, wherein the Operator is ready to clean the road through Mechanical Sweepers and manually but is not able to do due to continuous blockage of water or if the Mechanical Sweeping is delayed/not performed due to such condition, no payment shall be deducted by LDA and shall not be considered as Operators Event of Default.

- vi) The Operator shall ensure to conduct sweeping of the selected roads including service roads, footpaths, road berms, central verge, curb channels, curb stones & road gully etc. The details of roads and type of work to be conducted on the roads is as under:
- a. Mechanical Sweeping of roads shall be done three days a week and with mechanical sweepers. However, roads shall be kept litter free during the next day hours under wall-to-wall basis.
  - b. The illegal dumps on roads shall be cleaned once in a day.
  - c. Manual Sweeping of roads if any & Markets shall be done 6 (six) times in a week through manual sweepers.
  - d. For every roads & markets, the footpath shall be washed once a week.
  - e. The pruning of trees shall only be carried out wherein the extended branches appear as encumbrances while movement of mechanical sweeping machines. However, the removal of uprooted tree shall not be part of the obligation of the Operator. deleted
  - f. Wild grass and vegetation on the side berms, footpaths, medians of all roads shall be removed by the Operator once a month, as per the schedule fixed by the Operator, for all the roads.
  - g. Cleaning of drains along the roads.
  - h. All solid and semi solid waste from all roads and in front of apartments should be disposed at the Nagar Nigam Lucknow disposal Site.
- vii) The Operator shall ensure to provide Litter Control Team and Emergency Control Team for cleaning of roads. The Litter Control Team shall not be deployed for a specified area, and it will carry out litter control on need basis. The Emergency Response Team shall be available at such places wherein the cleaning is required pursuant to the receipt of any complaint during day hours.
- viii) The Operator shall ensure that the litter control shall be done by the Operator along with the Mechanical Sweeping. During any kind of emergency situation, the litter shall be removed



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by the Litter Control Team (constituted by the Operator) in response to the complaint being lodged. However, no permanent deployment of manpower shall be there for litter control after the stipulated cleaning of the roads.

- ix) The Operator shall pick, remove and dispose off the small quantity of loose materials/ debris deposited on or along the roads, service lanes, central verge and footpaths/ road berms by mechanical sweepers or manually and if any dead animal like Dogs & Cats are found on these roads and in the vicinity area under contract, are to be lifted and disposed off by the contractor at Nagar Nigam Lucknow Dumping Site.
- x) The Operator Contractor will be responsible for disposal of road sweeps/Small dead animal to the Nagar Nigam Lucknow Dumping Site by means of covered dumpers.
- xi) The Operator shall ensure to provide Beat System for the said manual sweeping Project. It shall include:
  - a. Creation of 1 Beat for every 1 Km area.
  - b. Beats shall be geo-fenced as per longitude and latitude of starting and ending point.
  - c. Introduce the software for monitoring of cleaning activities in beats through uplodation of real time pictures with the help of mobile app.
- xii) The Operator shall provide all the required tools and tackles for the operation and maintenance of the equipment's and vehicles to their staff. The Sanitary Officer in Charge time and again during Contract Period shall verify this.
- xiii) The Operator shall provide the communication system/equipment including GPS system at his cost in each vehicle as well as at control room location with required network (hardware & software) facility so as to have effective communication between Operator and various controlling and monitoring authorities. A public address system shall also be provided to enable the machine operator to guide the public as and when required during working at the Project Site in the event of any emergency, mishap etc.
- xiv) It will be the responsibility of the Operator to have insurance coverage of all vehicles along with their operating staff at their cost. They are requested to note that there will not be any reimbursement in this regard by LDA. The Operator shall ensure that each and every machine must be covered with their comprehensive insurance per year and that the next year's insurance shall be done before the expiry of the earlier year's insurance. Necessary documents with respect to insurance shall be submitted by Operator to LDA for information. In case any mishap/accident occurs on the road or at site, the Operator will have to bear the complete responsibility of the same, right from registration of Police complaint, lodging / follow up of the insurance claim and facing the court trials etc. It shall be the responsibility of Operator to set right the machine without raising any extra bills/claim against the same for reimbursing the same from LDA.

- xv) Vacant Paved Space for Workshops, vehicles/machines parking, store, field operation cum administrative office will be provided on free to use basis by LDA to the Contractor for entire Contract Period.
- xvi) The Operator shall ensure to carry out regular timely maintenance in order to keep the machines in the operative status at all the times and as described below.
  - i. As regards servicing routine and scheduled maintenance of the each machine, the same shall be carried out by the Operator through their maintenance staff preferably on Sundays in rotation.
  - ii. Arrange for the laborers at their level and at their cost.
  - iii. Arrange for all the consumables, fuels, oil and spare components at their level and at their own cost. The tentative schedule of their preventive and schedule maintenance which Operator will be required to carry out as per as manufacturer's recommendations.
  - iv. As regards break down and accidental maintenance of the each machine, the same shall be carried out by the Operator through their field maintenance staff as well as in house staff as and when required.
- xvii) The Operator shall ensure to keep enough spare/stand by units for preventive and breakdown maintenance of all the equipments and the same shall be verified by the Sanitary Officer in Charge, at any time during Contract Period for smooth and uninterrupted working of mechanical sweeper machines.
- xviii) The Operator shall ensure to submit daily/weekly/monthly report of their work to the Sanitary Officer in Charge/ LDA.
- xix) The Operator shall ensure to maintain separate checklist register for daily, weekly, fortnightly, monthly, quarter yearly, half yearly and yearly activities. Also, during the checking, if any abnormalities are found/detected then it must be brought to the notice of sanitary officer in charge and rectified by the Operator.
- xx) The Operator shall ensure to undertake fortnightly inspection of the Project in accordance with Specifications & Standards required under this Management Contract and shall submit reports of such inspection to LDA.
- xxi) The Operator shall ensure to place safety devices and signages at work site during working hours, as per Ministry of Road Transport & Highways (MORT&H) specification. However, if there is any accident caused to any pedestrian/ normal public using the roads covered under the Project Site due to the faulty working of the Operator then the Operator shall be exclusively responsible for the same.
- xxii) The Operator shall ensure that the loose materials/debris/rubbish that have fallen from vehicles or from any other source(s), from the road, service lane, footpath / road berms, bell mouth/gully

gratings along the road alignments & central verge surface shall be removed within reasonable time after such incident has been brought to the notice of the Operator.

- xxiii) The Operator shall ensure that the collected rubbish shall be disposed off by the Operator at the nearest dumping ground by deploying of suitable vehicles.
- xxiv) The Operator shall ensure to make arrangements for washing of all the vehicles and equipments at least once a week.
- xxv) The Operator shall ensure each machine shall be provided with fire extinguisher and first aid kit along with other necessary tool-tackles and accessories.
- xxvi) The Operator shall be responsible for keeping up-to-date record of documents including day-to-day work of all the vehicles put in use as per format given by LDA. The Operator shall maintain and update logbook, in which details of operational parameters are recorded in every shift and at regular interval or as decided mutually.
- xxvii) Personnel (Staff & Labour):
  - a. The Operator shall employ and provide at its expense such qualified, trained and experienced personnel such as operation manager, technical experts, skilled and unskilled labors, drivers, labour etc. as is required to manage the Project. The Operator must verify antecedents of the employees to be provided by the Operator before deployment. The Operator shall engage no person having criminal record or who is not the citizen of India.
  - b. The Operator may, at his own cost and responsibility, consider increasing his workforce, equipments, and materials in order to discharge contractual obligation.
  - c. The Operator shall appoint adequate supervisors to ensure that services are rendered effectively. The supervisors should be easily accessible at all times and should have a mobile phone with them at all times. The Operator shall ensure that the supervisor or any other authorized representative shall invariably be available either in person or over the telephone within the city every day for taking necessary instruction and for proper co-ordination.
  - d. The Operator shall indicate the manpower including supervisor & their labors he proposes to deploy and the methodology to be adopted.
  - e. The Operator shall provide and employ for the execution of the Project such skilled, semi-skilled and unskilled labour as is necessary for the proper and timely execution of this Management Contract. The Operator shall use its best endeavors to prevent any unlawful, riotous or disorderly conduct or behavior by or amongst its personnel and labour.
  - f. The Operator shall provide suitable uniform to all their staff including shoes and photo identity card. The drivers of the Operator must be in possession of a valid professional driving license and the driving license should be at least 3 (three) years old.
  - g. The staff/drivers deputed by the Operator during the course of contract must behave decently with the LDA's officer and staff. The Operator shall withdraw such person who

is found to be indisciplined, misbehaving, under or the influence of any intoxicant or whose services are considered detrimental to LDA's Interest.

- h. The Operator shall be solely and exclusively responsible for the recruitment, transportation, accommodation, payment of the salaries, wages and other payments and costs incidental thereto and all taxes, charges, levies, duties payable under Law arising from the respective terms and conditions of employment of its personnel and labour that is employed on or connected with the Contract under or through whatever legal relationship. The Operator shall be further responsible for obtaining all necessary Clearances from the Competent Authority(ies) and compliance with all local and other applicable laws and regulations pertaining to the employment of labour.
- i. LDA reserves the right to ask for the replacement of the personnel not found fit or suitable for undertaking the task assigned. The Operator shall do replacement without any extra cost to the corporation within one week of the order.

xxviii) Working Hours:

- a. The Operator shall ensure that his personnel report to work everyday (except on weekly off and other paid national and festive holidays) at designated time and work sincerely for 8 (eight) hours throughout the Contract Period.
- b. The Operator shall not be paid or reimbursed by the LDA for any overtime work done by his staff to complete the task and for maintaining the cleanliness at various locations. The Operator, through his supervisor, shall submit a daily report to LDA about number of workforce which have reported to work as against the agreed workforce

xxix) LDA shall not be responsible for any accident/injury to the staff of the Operator. It is Operator's responsibility to take insurance of his employee, medical facility, work compensation etc. as per workman compensation act and all other relevant laws. Further the LDA will not provide any insurance, medical facility, workman compensation, etc. to the staff of Operator.

xxx) Due to strike by the Operator's employees on issues except which relates to LDA prevailing before execution of this Management Contract, the operation and maintenance of machines must not be affected. In such case, any dispute/discrepancy occurs the decision of Steering Group will be final and will be binding to the Operator.

xxxi) The Operator shall provide all assistance to the Steering Group and Junior Engineer as it may require for the performance of its duties and services.

### **7.4 Books and Records**

The Operator shall, at its cost:

- (a) Prepare and maintain, on generally accepted Indian accounting principles, proper, accurate and complete books and records and accounts of all transactions related to the Project.

- (b) Retain and store on the premises for the Contract Period all records relating to the Project, which shall be the property of the LDA.
- (c) Provide support to the LDA to meet all the data requirements of all Competent Authority(ies).

### **7.5 Accidents**

- (a) In the event of an accident the Operator shall, by most expeditious means, inform the concerned civil and police authorities, and also the LDA. The Operator's responsibilities with regard to the Project shall in no way be diminished by informing the above officials and it shall take expeditious action for the medical and legal aspects not withstanding any delay on the part of these officials to give any instructions. The Operator shall preserve the area of such accident intact, until completion of all legal formalities.
- (b) The Operator shall, in the event of any accident, incur any expenditure or take any other action as necessary (in accordance with good industry practices).
- (c) Any communication to the news media made by the Operator shall provide only enough information to satisfy public concern, and the Operator shall make no admissions nor accept any liability in such communications.
- (d) The Operator shall indemnify, defend and hold harmless the LDA, during the term of this Management Contract, from and against all liabilities, damages, actions, proceedings, and claims of any nature whatsoever, as suffered by the Operator due to such accidents.

### **7.5 Penalty**

- 7.6.1 If the Operator fails to undertake the mechanical sweeping on any day(s), on a particular road/ road(s) in the Project Site area and provided that such failure is not caused due to the events beyond Operator's control then the Operator shall be fined Rs 2,000 per day for the period where till such event is rectified and the mechanical sweeping resumes as per the Management Contract.
- 7.6.2 The Operator shall ensure that the water nozzle fitted in the mechanical sweepers remains operational at all working time and there is no dust-cloud formation during the sweeping of the road(s), failing which the Operator shall be fined @ Rs 50/- per day
- 7.6.3 The Operator shall also be responsible for external cleaning of all bell mouths and gully grating(s) (irrespective of their numbers), in the jurisdiction, to ensure smooth flow of storm water, throughout the year. The Operator shall ensure that none of the workman put/ pushes the littering materials/ slit in front/ inside the bell mouth(s). In case of any default in this regard, the Operator shall be fined @ Rs 25/- per bell mouth per default.
- 7.6.4 If any of the GPS system/ wireless/ mobile phone set, installed in any of the vehicles/ mechanical sweepers does not work continuously for more than 24 hours, the Operator shall be penalised @ Rs

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100/- (Rupees One Hundred) per system per day.

- 7.6.5 The Operator shall ensure that the employees of Operator are in proper dress, and also ensure placement of safety devices and signages at Project Site during the working hours, as per the MORT&H specification. Ignoring the safety requirements as mentioned above by the Operator shall result in a fine of Rs 100/- per day per default.
- 7.6.6 The collected rubbish shall be disposed off by the Operator (all lifts/ leads), at a designated site approved by LDA by deploying equipment of suitable capacity. In case the Operator is found dumping the collected rubbish at a place other than as mentioned in this clause, shall be fined Rs 100/- per default.
- 7.6.7 The Operator shall ensure that the complaints received at Complaint Redressal Cell in respect of services are attended within 24 (twenty four) hours of receipt of complaint (other than in the case of weekly off or national and festive holiday). If the Operator fails to address the complaints within the stipulated time period, the Operator shall be liable to pay a penalty of Rs 100/- per day for each default. If the defaults persist for more than 30 (thirty) days, the same shall be considered as Operator's Event of Default and LDA shall have the right to initiate the process of termination of the Management Contract as per the terms and conditions provided.
- 7.6.8 The Operator shall ensure not to cause damages to the vehicles of third party and physical loss due to negligent and rash driving. If due to negligent and rash driving any damage is caused to the third party then the Operator shall bear the cost of repairs.
- 7.6.9 If there is failure in conducting preventive maintenance of all the parts on daily basis then the Operator shall be liable to pay a penalty of Rs 100/- (Rupees One Hundred) per day.
- 7.6.10 If any of the employee of Operator is found not keeping valid driving license and if the mobiles provided to supervisor/ manager/ operator are not being used during working hours then the Operator shall be liable to pay a penalty of Rs 100/- per day.
- 7.6.11 If any defect is carrying out the work by the Operator has been noticed by Junior Engineer then a joint inspection shall be carried out with the representative of Operator and all the defaults to be rectified shall be brought to the notice of Operator. The Junior Engineer shall give minimum 24 hours to rectify the defects and if pursuant to the same, the Operator shall not rectify the same then the above mentioned penalties shall be levied on the Operator.
- 7.6.12 No penalty shall be levied on the Operator if the mechanical sweeping is not possible at any of the road due to defective structure of roads. The Operator shall carry out the sweeping manually and get the roads cleaned.
- 7.6.13 No penalty shall be levied on the Operator if due to heavy rainfall there is water logging on the roads or if any dharnas/ strike being carried out by the public on the stipulated roads.

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7.6.14 No penalty shall be levied on the Operator if due to persistent rainfall, the working schedule of the machine is disrupted. In such cases, the Operator will make its best efforts to compensate by arranging for the machine to be operated on an alternative day. The revision in schedule will only be possible following a mutual understanding between the Operator and the LDA.

Note: The above stated penalties shall be levied on the Operator after the completion of 3 (three) months from COD.

## **8 IMPLEMENTATION COMPLETION CERTIFICATE AND MANAGEMENT CONTRACT COMPLETION CERTIFICATE**

### ***8.1 Implementation Completion Certificate***

- (a) The Implementation work in this Management Contract shall not be considered to be completed until the Implementation Completion Certificate has been signed by the LDA, stating that the Operator has completed its Implementation obligations under the Management Contract.
- (b) The Implementation Completion Certificate shall be given by the LDA within 28 (twenty-eight) days after:
  - i. The Operator has provided all the documents for the Works.
  - ii. The Operator has remedied any defects in the Works.
  - iii. The Operator has completed and tested all the Works, as specified by the LDA.
- (c) The LDA would be required to issue the “Implementation Completion Certificate” after the Implementation has been completed in all respect and is ready for commercial operations. However, the required documents as stated in Article 8.1 (b) shall be submitted by the Operator.
- (d) In pursuance to the issue of the Implementation Completion Certificate, the Operator shall comply with all the obligations, wherein mentioned in the Management Contract, required to be met before and after the issuance of the Implementation Completion Certificate.

### ***8.2 Management Contract Completion Certificate***

- (a) Within 30 (thirty) days of the end of the Contract Period, LDA shall issue the Management Contract Completion Certificate, which concludes the Operator's liability under this Management Contract. This certificate shall be issued after the Operator submits to LDA, a request for issue of such certificate.
- (b) Pursuant to the end of Contract Period, the Operator shall have to right to take back the Mechanical Sweepers and any other asset created by the Operator for the said Project.



## 9 TERMINATION

### 9.1 Termination by LDA

LDA may terminate this Management Contract due to any of the following events of default by the Operator (hereinafter called the “Operator Event of Default”):

- (i) The Operator has failed to perform or discharge any of its obligations in accordance with the provisions of this Management Contract, unless such event has occurred because of a Force Majeure Event.
- (ii) Any representation made or warranties given by the Operator under this Management Contract is found to be false or misleading.
- (iii) The Operator has been adjudged as bankrupt or become insolvent.
- (iv) The Operator has created any encumbrance, charges or lien in favour of any person or agency, over the facility, save and except as otherwise expressly permitted under this Management Contract.
- (v) A resolution for voluntary winding up has been passed by the shareholders/partners of the Operator.
- (vi) Any petition for winding up of the Operator has been admitted and liquidator or provisional liquidator has been appointed or the Operator has been ordered to be wound up by court of competent jurisdiction, except for the purpose of amalgamation or reconstruction with the prior consent of LDA, provided that, as part of such amalgamation or reconstruction and the amalgamated or reconstructed entity has unconditionally assumed all surviving obligations of the Operator under this Management Contract.
- (vii) It has been proved beyond reasonable doubt that Operator has been party to or has allowed any unlawful activity during the Contract Period;
- (viii) The Operator has abandoned the Facility.

Provided that in the event of application of sub-articles (i) and (ii) above, LDA shall give to the Operator 30 (thirty) days time to cure the default prior to considering the events specified therein as Operator’s Events of Default and in the event the Operator remedies the default to the satisfaction of the LDA within the Cure Period, the event will not be considered as a Operator Event of Default. In case of sub-article (viii) above LDA’s right to terminate the Management Contract shall be without any notice period to the Operator.

## **9.2 Termination for Force Majeure**

The Contract may be terminated for Force Majeure Reasons as specified in Article 11.

## **9.3 Consequences of Termination**

- 9.3.1 Without prejudice to any other consequences or requirements under this Management Contract or under any law, the following consequences shall follow upon expiry of the Contract Period by efflux of time or due to a Force Majeure Event or the Operator Event of Default. However, if the Management Contract is terminated due to Operator's Event of Default, then the LDA may forfeit the Performance Security.
- 9.3.2 Due to a Force Majeure Event or LDA's Event of Default, the entire Facility shall transfer back to LDA alongwith the Machines, in good working condition and LDA shall pay Book Value (with maximum depreciation of 10% for each completed operational year) for the Machines (mechanical sweepers and vehicles installed for the project) including the price of infrastructure. In addition to this, if the Management Contract has been terminated due to Operator's Event of Default then the Performance Security submitted, shall be forfeited.
- 9.3.3 Transfer of Facility/Assets: On the termination, the Operator shall comply with the provisions of Article 15.
- 9.3.4 Applicable Permits: The Operator shall, at its own cost, transfer to LDA all such Applicable Permits, which the LDA may require and which can be legally transferred.
- 9.3.5 The Parties shall perform/discharge their respective obligations to be performed or discharged under the provisions of this Management Contract on the termination in entirety.

## **9.4 Rights of LDA on Termination**

Notwithstanding anything contained in this Management Contract, LDA shall not, as a consequence of Termination or otherwise, have any obligation whatsoever including but not limited to obligations as to compensation for loss of employment, continuance or regularization of employment, absorption or re-employment on any ground, in relation to any person in the employment of or engaged by the Operator in connection with the Project.

## **9.5 Termination by Operator**

The Operator may terminate this Management Contract due to any of the following Events of Default

by the LDA (hereinafter called the “LDA Event of Default”):

- (a) Material Breach by LDA of its obligations under this Management Contract which is not remedied within 30 (thirty) days of receipt of written notice from the Operator specifying such breach and requiring LDA to remedy the same.
- (b) Any defect in the title, ownership and possession of LDA with respect to the Facility that has a Material Adverse Effect on the Project.
- (c) Any shortening of Contract Period and/or Road Length having direct consequences on the revenue of the Operator, at anytime during the subsistence of the Management Contract.
- (d) Termination of the Management Contract without the default of the Operator.
- (e) Any change in the policies of LDA or a Change in Law, which has a material adverse effect on the Operator’s ability to implement the Project.
- (f) A breach of any express Representation or Warranty by LDA which has a material adverse effect and such breach is not remedied within 30 (thirty) days of receipt of written notice from the Operator specifying such breach and requiring LDA to remedy the same.

Provided that in the event of application of sub-articles above, Operator shall give to LDA, 30 (thirty) days time to cure the default prior to considering the events specified therein as LDA’s Events of Default, and in the event the LDA remedies the default to the satisfaction of the Operator within the Cure Period, the event will not be considered as a LDA. Event of Default.

### ***9.6 Consequences of Termination by Operator***

- (a) Upon termination by Operator in accordance with Article 9.5, the Operator shall transfer back the entire Project Site to LDA alongwith the Machines, in good working condition and LDA shall pay Book Value (with maximum depreciation of 10% for each completed operational year) for the Machines (mechanical sweepers and vehicles installed for the project) including the price of infrastructure.
- (b) LDA shall return the Performance Security within 15 (fiteen) days and thereupon, the Operator shall have right to claim for damages or other entitlements whether under the Management Contract or otherwise.

## **10.0 RISK AND RESPONSIBILITY**

### ***10.1 Liability to Third Parties***

- a. A Party shall promptly inform to the other Party, of any claims or proceedings or anticipated claims or proceedings against the other Party and in respect of which the other Party is entitled to be indemnified as soon as a Party becomes aware of the same. Each Party shall give reasonable assistance to the other in defending such claims and the Party giving such assistance shall be entitled to be indemnified to the extent of the costs incurred by it in this regard.
- b. The LDA shall not be liable in any manner whatsoever for the obligations and liabilities incurred by the Operator during the Contract Period, including any extension thereof.

### ***10.2 Indemnification***

The Operator shall indemnify, defend and hold harmless the LDA during and after the term of this Management Contract from and against all liabilities, damages, losses, expenses, debts, demands, actions, proceedings, costs and claims of any nature whatsoever, including without limitation, legal fees and expenses, suffered by the LDA or any Third Party as a result of or arising out of or in any way connected with the acts, omissions, negligence, nuisance, breach of this Management Contract and failure to perform obligations hereunder of or by the Operator and its employees, representatives etc. including the use or violation of any copyright work or literary property or patented invention, article or appliance, except to the extent that such injury, damage or loss is attributable to a negligent or willful act or omission of the LDA. The Operator shall also be liable under this Article in contract, dereliction or otherwise for any indirect or consequential loss, damage, loss of use or production or interest costs. In this regard an indemnity bond, the format for which would be given by the LDA, would also be given by the Operator to the LDA.

### ***10.3 Risk and Liability***

Except as expressly provided in the Management Contract, the Operator shall carry out and perform its rights and obligations under the Management Contract at its own cost and risk. It shall be fully responsible for and shall bear the financial risks in relation to the Project and all its rights and obligations under or pursuant to the Management Contract.

## **11 FORCE MAJEURE**

### ***11.1 Force Majeure Event***

Any of the following events resulting in material adverse effect shall constitute a Force Majeure Event:

- (a) Lightning, earthquake, landslides, tempest, cyclone, hurricane, whirlwind, storm, flood, heavy or persistent rainfall and other unusual or extreme adverse weather or environmental conditions (including, without limitation, any such conditions at sea affecting the delivery of equipment to the Project) or other events of natural disaster of rare severity.
- (b) Meteorites or objects falling from aircraft or other aerial devices, the occurrence of pressure waves caused by aircraft or other aerial devices travelling at high speeds.
- (c) Fire or explosion, chemical or radioactive contamination or ionizing radiation; not attributed to the Operator.
- (d) Epidemic or plague.
- (e) Strikes, lock-outs or other industrial action or labour disputes of LDA.
- (f) Act of war (whether declared or undeclared), threat of war, invasion, armed conflict or act of foreign enemy, unexpected call up of armed forces, revolution, religious strife, bombs, sabotage, terrorism or threat of such acts or other similar events of a political or social nature.
- (g) Expropriation, confiscation, nationalization or requisition of the Project by GoI, GoUP, or LDA except as provided under this Management Contract.
- (h) Any decision or order of a court or tribunal, which has the effect of restraining all or any part of the activities concerning the operation, maintenance or management of the Project including the determination, levy, demand, collection, retention and appropriation of Financials.
- (i) Any other similar things beyond the control of the Party.

### ***11.2 Notice of Force Majeure Event***

As soon as practicable and in any case within 3 days of the date of occurrence of a Force Majeure Event or the date of knowledge thereof, the Party which is rendered wholly or partially unable to

perform any of its obligations under this Management Contract because of a Force Majeure Event (“the Affected Party”) shall notify the other party of the same, setting out, inter alia, the following in reasonable detail:

- (a) The nature and extent of the Force Majeure Event.
- (b) The estimated Force Majeure Period.
- (c) The nature of and the extent to which, performance of any of its obligations under this Management Contract is affected by the Force Majeure Event.
- (d) The measures, which the Affected Party has taken or proposes to take to alleviate/mitigate the impact of the Force Majeure Event and to resume performance of such of its obligations affected thereby.
- (e) Any other relevant information concerning the Force Majeure Event, and/or the rights and obligations of the Parties under this Management Contract.

### ***11.3 Performance of Obligations***

The Affected Party shall be excused from performance of such obligations to the extent it is unable to perform the same on account of such Force Majeure Event provided that:

- (a) Due notice of the Force Majeure Event has been given to the other Party as required by the preceding Article 11.2.
- (b) The excuse from performance shall be of no greater scope and of no longer duration than is necessitated by the Force Majeure Event.
- (c) There shall be no Termination of this Management Contract except as provided in Article 11.4.
- (d) Where the Operator is the Affected Party, the various deadlines set forth in this Contract and the Contract Period shall be extended by the period for which such Force Majeure Event shall subsist.
- (e) Where the Operator is the Affected Party, it has taken all reasonable efforts to avoid, prevent, mitigate and limit damage, if any, caused or is likely to be caused to the Facility as a result of the Force Majeure Event and to restore the Facility, in accordance with the good industry practice and its relative obligations under this Contract.
- (f) When the Affected Party is able to resume performance of its obligations under this Contract, it shall give to the other Party written notice to that effect and shall promptly

resume performance of its obligations hereunder, the non issue of such notice being no excuse for any delay for resuming such performance.

- (g) The Affected Party shall continue to perform such of its obligations which are not affected by the Force Majeure Event and which are capable of being performed in accordance with this Contract.
- (h) Any insurance proceeds received by the Operator shall be entirely applied to repair, replace or restore the assets damaged on account of the Force Majeure Event, in accordance with good industry practice and in consultation with the LDA, unless otherwise agreed to by LDA.

### ***11.4 Termination Due To a Force Majeure Event***

If a Force Majeure Event subsists for a continuous period of 365 (three hundred sixty five) days, either Party may in its sole discretion terminate this Management Contract by giving 30 (thirty) days Termination Notice in writing to the other Party without being liable in any manner whatsoever. However, if terminated due to Force Majeure Events, LDA shall pay Book Value (with maximum depreciation of 10% for each completed year) for the Machines (mechanical sweepers and vehicles installed for the project) including the price of infrastructure to the Operator.

## **12 DISPUTE RESOLUTION**

### ***12.1 Dispute Resolution***

Any dispute, difference or controversy of whatever nature regarding the validity, interpretation or the rights and obligations arising out of, or in relation to, or howsoever arising under or in relation to this Management Contract between the Parties, and so notified by either Party to the other Party (the “Dispute”) shall be subject to the dispute resolution procedure set out hereinafter.

### ***12.2 Direct discussion between Parties***

The Parties agree that any Dispute that may arise between them shall be first submitted for direct discussion between the Parties. For this purpose, the notice of Dispute (the “Notice of Dispute”) sent by one Party to the other Party under Article 12.1 shall be considered an invitation for direct discussion, and it should specify a reasonable time and venue for conduct of the negotiation proceedings. In addition, the Notice of Dispute shall specify the basis of the Dispute and the amount claimed or remedial action sought. In the direct discussion proceedings, both the Parties shall be represented by any of its officials or employees with sufficient knowledge and authority over the subject matter of the Dispute in order for the discussion to be meaningful. At the discussion proceedings, the Party that has given the Notice of Dispute shall present an offer of a settlement, which may form the starting point of discussions between the two Parties during the discussion proceedings.

### ***12.3 Arbitration or Adjudication***

- (a) In the event that the parties are unable to resolve the Dispute through Direct Discussion under Article 12.2, the Parties shall submit the Dispute for arbitration in accordance with the Arbitration and Conciliation Act, 1996. There shall be a Board of 3 (three) arbitrators of whom 1 (one) shall be appointed by the LDA, 1 (one) shall be appointed by the Operator and the third shall be appointed by the 2 (two) arbitrators appointed as aforesaid.
- (b) The Arbitrators shall make a reasoned award, and any award made pursuant to this Article 12.3 shall be final and binding on the Parties as from the date on which it is made, and the Operator and the LDA agree to undertake to carry out such award without delay.
- (c) The arbitration proceedings shall be conducted in the English language and in or such other place as may be agreed between the Parties.
- (d) The cost incurred on the process of arbitration including inter alia the fees of the arbitral tribunal and the cost of the proceedings shall be borne by the Parties in equal proportions. Each Party



shall bear its own legal fees incurred as a result of any Dispute under this Article 12.

### ***12.4 Performance during Dispute***

Performance of this Management Contract shall continue during the settlement of any Dispute under this Article 12. The provisions for dispute settlement shall be binding upon the successors, assigns and any trustee or receiver of either the LDA or the Operator.

However, if LDA, during the subsistence of the dispute, does not allow the Operator to continue his services then the entire assets as created by the Operator for the said Project shall be the property of the Operator and can be used by him for any other project and shall, at no time, be considered as Event of Default.

## **13 TAXATION AND CONFIDENTIALITY**

### ***13.1 Local Taxation***

- (a) The Contract Period shall include all charges towards import licence, toll, customs duties, import duties, business taxes, etc., that may be levied in accordance with the Applicable Laws as on the Date of this Management Contract in India on the Operator's Equipment and Materials (whether permanent, temporary or consumable) acquired for the purpose of this Management Contract and on the services to be performed under this Management Contract. Nothing in this Management Contract shall relieve the Operator from its responsibility to pay any tax that may be levied in India/ on profits made by it in respect of this Management Contract.
- (b) Under the provisions of the Indian Income Tax Act, the LDA is required to deduct tax at source at the rates prevailing for the payments as envisaged under this Management Contract.

Note: It is to be noted here that the Operator shall be required to pay the existing taxes/levies etc. However, in future, any tax, levy etc has been imposed then the same shall be reimbursed by LDA.

### ***13.2 Income Taxes on Staff***

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

### ***13.3 Confidentiality***

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

### ***13.4 Exceptions to Confidentiality***

The restrictions imposed by Article 13.3 shall not apply to the disclosure of any information:

- (a) Which now or hereafter comes into the public domain otherwise than as a result of a breach of

an undertaking of confidentiality or which is obtained with no more than reasonable diligence from sources other than the Parties.

- (b) Which is required by law to be disclosed to any Person who is authorised by law to receive the same.
- (c) Which is required to be disclosed by the regulations of any recognised exchange upon which the share capital of the Party making the disclosure is or is proposed to be from time to time listed or dealt in.
- (d) To a court, arbitrator or administrative tribunal in the course of proceedings before it to which the disclosing Party is a party.
- (e) To any consultants, banks, financiers or advisers to the disclosing Party, or.
- (f) In accordance with this Management Contract.

### ***13.5 Public Announcements***

No public announcement or statement regarding the signature of this Management Contract shall be issued or made unless prior thereto both Parties have been furnished with a copy thereof and have approved the same, provided such approval shall not be unreasonably withheld or delayed.

## 14 TRANSFER OF FACILITY

- (a) On the Transfer Date, the Operator shall, transfer and assign to the LDA or its nominated agency, as the case may be, free and clear of any charges, liens and Encumbrances created or suffered by the Operator after the Compliance Date all of the Operator's right, title and interest in and to the Facility except the assets which have been created by the Operator and the Mechanical Sweepers and other equipment as brought in by the Operator. The Operator shall also deliver to the LDA or its nominated agency on such date such operating manuals, plans, reports, accounts and other information as may reasonably be required by the LDA. The personnel of the Operator shall continue to be the employees of the Operator and the transfer of the Project Facility shall not in any manner affect their status as employees of the Operator and they shall have no claim to any type of employment or compensation from the LDA or its nominated agency.
- (b) The Operator shall be responsible for the costs and expenses, including stamp duties, taxes, legal fees and expenses, incurred in connection with the transfer of the Facility to LDA by the Operator.
- (c) From the Transfer Date, the obligations and the rights of the Operator under this Management Contract shall terminate vis-à-vis the LDA provided, however, that the Operator may continue with any other business operations arising other than in connection with this Contract and; provided further that the Operator shall no longer act in its capacity as Operator in relation or pursuant to this Contract.

## **15 MISCELLANEOUS PROVISIONS**

### ***15.1 Governing Law and Jurisdiction***

This Management Contract shall be construed and interpreted in accordance with and governed by the laws of India, and the Courts of Uttar Pradesh only shall have jurisdiction over all matters arising out of or relating to this Management Contract.

### ***15.2 Waiver***

Waiver by either Party of any default by the other Party in the observance and performance of any provisions of or obligations under this Contract:

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

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

### ***15.3 Exclusion of Implied Warranties***

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

### ***15.4 Severability***

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

### ***15.5 Entire Contract***

This Contract and the Schedules together constitute a complete and exclusive statement of the terms of the Contract between the Parties on the subject hereof and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties.

### ***15.6 Custody of Documents***

The Documents shall be in the custody and care of the Operator. Unless otherwise stated in this Contract, the Operator shall provide three copies for the use of the LDA.

### ***15.7 Copyright***

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

### ***15.8 Use of the LDA's Documents***

Copyright in the technical requirements and other documents issued by the LDA to the Operator shall (as between the Parties) remain the property of the LDA. The Operator may, at its cost, copy, use and communicate any such documents for the purposes of this Contract. They shall not, without the LDA's consent, be used, copied or communicated to a third party by the Operator, except as necessary for the purposes of this Contract.

### ***15.9 Compliance with Laws and Directives***

- (a) The Operator shall, in all matters arising in the performance of this Management Contract, comply with, give all notices under, and pay all taxes, levies and other similar charges required by the provisions of any central or state law or directive or any regulation of any legally constituted public authority having jurisdiction over the works. The Operator shall obtain all permits, licenses or approvals required for any part of the Operations in reasonable time, taking account of the times for delivery of the Materials, etc. The LDA and the Operator shall comply with all the laws as applicable.
- (b) In the performance of this Management Contract, the Operator shall ascertain and comply with all relevant laws and directives. The LDA will provide such assistance as may be reasonably requested by the Operator in ascertaining the nature and extent of such relevant Indian laws and directives.
- (c) The Operator shall indemnify the LDA, the LDA's officers, employees and agents against all governmental penalties and fines payable to a Competent Authority, together with any

reasonable legal expenses incurred in connection therewith, to the extent arising out of any failure of the Operator, any employees to comply in the performance of the Works, with any law or directive applicable to the Implementation, start-up, operation and maintenance activities conducted at the Facility.

### ***15.10 Joint and Several Liability***

If the Operator is a joint venture of two or more Persons, all such Persons shall be jointly and severally liable to the LDA for the fulfilment of the terms of this Management Contract. Such Persons shall designate one of them to act as "Lead Member" with authority to bind the joint venture and each of its members. The composition or the constitution of the joint venture shall not be altered without prior approval of the LDA and as per the specific provisions in this regard provided in the Management Contract. All the Joint Venture Members shall be jointly and severally liable towards this Project.

### ***15.11 Notifications***

- (a) Wherever provision is made for the giving or issue of any notice, instruction, consent, approval, certificate or determination by any Person, unless otherwise specified, such communication shall be in writing and shall not be unreasonably withheld or delayed. Wherever provision is made for a communication to be "written" or "in writing", this means any hand-written, typewritten or printed communication, including the agreed systems of electronic transmission.
- (b) All certificates, notices or written orders between the Parties shall either be delivered by hand against written acknowledgement of receipt or be sent by registered acknowledgement due pre-paid post or courier or one of the agreed systems of electronic transmission. In the event of any dispute, unless such acknowledgement of receipt is provided, the communication shall be treated as not given.
- (c) In the case of the Operator, all communication shall be marked for the attention of the person and to the address provided below, or to such other person or address as may be intimated to the LDA by the Operator from time to time:

Name of Operator's Representative:

Address for communication:

- (d) In the case of the LDA, all communication shall be addressed to:  
Chief Engineer (E&M),  
Lucknow Development Authority

### ***15.12 Language***

The language of this Contract is the English language. All correspondence, drawings, designs, certificates, specifications and information shall be in the English language. All other written and

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printed matter required for implementation, operation and maintenance, etc. shall be executed in the English language. Instructions and notices to the public and staff and all other signs and information notices shall be in English, Hindi and Punjabi.

## 15.13 Counterparts

This Contract may be executed in 2 (two) counterparts, each of which when executed and delivered shall constitute an original of this Contract.

**IN WITNESS** whereof the Parties have executed and delivered this Management Contract as of the date first above written.

For and on behalf of <b>LDA</b>  [NAME] _____  [Designation] _____	Signature:
For and on behalf of <b>OPERATOR</b>  [NAME] _____  [Designation] _____	Signature:
Witness 1:  [NAME] _____  [Designation] _____	Signature:
Witness 2:  [NAME] _____  [Designation] _____	Signature:

Place: \_\_\_\_\_

Date: \_\_\_\_\_



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<b>Sl.No</b>	<b>Stretch</b>	<b>Location</b>	<b>Length (Km)</b>
1	Stretch 1	45.0 mtr wide road in Sector-1, 4 , 5 & 7	6.39
2	Stretch 2	30.0 mtr wide road in Sector-1 & 4	3.26
3	Stretch 3	24.0 mtr wide road in Sector-1 , 4 & 7	1.42
4	Stretch 4	18.0 mtr wide road in Sector-1, 4, 5 , 6 & 7	15.50
5	Stretch 5	12.0 mtr wide road in Sector-1, 4, 5 & 6	5.15
6	Stretch 6	9.0 mtr wide road in Sector-1, 4, 5 & 6	21.44
7	Stretch 7	7.5 mtr wide road in Sector-1, 4 & 6	9.90
8	Stretch 8	6.0 mtr wide road in Sector-1, 4 & 6	8.33
<b>TOTAL</b>			<b>71.39 Km</b>

**SCHEDULE - II**

**Technical specifications of required Compact heavy duty sweeper**

**Technical Specification for Heavy Duty Sweeper (Self Propelled Heavy-Duty Sweeper)**

<b>S. No.</b>	<b>Description</b>	<b>Indicative/Desired Specifications</b>
1	Sweeper Type	Compact heavy duty sweeper with a single engine & with at least 100KW, hydrostatic drive, center broom and two side brooms.
2	Minimum Sweeping width	3000 mm
3	Container volume and material of construction	Minimum 4-5 cubic meters & Stainless Steel
4	Dust Control	By water sprinkling nozzles on side brushes
5	Water tank	Minimum 500 liters capacity
6	Environmental compliance	Euro IV / BS IV or above for the machine with PM10 compliance
7	Sweeping speed & Travel speed	8-10 KM / Hour & 40KM/ Hour
8	Engine rating	125 – 150 HP
10	Conveyor	Heavy duty construction and collect all types of material with the help of brooms
11	Brushes	Prefab, disposable, polypropylene / nylon with steel reversible core of at least 1300 mm cylindrical width and 600 mm dia. Central brushes with side brooms with minimum 1000 mm diameter and speed control from cab Front broom with suitable controls to take dust out from various profiles and corners of the road
12	Hopper dumping	Front or Rear dumping from minimum 2000 mm height to directly dump in the storage bin or dumper
13	Wander Hose	4.0 - 5.0 meters length & 125mm diameter
14	Hydraulic System / Controls	All controls of sweeping and traction should be hydraulic
15	Footpath washing system	Machine should be equipped with washing spray gun extendible upto 3 meters
16	Road washing capability	Rear washing Bar

***SCHEDULE - III***

**Format for Performance Security (Bank Guarantee)**

PERFORMANCE BANK GUARANTEE OF OPERATOR

Bank Guarantee No.:

Dated: \_\_\_\_\_

**Issuer of Bank Guarantee:**

\_\_\_\_\_  
(Name of the Bank)

\_\_\_\_\_

\_\_\_\_\_

(hereinafter referred to as the “Bank”)

**Beneficiary of Bank Guarantee:**

Secretary , Lucknow Development Authority

**Nature of Bank Guarantee:**

Conditional and irrevocable Bank Guarantee.

**Context of Bank Guarantee**

Management Contract (hereinafter referred to as the “Contract”) to be executed between Lucknow Development Authority ( LDA ) and \_\_\_\_\_ (name of the Successful Bidder) [hereinafter referred to as the “Operator”] for the work of sweeping of the Main Roads of City within the jurisdiction of LDA , by deploying Mechanical Sweeping Machine and mechanical sweepers of required capacity (hereinafter referred to as the “Project”), provided however, such context of the Bank Guarantee or reference to the Contract in this Bank Guarantee shall in no manner be relied upon at any stage to adversely affect or dilute the Conditional and irrevocable nature of this Bank Guarantee. The title of this Guarantee i.e. “Performance Security” shall in no manner and at no stage be relied upon to adversely affect or dilute the Conditional and irrevocable nature of this Bank Guarantee. The Contract of Bank Guarantee is an independent Contract between the Bank and LDA and is not dependent upon the execution or performance of any Contract/Agreement between LDA and the Successful Bidder/Operator.

**Operative part of the Bank Guarantee:**

1. At the request of the Operator, we \_\_\_\_\_, \_\_\_\_\_ (name and address of the bank), hereinafter referred to as the “Bank”), do hereby Conditionally and irrevocably affirm and undertake that we are the Guarantor and are responsible to the LDA i.e. the beneficiary on behalf of the Bidder, upto a total sum of Rs. \_\_\_\_ lakhs (Rupees \_\_\_\_\_ Lakhs Only), such sum being payable by us to LDA immediately upon receipt of first written demand from the LDA .
2. We Conditionally and irrevocably undertake to pay to the LDA on an immediate basis, upon receipt of first written demand from the LDA and without any cavil or argument or delaying tactics

Bidder

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or reference by us to Operator and without any need for the LDA to convey to us any reasons for invocation of the Guarantee or to prove the failure to perform on the part of the Operator or to show grounds or reasons for the demand or the sum specified therein, the entire sum or sums within the limits of Rs.\_\_\_\_ Lakhs (Rupees \_\_\_\_\_ Lakhs Only).

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

Notwithstanding anything contained herein:

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

Authorized Signatory

\_\_\_\_\_  
For Bank

Note: The Performance Security shall be renewed every year.

***Schedules IV***

**List of Machinery**