

**AGREEMENT**

**FOR**

**PROJECT ENGINEER SERVICES FOR**

**For Development of Sewage Treatment Plants (STPs) at Unnao, Shuklaganj & Pankha, rehabilitation of existing STPs, & associated infrastructure and operation & maintenance of all assets for 15 years in Kanpur, Uttar Pradesh under Hybrid Annuity based PPP mode.**

**Between**

**Uttar Pradesh Jal Nigam**

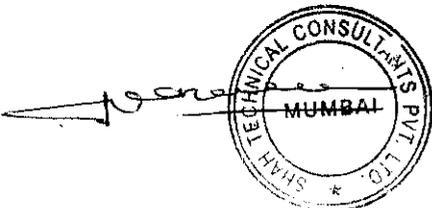
**and**

**National Mission for Clean Ganga**

**and**

**M/s. Shah Technical Consultants Private Limited**

**Dated: 12<sup>th</sup> April 2019**



**General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur**

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General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur

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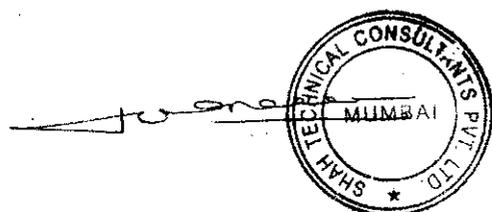
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General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur

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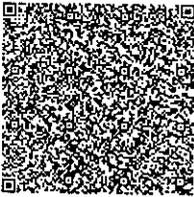


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### e-Stamp

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Certificate Issued Date : 14-Mar-2019 10:56 AM  
Account Reference : IMPACC (SH)/ dlshimp17/ HIGH COURT/ DL-DLH  
Unique Dcc. Reference : SUBIN-DLDSLHIMP1719836632291715R  
Purchased by : SHAH TECHNICAL CONSULTANTS PVT LTD  
Description of Document : Article 5 General Agreement  
Property Description : Not Applicable  
Consideration Price (Rs.) : 0  
(Zero)  
First Party : SHAH TECHNICAL CONSULTANTS PVT LTD  
Second Party : NCGM and UPJN  
Stamp Duty Paid By : SHAH TECHNICAL CONSULTANTS PVT LTD  
Stamp Duty Amount(Rs.) : 500  
(Five Hundred only)



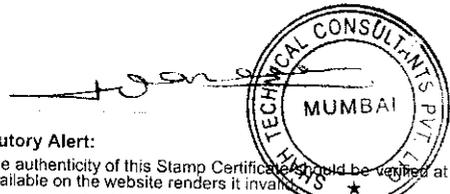
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#### AGREEMENT

#### PROJECT ENGINEER SERVICES FOR

For Development of Sewage Treatment Plants (STPs) at Unnao, Shuklaganj & Pankha, rehabilitation of existing STPs, & associated infrastructure and operation & maintenance of all assets for 15 years in Kanpur, Uttar Pradesh under Hybrid Annuity based PPP mode.

This AGREEMENT (hereinafter called the "Agreement") is made on the 12<sup>th</sup> day of the month of April 2019, between, on the one hand, the **Uttar Pradesh Jal Nigam** (hereinafter called as "UPJN") which expression shall include their respective successors and permitted assigns, unless the context otherwise requires, **National Mission for Clean Ganga**



General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur

#### Statutory Alert:

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(herein after "NMCG") and, on the other hand, **M/s. Shah Technical Consultants Private Limited** (hereinafter called the "**Project Engineer**" which expression shall include their respective successors and permitted assigns).

WHEREAS

- (A) The NMCG vide its Request for Proposal for seeking Project Engineer services (hereinafter called the "**Consultancy**") for **The Development of Sewage Treatment Plants (STPs) at Unnao, Shuklaganj & Pankha, rehabilitation of existing STPs, & associated infrastructure and operation & maintenance of all assets for 15 years in Kanpur, Uttar Pradesh under Hybrid Annuity based PPP mode.** Project under Hybrid Annuity based PPP mode, (hereinafter called the "**Project**");
- (B) the Project Engineer submitted its proposals for the aforesaid work, whereby the Project Engineer represented to the NMCG that it had the required professional skills, and in the said proposals the Project Engineer also agreed to provide the Services to the NMCG on the terms and conditions as set forth in the RFP and this Agreement; and
- (C) the NMCG, on acceptance of the aforesaid proposals of the Project Engineer, awarded the Consultancy to the Project Engineer vide its Letter of Award dated 4<sup>th</sup> February 2019 (the "**LOA**"); and
- (D) in pursuance of the LOA, the parties have agreed to enter into this Agreement.

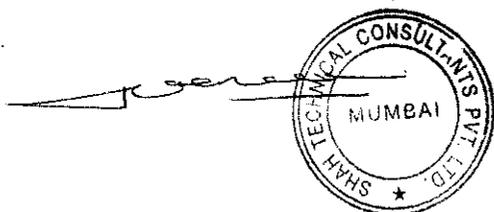
NOW, THEREFORE, the parties hereto hereby agree as follows:

**1. GENERAL**

**1.1 Definitions and Interpretation**

1.1.1 The words and expressions beginning with capital letters and defined in this Agreement shall, unless the context otherwise requires, have the meaning hereinafter respectively assigned to them:

- (a) "**Additional Costs**" shall have the meaning set forth in Clause 6.1.2;
- (b) "**Agreement**" means this Agreement, together with all the Annexes;
- (c) "**Agreement Value**" shall have the meaning set forth in Clause 6.1.2;
- (d) "**Applicable Laws**" means the laws and any other instruments having the force of law in India as they may be issued and in force from time to time;
- (e) "**Confidential Information**" shall have the meaning set forth in Clause 3.3;
- (f) "**Conflict of Interest**" shall have the meaning set forth in Clause 3.2 read with the provisions of RFP;
- (g) "**Dispute**" shall have the meaning set forth in Clause 9.2.1;
- (h) "**Effective Date**" means the date on which this Agreement comes into force and effect pursuant to Clause 2.1;
- (i) "**Expatriate Personnel**" means such persons who at the time of being so hired had their domicile outside India;



  
General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur 

- (j) "Government" means the Government of India;
- (k) "INR, Re. or Rs." means Indian Rupees;
- (l) "Member", in case the Project Engineer consists of a joint venture or consortium of more than one entity, means any of these entities, and "Members" means all of these entities;
- (m) "Party" means the NMCG, UPJN or the Project Engineer, as the case may be, and Parties means both of them;
- (n) "Personnel" means persons hired by the Project Engineer or by any Sub-Project Engineer as employees and assigned to the performance of the Services or any part thereof;
- (o) "Resident Personnel" means such persons who at the time of being so hired had their domicile inside India;
- (p) "RFP" means the Request for Proposal document in response to which the Project Engineer's proposal for providing Services was accepted;
- (q) "Services" means the work to be performed by the Project Engineer pursuant to this Agreement, as described in the Terms of Reference hereto;
- (r) "Sub-Project Engineer" means any entity to which the Project Engineer subcontracts any part of the Services in accordance with the provisions of Clause 4.7; and
- (s) "Third Party" means any person or entity other than the Government, the NMCG, UPJN, the Project Engineer or a Sub-Project Engineer.

All terms and words not defined herein shall, unless the context otherwise requires, have the meaning assigned to them in the RFP.

1.1.2 The following documents along with all addenda issued thereto shall be deemed to form and be read and construed as integral parts of this Agreement and in case of any contradiction between or among them the priority in which a document would prevail over another would be as laid down below beginning from the highest priority to the lowest priority:

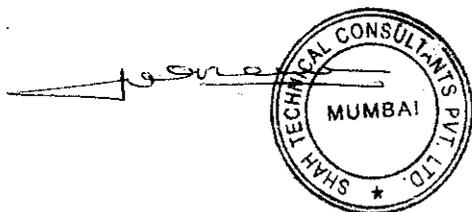
- (a) Agreement;
- (b) Annexes of Agreement;
- (c) RFP; and
- (d) Letter of Award.

## 1.2 Relation between the Parties

Nothing contained herein shall be construed as establishing a relation of master and servant or of agent and principal as between the NMCG and the Project Engineer. The Project Engineer shall, subject to this Agreement, have complete charge of Personnel performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

## 1.3 Rights and obligations

The mutual rights and obligations of the NMCG and the Project Engineer shall be as set forth in the Agreement, in particular:



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General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur

- (a) the Project Engineer shall carry out the Services in accordance with the provisions of the Agreement; and
- (b) the NMCG shall make payments to the Project Engineer in accordance with the provisions of the Agreement.

#### 1.4 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts in the State in which the NMCG has its headquarters shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

#### 1.5 Language

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

#### 1.6 Table of contents and headings

The table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement.

#### 1.7 Notices

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall:

- (a) in the case of the Project Engineer, be given by e-mail and by letter delivered by hand to the address given and marked for attention of the Project Engineer's Representative set out below in Clause 1.10 or to such other person as the Project Engineer may from time to time designate by notice to the NMCG; provided that notices or other communications to be given to an address outside the city specified in Sub-clause (b) below may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by e-mail to the number as the Project Engineer may from time to time specify by notice to the NMCG;
- (b) in the case of the NMCG, be given by e-mail and by letter delivered by hand and be addressed to the NMCG with a copy delivered to the NMCG Representative set out below in Clause 1.10 or to such other person as the NMCG may from time to time designate by notice to the Project Engineer; provided that if the Project Engineer does not have an office in the same city as the NMCG's office, it may send such notice by e-mail and by registered acknowledgement due, air mail or by courier; and
- (c) any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post it ought to have been delivered and in all other cases, it shall be deemed to have been delivered on the actual date and time of delivery; provided that in the case of e-mail, it shall be deemed to have been delivered on the working days following the date of its delivery.



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General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur

## 1.8 Location

The Services shall be performed at the site of the Project in accordance with the provisions of RFP and at such locations as are incidental thereto, including the offices of the Project Engineer.

## 1.9 Authority of Member-in-charge

In case the Project Engineer consists of a consortium of more than one entity, the Parties agree that the Lead Member shall act on behalf of the Members in exercising all the Project Engineer's rights and obligations towards the NMCG under this Agreement, including without limitation the receiving of instructions and payments from the NMCG.

## 1.10 Authorised Representatives

1.10.1 Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement by the NMCG or the Project Engineer, as the case may be, may be taken or executed by the officials specified in this Clause 1.10.

1.10.2 The NMCG may, from time to time, designate one of its officials as the NMCG Representative. Unless otherwise notified, the NMCG Representative shall be:

**Shri Madhava Kumar R**  
**Senior Economic/Financial Analysis Specialist**  
Tel: +91 11 2307 2900  
Mobile: +91 98105 00403  
Email: madhavakumar@nmcg.nic.in

1.10.3 The UPJN may, from time to time, designate one of its officials as the UPJN Representative. Unless otherwise notified, the UPJN Representative shall be:

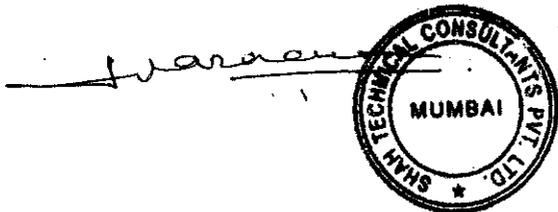
**Shri Parmod Kumar Yadav, General Manager,**  
Ganga Pollution Prevention Unit,  
Uttar Pradesh Jal Nigam,  
Benajhabar Road, Kanpur  
Email- gmGPCUKNK@gmail.com

1.10.4 The Project Engineer may designate one of its employees as Project Engineer's Representative. Unless otherwise notified, the Project Engineer's Representative shall be:

**Shri Prasana M Shah**  
**Director,**  
Shah Technical Consultants Private Limited  
407, Raheja Centre, Plot No.2014, Nariman Point,  
Mumbai-400021, Maharashtra  
Tel: +91 22 22023714  
Mobile: +91 98210 79564  
Email: stc@stc.co.in

## 1.11 Taxes and duties

Unless otherwise specified in the Agreement, the Project Engineer shall pay all such taxes, duties, fees and other impositions as may be levied under the Applicable Laws and the



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**General Manager**  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur

NMCG/UPJN shall perform such duties in regard to the deduction of such taxes as may be lawfully imposed on it.

## 2. COMMENCEMENT, COMPLETION AND TERMINATION OF AGREEMENT

### 2.1 Effectiveness of Agreement

This Agreement shall come into force and effect on the date of this Agreement (the "Effective Date").

### 2.2 Commencement of Services

The Project Engineer shall commence the Services within a period of 7 (seven) days from the Effective Date, unless otherwise agreed by the Parties.

### 2.3 Termination of Agreement for failure to commence Services

If the Project Engineer does not commence the Services within the period specified in Clause 2.2 above, the NMCG may, by not less than 2 (two) weeks' notice to the Project Engineer, declare this Agreement to be null and void, and in the event of such a declaration, the Bid Security of the Project Engineer shall stand forfeited.

### 2.4 Expiry of Agreement

Unless terminated earlier pursuant to Clauses 2.3 or 2.9 hereof, this Agreement shall, unless extended by the Parties by mutual consent, expire upon the earlier of (i) expiry of a period of 90 (ninety) days after the delivery of the final deliverable to the NMCG; and (ii) the expiry of 5 (five) year from the Effective Date. Upon Termination, the NMCG shall make payments of all amounts due to the Project Engineer hereunder.

### 2.5 Entire Agreement

2.5.1 This Agreement and the Annexes together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn; provided, however, that the obligations of the Project Engineer arising out of the provisions of the RFP shall continue to subsist and shall be deemed to form part of this Agreement.

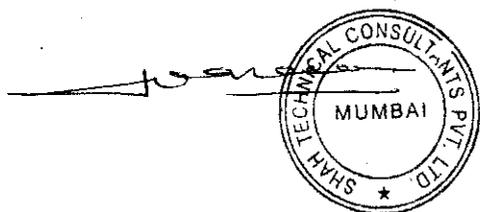
2.5.2 Without prejudice to the generality of the provisions of Clause 2.5.1, on matters not covered by this Agreement, the provisions of RFP shall apply.

### 2.6 Modification of Agreement

Modification of the terms and conditions of this Agreement, including any modification of the scope of the Services, may only be made by written agreement between the Parties. Pursuant to Clauses 4.2.3 and 6.1.3 hereof, however, each Party shall give due consideration to any proposals for modification made by the other Party.

### 2.7 Force Majeure

#### 2.7.1 Definition



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Ganga Pollution Control U  
U.P. Jal Nigam, Kanpur

- (a) For the purposes of this Agreement, "**Force Majeure**" means an event which is beyond the reasonable control of a Party, and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by government agencies.
- (b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party's Sub-Project Engineer or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both (A) take into account at the time of the conclusion of this Agreement, and (B) avoid or overcome in the carrying out of its obligations hereunder.
- (c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

#### 2.7.2 No breach of Agreement

The failure of a Party to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, this Agreement insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Agreement.

#### 2.7.3 Measures to be taken

- (a) A Party affected by an event of Force Majeure shall take all reasonable measures to remove such Party's inability to fulfil its obligations hereunder with a minimum of delay.
- (b) A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any event not later than 14 (fourteen) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.
- (c) The Parties shall take all reasonable measures to minimise the consequences of any event of Force Majeure.

#### 2.7.4 Extension of time

Any period within which a Party shall, pursuant to this Agreement, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

#### 2.7.5 Payments

During the period of its inability to perform the Services as a result of an event of Force Majeure, the Project Engineer shall be entitled to be reimbursed for Additional Costs reasonably and necessarily incurred by it during such period for the purposes of the Services and in reactivating the Services after the end of such period.



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2.7.6 Consultation

Not later than 30 (thirty) days after the Project Engineer has, as the result of an event of Force Majeure, become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing on appropriate measures to be taken in the circumstances.

2.8 Suspension of Agreement

The NMCG may, by written notice of suspension to the Project Engineer, suspend all payments to the Project Engineer hereunder if the Project Engineer shall be in breach of this Agreement or shall fail to perform any of its obligations under this Agreement, including the carrying out of the Services; provided that such notice of suspension (i) shall specify the nature of the breach or failure, and (ii) shall provide an opportunity to the Project Engineer to remedy such breach or failure within a period not exceeding 30 (thirty) days after receipt by the Project Engineer of such notice of suspension.

2.9 Termination of Agreement

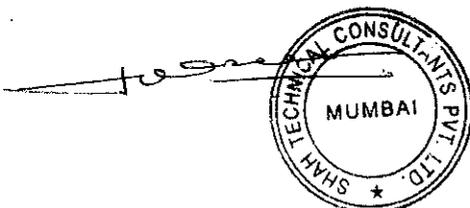
2.9.1 By the NMCG

The NMCG may, by not less than 30 (thirty) days' written notice of termination to the Project Engineer, such notice to be given after the occurrence of any of the events specified in this Clause 2.9.1, terminate this Agreement if:

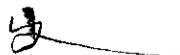
- (a) the Project Engineer fails to remedy any breach hereof or any failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause 2.8 hereinabove, within 30 (thirty) days of receipt of such notice of suspension or within such further period as the NMCG may have subsequently granted in writing;
- (b) the Project Engineer becomes insolvent or bankrupt or enters into any agreement with its creditors for relief of debt or take advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary;
- (c) the Project Engineer fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause 9 hereof;
- (d) the Project Engineer submits to the NMCG a statement which has a material effect on the rights, obligations or interests of the NMCG and which the Project Engineer knows to be false;
- (e) any document, information, data or statement submitted by the Project Engineer in its Proposals, based on which the Project Engineer was considered eligible or successful, is found to be false, incorrect or misleading;
- (f) as the result of Force Majeure, the Project Engineer is unable to perform a material portion of the Services for a period of not less than 60 (sixty) days; or
- (g) the NMCG, in its sole discretion and for any reason whatsoever, decides to terminate this Agreement.

2.9.2 By the Project Engineer

The Project Engineer may, by not less than 30 (thirty) days' written notice to the NMCG, such notice to be given after the occurrence of any of the events specified in this Clause 2.9.2, terminate this Agreement if:



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General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur

- (a) the NMCG fails to pay any money due to the Project Engineer pursuant to this Agreement and not subject to dispute pursuant to Clause 9 hereof within 45 (forty five) days after receiving written notice from the Project Engineer that such payment is overdue;
- (b) the NMCG is in material breach of its obligations pursuant to this Agreement and has not remedied the same within 45 (forty five) days (or such longer period as the Project Engineer may have subsequently granted in writing) following the receipt by the NMCG of the Project Engineer's notice specifying such breach;
- (c) as the result of Force Majeure, the Project Engineer is unable to perform a material portion of the Services for a period of not less than 60 (sixty) days; or
- (d) the NMCG fails to comply with any final decision reached as a result of arbitration pursuant to Clause 9 hereof.

#### 2.9.3 Cessation of rights and obligations

Upon termination of this Agreement pursuant to Clauses 2.3 or 2.9 hereof, or upon expiration of this Agreement pursuant to Clause 2.4 hereof, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, or which expressly survive such Termination; (ii) the obligation of confidentiality set forth in Clause 3.3 hereof; (iii) the Project Engineer's obligation to permit inspection, copying and auditing of such of its accounts and records set forth in Clause 3.6, as relate to the Project Engineer's Services provided under this Agreement; and (iv) any right or remedy which a Party may have under this Agreement or the Applicable Law.

#### 2.9.4 Cessation of Services

Upon termination of this Agreement by notice of either Party to the other pursuant to Clauses 2.9.1 or 2.9.2 hereof, the Project Engineer shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum.

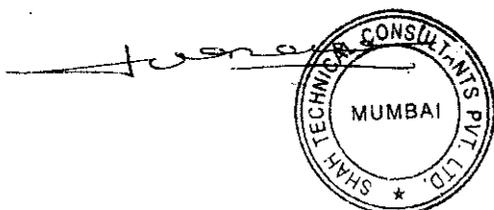
#### 2.9.5 Payment upon Termination

Upon termination of this Agreement pursuant to Clauses 2.9.1 or 2.9.2 hereof, the NMCG shall make the following payments to the Project Engineer (after offsetting against these payments any amount that may be due from the Project Engineer to the NMCG):

- (i) remuneration pursuant to Clause 6 hereof for Services satisfactorily performed prior to the date of termination;
- (ii) reimbursable expenditures pursuant to Clause 6 hereof for expenditures actually incurred prior to the date of termination; and
- (iii) except in the case of termination pursuant to sub-clauses (a) through (e) of Clause 2.9.1 hereof, reimbursement of any reasonable cost incidental to the prompt and orderly termination of the Agreement including the cost of the return travel of the Project Engineer's personnel.

#### 2.9.6 Disputes about Events of Termination

If either Party disputes whether an event specified in Clause 2.9.1 or in Clause 2.9.2 hereof has occurred, such Party may, within 30 (thirty) days after receipt of notice of termination



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General Manager  
Ganga Pollution Control Unit  
UP Jal Nigam, Kanpur

from the other Party, refer the matter to arbitration pursuant to Clause 9 hereof, and this Agreement shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

### 3. OBLIGATIONS OF THE PROJECT ENGINEER

#### 3.1 General

##### 3.1.1 Standards of Performance

The Project Engineer shall perform the Services and carry out its obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe and effective equipment, machinery, materials and methods. The Project Engineer shall always act, in respect of any matter relating to this Agreement or to the Services, as a faithful adviser to the NMCG, and shall at all times support and safeguard the NMCG's legitimate interests in any dealings with Sub-Project Engineers or Third Parties.

##### 3.1.2 Terms of Reference

The scope of services to be performed by the Project Engineer is specified in the Terms of Reference (the "TOR") at Annex-1 of this Agreement. The Project Engineer shall provide the Deliverables specified therein in conformity with the time schedule stated therein.

##### 3.1.3 Applicable Laws

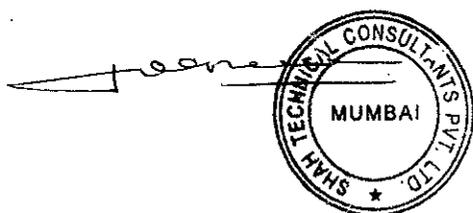
The Project Engineer shall perform the Services in accordance with the Applicable Laws and shall take all practicable steps to ensure that any Sub-Project Engineer, as well as the Personnel and agents of the Project Engineer and any Sub-Project Engineer, comply with the Applicable Laws.

#### 3.2 Conflict of Interest

3.2.1 The Project Engineer shall not have a Conflict of Interest and any breach hereof shall constitute a breach of the Agreement.

3.2.2 Project Engineer and Affiliates not to be otherwise interested in the Project

The Project Engineer agrees that, during the term of this Agreement and after its termination, the Project Engineer or any Associate thereof and any entity affiliated with the Project Engineer, as well as any Sub-Project Engineer and any entity affiliated with such Sub-Project Engineer, shall be disqualified from providing goods, works, services, loans or equity for any project resulting from or closely related to the Services and any breach of this obligation shall amount to a Conflict of Interest; provided that the restriction herein shall not apply after a period of five years from the completion of this assignment or to consulting assignments granted by banks/ lenders at any time; provided further that this restriction shall not apply to consultancy/ advisory services provided to the NMCG in continuation of this Consultancy or to any subsequent consultancy/ advisory services provided to the NMCG in accordance with the rules of the NMCG. For the avoidance of doubt, an entity affiliated with the Project Engineer shall include a partner in the Project Engineer's firm or a person who holds more than 5% (five per cent) of the subscribed and paid up share capital of the Project Engineer, as the case may be, and any Associate thereof.



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General Manager  
Ganga Pollution Control Unit,  
U.P. Jalpaiguri, Kanpur.

3.2.3 Prohibition of conflicting activities

Neither the Project Engineer nor its Sub-Project Engineer nor the Personnel of either of them shall engage, either directly or indirectly, in any of the following activities:

- (a) during the term of this Agreement, any business or professional activities which would conflict with the activities assigned to them under this Agreement;
- (b) after the termination of this Agreement, such other activities as may be specified in the Agreement; or
- (c) at any time, such other activities as have been specified in the RFP as Conflict of Interest.

3.2.4 Project Engineer not to benefit from commissions, discounts, etc.

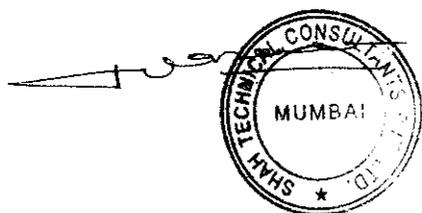
The remuneration of the Project Engineer pursuant to Clause 6 hereof shall constitute the Project Engineer's sole remuneration in connection with this Agreement or the Services and the Project Engineer shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Agreement or to the Services or in the discharge of its obligations hereunder, and the Project Engineer shall use its best efforts to ensure that any Sub-Project Engineer, as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.

3.2.5 The Project Engineer and its Personnel shall observe the highest standards of ethics and shall not have engaged in and shall not hereafter engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the "**Prohibited Practices**"). Notwithstanding anything to the contrary contained in this Agreement, the NMCG shall be entitled to terminate this Agreement forthwith by a communication in writing to the Project Engineer, without being liable in any manner whatsoever to the Project Engineer, if it determines that the Project Engineer has, directly or indirectly or through an agent, engaged in any Prohibited Practices in the Selection Process or before or after entering into of this Agreement. In such an event, the NMCG shall forfeit and appropriate the performance security, if any, as mutually agreed genuine pre-estimated compensation and damages payable to the NMCG towards, *inter alia*, the time, cost and effort of the NMCG, without prejudice to the NMCG's any other rights or remedy hereunder or in law.

3.2.6 Without prejudice to the rights of the NMCG under Clause 3.2.5 above and the other rights and remedies which the NMCG may have under this Agreement, if the Project Engineer is found by the NMCG to have directly or indirectly or through an agent, engaged or indulged in any Prohibited Practices, during the Selection Process or before or after the execution of this Agreement, the Project Engineer shall not be eligible to participate in any tender or RFP issued during a period of 2 (two) years from the date the Project Engineer is found by the NMCG to have directly or indirectly or through an agent, engaged or indulged in any Prohibited Practices.

3.2.7 For the purposes of Clauses 3.2.5 and 3.2.6, the following terms shall have the meaning hereinafter respectively assigned to them:

- (a) "**corrupt practice**" means (i) the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Selection Process (for removal of doubt, offering of employment or employing or engaging in any manner whatsoever, directly or indirectly, any



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UP Jal Nigam, Kanpur

official of the NMCG who is or has been associated in any manner, directly or indirectly with Selection Process or LOA or dealing with matters concerning the Agreement before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the NMCG, shall be deemed to constitute influencing the actions of a person connected with the Selection Process); or (ii) engaging in any manner whatsoever, whether during the Selection Process or after the issue of LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical adviser the NMCG in relation to any matter concerning the Project;

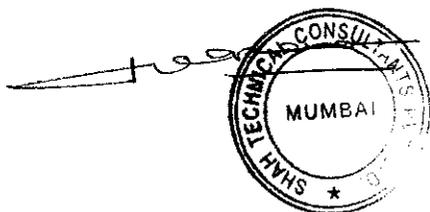
- (b) **"fraudulent practice"** means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Selection Process;
- (c) **"coercive practice"** means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the Selection Process or the exercise of its rights or performance of its obligations by the NMCG under this Agreement;
- (d) **"undesirable practice"** means (i) establishing contact with any person connected with or employed or engaged by the NMCG with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process; or (ii) having a Conflict of Interest; and
- (e) **"restrictive practice"** means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Selection Process.

### 3.3 Confidentiality

The Project Engineer, its Sub-Project Engineers and the Personnel of either of them shall not, either during the term or within two years after the expiration or termination of this Agreement disclose any proprietary information, including information relating to reports, data, drawings, design software or other material, whether written or oral, in electronic or magnetic format, and the contents thereof; and any reports, digests or summaries created or derived from any of the foregoing that is provided by the NMCG to the Project Engineer, its Sub-Project Engineers and the Personnel; any information provided by or relating to the NMCG, its technology, technical processes, business affairs or finances or any information relating to the NMCG's employees, officers or other professionals or suppliers, customers, or contractors of the NMCG; and any other information which the Project Engineer is under an obligation to keep confidential in relation to the Project, the Services or this Agreement ("**Confidential Information**"), without the prior written consent of the NMCG.

Notwithstanding the aforesaid, the Project Engineer, its Sub-Project Engineers and the Personnel of either of them may disclose Confidential Information to the extent that such Confidential Information:

- (i) was in the public domain prior to its delivery to the Project Engineer, its Sub-Project Engineers and the Personnel of either of them or becomes a part of the public knowledge from a source other than the Project Engineer, its Sub-Project



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General Manager  
Gangaj Pollution Control Unit  
U.P.J. Nigam, Kanpur

Engineers and the Personnel of either of them;

- (ii) was obtained from a third party with no known duty to maintain its confidentiality;
- (iii) is required to be disclosed by Applicable Laws or judicial or administrative or arbitral process or by any governmental instrumentalities, provided that for any such disclosure, the Project Engineer, its Sub-Project Engineers and the Personnel of either of them shall give the NMCG, prompt written notice, and use reasonable efforts to ensure that such disclosure is accorded confidential treatment; and
- (iv) is provided to the professional advisers, agents, auditors or representatives of the Project Engineer or its Sub-Project Engineers or Personnel of either of them, as is reasonable under the circumstances; provided, however, that the Project Engineer or its Sub-Project Engineers or Personnel of either of them, as the case may be, shall require their professional advisers, agents, auditors or its representatives, to undertake in writing to keep such Confidential Information, confidential and shall use its best efforts to ensure compliance with such undertaking.

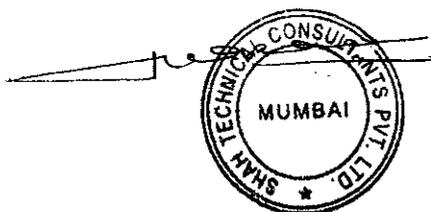
### 3.4 Liability of the Project Engineer

- 3.4.1 The Project Engineer's liability under this Agreement shall be determined by the Applicable Laws and the provisions hereof.
- 3.4.2 The Project Engineer shall, subject to the limitation specified in Clause 3.4.3, be liable to the NMCG for any direct loss or damage accrued or likely to accrue due to deficiency in Services rendered by it.
- 3.4.3 The Parties hereto agree that in case of negligence or wilful misconduct on the part of the Project Engineer or on the part of any person or firm acting on behalf of the Project Engineer in carrying out the Services, the Project Engineer, with respect to damage caused to the NMCG's property, shall not be liable to the NMCG:
  - (i) for any indirect or consequential loss or damage; and
  - (ii) for any direct loss or damage that exceeds (a) the Agreement Value set forth in Clause 6.1.2 of this Agreement, or (b) the proceeds the Project Engineer may be entitled to receive from any insurance maintained by the Project Engineer to cover such a liability in accordance with Clause 3.5.2, whichever of (a) or (b) is higher.
- 3.4.4 This limitation of liability specified in Clause 3.4.3 shall not affect the Project Engineer's liability, if any, for damage to Third Parties caused by the Project Engineer or any person or firm acting on behalf of the Project Engineer in carrying out the Services subject, however, to a limit equal to the Agreement Value.

### 3.5 Accounting, inspection and auditing

The Project Engineer shall:

- (a) keep accurate and systematic accounts and records in respect of the Services provided under this Agreement, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges and cost, and the basis thereof (including the basis of the Project Engineer's costs and charges); and



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General Manager  
Ganga Pollution Control Un  
V.P. Jal Nigam, Kanpur

- (b) permit the NMCG or its designated representative periodically, and up to one year from the expiration or termination of this Agreement, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the NMCG.

### 3.6 Project Engineer's actions requiring the NMCG's prior approval

The Project Engineer shall obtain the NMCG's prior approval in writing before taking any of the following actions:

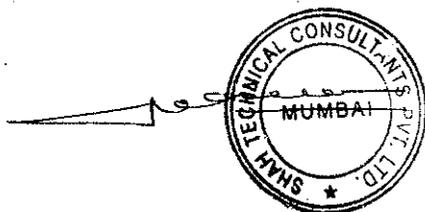
- (a) appointing such members of the Professional Personnel as are not listed in Annex-2.
- (b) entering into a subcontract for the performance of any part of the Services, it being understood (i) that the selection of the Sub-Project Engineer and the terms and conditions of the subcontract shall have been approved in writing by the NMCG prior to the execution of the subcontract, and (ii) that the Project Engineer shall remain fully liable for the performance of the Services by the Sub-Project Engineer and its Personnel pursuant to this Agreement; or
- (c) any other action that is specified in this Agreement.

### 3.7 Reporting obligations

The Project Engineer shall submit to the NMCG the reports and documents specified in the Agreement, in the form, in the numbers and within the time periods set forth therein.

### 3.8 Documents prepared by the Project Engineer to be property of the NMCG/UPJN

- 3.8.1 All plans, drawings, specifications, designs, reports and other documents (collectively referred to as "Consultancy Documents") prepared by the Project Engineer (or by the Sub-Project Engineers or any Third Party) in performing the Services shall become and remain the property of the UPJN/NMCG, and all intellectual property rights in such Consultancy Documents shall vest with the NMCG. Any Consultancy Document, of which the ownership or the intellectual property rights do not vest with the UPJN/NMCG under law, shall automatically stand assigned to the UPJN/NMCG as and when such Consultancy Document is created and the Project Engineer agrees to execute all papers and to perform such other acts as the UPJN/NMCG may deem necessary to secure its rights herein assigned by the Project Engineer.
- 3.8.2 The Project Engineer shall, not later than termination or expiration of this Agreement, deliver all Consultancy Documents to the UPJN/NMCG, together with a detailed inventory thereof. The Project Engineer may retain a copy of such Consultancy Documents. The Project Engineer, its Sub-Project Engineers or a Third Party shall not use these Consultancy Documents for purposes unrelated to this Agreement without the prior written approval of the NMCG/UPJN.
- 3.8.3 The Project Engineer shall hold the NMCG/UPJN harmless and indemnified for any losses, claims, damages, expenses (including all legal expenses), awards, penalties or injuries (collectively referred to as 'Claims') which may arise from or due to any unauthorised use of such Consultancy Documents, or due to any breach or failure on part of the Project Engineer or its Sub-Project Engineers or a Third Party to perform any of its duties or obligations in relation to securing the aforementioned rights of the NMCG/UPJN.



General Manager  
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UP Jal Nigam, Kanpur

### 3.9 Providing access to Project Office and Personnel

The Project Engineer shall ensure that the NMCG/UPJN, and officials of the NMCG/UPJN are provided unrestricted access to the Project Office and to all Personnel during office hours. The UPJN/NMCG's official, who has been authorised by the NMCG in this behalf, shall have the right to inspect the Services in progress, interact with Personnel of the Project Engineer and verify the records relating to the Services for his satisfaction.

### 3.10. Accuracy of Documents

The Project Engineer shall be responsible for accuracy of the data collected by it directly or procured from other agencies/authorities, the designs, drawings, estimates and all other details prepared by it as part of these services. Subject to the provisions of Clause 3.4, it shall indemnify the UPJN/NMCG against any inaccuracy in its work which might surface during implementation of the Project, if such inaccuracy is the result of any negligence or inadequate due diligence on part of the Project Engineer or arises out of its failure to conform to good industry practice. The Project Engineer shall also be responsible for promptly correcting, at its own cost and risk, the drawings including any re-survey / investigations.

## 4. PROJECT ENGINEER'S PERSONNEL AND SUB-PROJECT ENGINEERS

### 4.1 General

The Project Engineer shall employ and provide such qualified and experienced Personnel as may be required to carry out the Services.

### 4.2 Deployment of Personnel

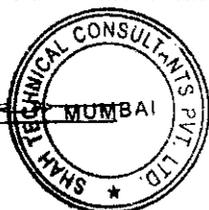
4.2.1 The designations, names and the estimated periods of engagement in carrying out the Services by each of the Project Engineer's Personnel are described in Annex-2 of this Agreement. The estimate of Personnel costs and man day rates are specified in Annex-3 of this Agreement.

4.2.2 If additional work is required beyond the scope of the Services specified in the Terms of Reference, the estimated periods of engagement of Personnel, set forth in the Annexes of the Agreement may be increased by agreement in writing between the UPJN/NMCG and the Project Engineer, provided that any such increase shall not, except as otherwise agreed, cause payments under this Agreement to exceed the Agreement Value set forth in Clause 6.1.2.

### 4.3 Approval of Personnel

4.3.1 The Professional Personnel listed in Annex-2 of the Agreement are hereby approved by the UPJN/NMCG. No other Professional Personnel shall be engaged without prior approval of the UPJN/NMCG.

4.3.2 If the Project Engineer hereafter proposes to engage any person as Professional Personnel, it shall submit to the UPJN/NMCG its proposal along with a CV of such person in the form provided at Appendix-I (Form-12) of the RFP. The UPJN/NMCG may approve or reject such proposal within 14 (fourteen) days of receipt thereof. In case the proposal is rejected, the Project Engineer may propose an alternative person for the UPJN/NMCG's consideration. In the event the UPJN/NMCG does not reject a proposal within 14



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General Manager  
Ganga Pollution Control Bd.  
U.P. Jal Nigam, Kanpur

(fourteen) days of the date of receipt thereof under this Clause 4.3, it shall be deemed to have been approved by the UPJN/NMCG.

#### 4.4 Substitution of Key Personnel

The NMCG expects all the Key Personnel to be available during implementation of the Agreement. The NMCG will not consider substitution of Key Personnel except for reasons not attributable to the Project Engineer such as any incapacity, resignation or due to health. Such substitution shall ordinarily be subject to equally or better qualified and experienced personnel being provided to the satisfaction of the NMCG. As a condition to such substitution, a sum of 5% (Five per cent) of the remuneration specified for the original Key Personnel may be deducted from the payments due to the Project Engineer. In the case of a further substitutions hereunder, such deduction shall be 10% (Ten per cent) of the remuneration specified for the original Key Personnel for each substitution.

#### 4.5 Working hours, overtime, leave, etc.

The Personnel shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified in the Agreement, and the Project Engineer's remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel is excluded from the man days of service set forth in Annex-2. Any taking of leave by any Personnel for a period exceeding 7 (seven) days shall be subject to the prior approval of the UPJN/NMCG, and the Project Engineer shall ensure that any absence on leave will not delay the progress and quality of the Services.

#### 4.6 Resident Team Leader and Project Manager

The person designated as the Team Leader of the Project Engineer's Personnel shall be responsible for the coordinated, timely and efficient functioning of the Personnel. In addition, the Project Engineer shall designate a suitable person as Project Manager (the "Project Manager") who shall be responsible for day to day performance of the Services.

#### 4.7 Sub-Project Engineers

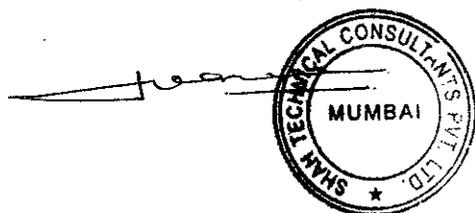
Sub-Project Engineers listed in Annex-3 of this Agreement are hereby approved by the NMCG. The Project Engineer may, with prior written approval of the NMCG, engage additional Sub-Project Engineers or substitute an existing Sub-Project Engineer. The hiring of Personnel by the Sub-Project Engineers shall be subject to the same conditions as applicable to Personnel of the Project Engineer under this Clause 4.

### 5. OBLIGATIONS OF THE NMCG

#### 5.1 Assistance in clearances etc.

Unless otherwise specified in the Agreement, the UPJN/NMCG shall make best efforts to ensure that the Government shall:

- (a) provide the Project Engineer, its Sub-Project Engineers and Personnel with necessary support and such other documents as may be necessary to enable the Project Engineer, its Sub-Project Engineers or Personnel to perform the Services; and
- (b) issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services.



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General Manager  
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U.P. Jal Nigam, Kanpur

## 5.2 Access to land and property

The UPJN warrants that the Project Engineer shall have, free of charge, unimpeded access to the site of the project in respect of which access is required for the performance of Services; provided that if such access shall not be made available to the Project Engineer as and when so required, the Parties shall agree on (i) the time extension, as may be appropriate, for the performance of Services, and (ii) the additional payments, if any, to be made to the Project Engineer as a result thereof pursuant to Clause 6.1.3.

## 5.3 Change in Applicable Law

If, after the date of this Agreement, there is any change in the Applicable Laws with respect to taxes and duties which increases or decreases the cost or reimbursable expenses incurred by the Project Engineer in performing the Services, by an amount exceeding 2% (two per cent) of the Agreement Value specified in Clause 6.1.2, then the remuneration and reimbursable expenses otherwise payable to the Project Engineer under this Agreement shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the aforesaid Agreement Value.

## 5.4 Payment

In consideration of the Services performed by the Project Engineer under this Agreement, the NMCG shall make to the Project Engineer such payments and in such manner as is provided in Clause 6 of this Agreement.

## 6. PAYMENT TO THE PROJECT ENGINEER

### 6.1 Cost estimates and Agreement Value

6.1.1 An abstract of the cost of the Services payable to the Project Engineer is set forth in Annex-5 of the Agreement.

6.1.2 Except as may be otherwise agreed under Clause 2.6 and subject to Clause 6.1.3, the payments under this Agreement shall not exceed the agreement value specified herein (the "Agreement Value"). The Parties agree that the Agreement Value is **Rs.9,16,15,200/-** (Rupees Nine Crores Sixteen Lakhs Fifteen Thousand and Two Hundred only), which does not include the Additional Costs specified in Annex-5 (the "Additional Costs"). Additional Costs shall be payable by NMCG on submission of adequate documents for the purpose by the Project Engineer.

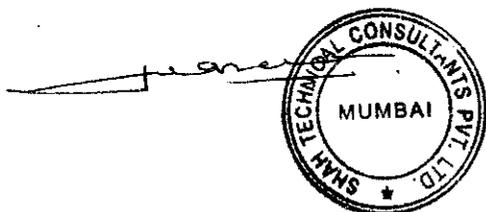
6.1.3 Notwithstanding anything to the contrary contained in Clause 6.1.2, if pursuant to the provisions of Clauses 2.6 and 2.7, the Parties agree that additional payments shall be made to the Project Engineer in order to cover any additional expenditures not envisaged in the cost estimates referred to in Clause 6.1.1 above, the Agreement Value set forth in Clause 6.1.2 above shall be increased by the amount or amounts, as the case may be, of any such additional payments.

### 6.2 Currency of payment

All payments shall be made in Indian Rupees. The Project Engineer shall be free to convert Rupees into any foreign currency as per Applicable Laws.

### 6.3 Mode of billing and payment

Billing and payments in respect of the Services shall be made as follows:-



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U.P. Jal Nigam, Kanpur

- (a) A Mobilisation Advance for an amount upto 10% (ten per cent) of the Agreement Value shall be paid to the Project Engineer on request and against a Bank Guarantee from a Scheduled Bank in India in an amount equal to such advance, such Bank Guarantee to remain effective until the advance payment has been fully set off as provided herein. The advance outstanding shall attract simple interest @ 10% (ten per cent) per annum and shall be adjusted in four equal instalments from the first four stage payments due and payable to the Project Engineer, and the accrued interest shall be recovered from the fifth instalment due and payable thereafter.
- (b) The Project Engineer shall be paid for its services as per the Payment Schedule at Annex-6 of this Agreement, subject to the Project Engineer fulfilling the following conditions:
- (i) No payment shall be due for the next stage till the Project Engineer completes, to the satisfaction of the NMCG, the work pertaining to the preceding stage.
- (ii) The NMCG shall pay to the Project Engineer, only the undisputed amount.
- (c) The NMCG shall cause the payment due to the Project Engineer to be made within 30 (thirty) days after the receipt by the NMCG of duly completed bills with necessary particulars (the "Due Date"). Interest at the rate of 8% (eight per cent) per annum shall become payable as from the Due Date on any amount due by, but not paid on or before, such Due Date.
- (d) The final payment under this Clause shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Project Engineer and approved as satisfactory by the NMCG. The Services shall be deemed completed and finally accepted by the NMCG and the final deliverable shall be deemed approved by the NMCG as satisfactory upon expiry of 90 (ninety) days after receipt of the final deliverable by the NMCG unless the NMCG, within such 90 (ninety) day period, gives written notice to the Project Engineer specifying in detail, the deficiencies in the Services. The Project Engineer shall thereupon promptly make any necessary corrections and/or additions, and upon completion of such corrections or additions, the foregoing process shall be repeated. The NMCG shall make the final payment upon acceptance or deemed acceptance of the final deliverable by the NMCG.
- (e) Any amount which the NMCG has paid or caused to be paid in excess of the amounts actually payable in accordance with the provisions of this Agreement shall be reimbursed by the Project Engineer to the NMCG within 30 (thirty) days after receipt by the Project Engineer of notice thereof. Any such claim by the NMCG for reimbursement must be made within 1 (one) year after receipt by the NMCG of a final report in accordance with Clause 6.3 (d). Any delay by the Project Engineer in reimbursement by the due date shall attract simple interest @ 10% (ten per cent) per annum.
- (f) All payments under this Agreement shall be made to the account of the Project Engineer as may be notified to the NMCG by the Project Engineer.

## 7. LIQUIDATED DAMAGES AND PENALTIES

### 7.1 Performance Security

- 7.1.1 For the purposes of this Agreement, performance security shall be deemed to be an amount equal to 10% (ten per cent) of the Agreement Value (the "Performance Security");



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U.P. Jal Nigam, Kanpur

provided, however, that the Project Engineer shall be required to provide a Performance Security in the form of a bank guarantee substantially in the form specified at Annex-6 of this Agreement.

- 7.1.2 For the avoidance of doubt, the parties hereto expressly agree that in addition to appropriation of the amounts withheld hereunder, in the event of any default requiring the appropriation of further amounts comprising the Performance Security, the NMCG may make deductions from any subsequent payments due and payable to the Project Engineer hereunder, as if it is appropriating the Performance Security in accordance with the provisions of this Agreement.

## 7.2 Liquidated Damages

### 7.2.1 Liquidated Damages for error/variation

In case any error or variation is detected in the reports submitted by the Project Engineer and such error or variation is the result of negligence or lack of due diligence on the part of the Project Engineer, the consequential damages thereof shall be quantified by the NMCG in a reasonable manner and recovered from the Project Engineer by way of deemed liquidated damages, subject to a maximum of 20% (twenty per cent) of the Agreement Value.

### 7.2.2 Liquidated Damages for delay

In case of delay in completion of Services, liquidated damages not exceeding an amount equal to 0.2% (zero point two per cent) of the Agreement Value per day, subject to a maximum of 10% (ten per cent) of the Agreement Value will be imposed and shall be recovered by appropriation from the Performance Security or otherwise. However, in case of delay due to reasons beyond the control of the Project Engineer, suitable extension of time shall be granted.

### 7.2.3 Encashment and appropriation of Performance Security

The NMCG shall have the right to invoke and appropriate the proceeds of the Performance Security, in whole or in part, without notice to the Project Engineer in the event of breach of this Agreement or for recovery of liquidated damages specified in this Clause 7.2.

## 7.3 Penalty for deficiency in Services

In addition to the liquidated damages not amounting to penalty, as specified in Clause 7.2, warning may be issued to the Project Engineer for minor deficiencies on its part. In the case of significant deficiencies in Services causing adverse effect on the Project or on the reputation of the NMCG, other penal action including debarring for a specified period may also be initiated as per policy of the NMCG.

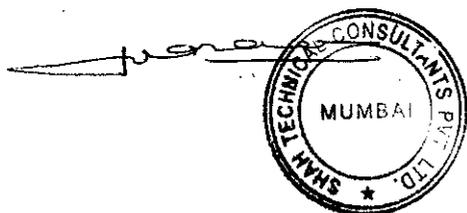
## 8. FAIRNESS AND GOOD FAITH

### 8.1 Good Faith

The Parties undertake to act in good faith with respect to each other's rights under this Agreement and to adopt all reasonable measures to ensure the realisation of the objectives of this Agreement.

### 8.2 Operation of the Agreement

The Parties recognise that it is impractical in this Agreement to provide for every contingency which may arise during the life of the Agreement, and the Parties hereby



  
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U.P. Jal Nigam, Kanpur

agree that it is their intention that this Agreement shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Agreement either Party believes that this Agreement is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but failure to agree on any action pursuant to this Clause shall not give rise to a dispute subject to arbitration in accordance with Clause 9 hereof.

## 9. SETTLEMENT OF DISPUTES

### 9.1 Amicable settlement

The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Agreement or the interpretation thereof.

### 9.2 Dispute resolution

9.2.1 Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the "**Dispute**") shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 9.3.

9.2.2 The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non-privileged records, information and data pertaining to any Dispute.

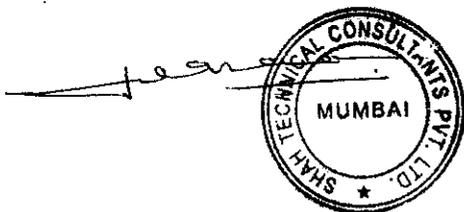
### 9.3 Conciliation

In the event of any Dispute between the Parties, either Party may call upon the Director General, NMCG, and the Chairman of the Board of Directors of the Project Engineer or a substitute thereof for amicable settlement, and upon such reference, the said persons shall meet no later than 10 (ten) days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 10 (ten) day period or the Dispute is not amicably settled within 15 (fifteen) days of the meeting or the Dispute is not resolved as evidenced by the signing of written terms of settlement within 30 (thirty) days of the notice in writing referred to in Clause 9.2.1 or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 9.4.

### 9.4 Arbitration

9.4.1 Any Dispute which is not resolved amicably by conciliation, as provided in Clause 9.3, shall be finally decided by reference to arbitration by an Arbitral Tribunal appointed in accordance with Clause 9.4.2. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the "**Rules**"), or such other rules as may be mutually agreed by the Parties, and shall be subject to the provisions of the Arbitration and Conciliation Act, 1996. The place of such arbitration shall be the capital of the State where the NMCG has its headquarters and the language of arbitration proceedings shall be English.

9.4.2 There shall be an Arbitral Tribunal of three arbitrators, of whom each Party shall select one, and the third arbitrator shall be appointed by the two arbitrators so selected, and in the



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General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur

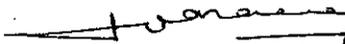
event of disagreement between the two arbitrators, the appointment shall be made in accordance with the Rules.

- 9.4.3 The arbitrators shall make a reasoned award (the "Award"). Any Award made in any arbitration held pursuant to this Clause 9 shall be final and binding on the Parties as from the date it is made, and the Project Engineer and the NMCG agree and undertake to carry out such Award without delay.
- 9.4.4 The Project Engineer and the NMCG agree that an Award may be enforced against the Project Engineer and/or the NMCG, as the case may be, and their respective assets wherever situated.
- 9.4.5 This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder.

**IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be signed in their respective names as of the day and year first above written.**

**SIGNED, SEALED AND DELIVERED**

**For and on behalf of Project Engineer:**

  
**Prasana M Shah**  
**Director**  
**Shah Technical Consultants Private Limited**  
407, Raheja Centre, Plot No.2014, Nariman Point,  
Mumbai-400021. Maharashtra  
Tel: +91 22 22023714  
Mobile: +91 98210 79564  
Email: stc@stc.co.in



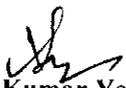
**SIGNED, SEALED AND DELIVERED**

**For and on behalf of NMCG:**

  
**Shreyas Gune**  
**Deputy Director**

**SIGNED, SEALED AND DELIVERED**

**For and on behalf of UPJN**

  
**Parmod Kumar Yadav,**  
**General Manager,**  
Ganga Pollution Prevention Unit,  
Uttar Pradesh Jal Nigam

**General Manager**  
**Ganga Pollution Control Unit**  
**U.P. Jal Nigam, Lucknow**

In the presence of:

1. 
- 2.

**CRS BHATIA**  
Sr. Resident Engineer & Joint  
Commander (Delhi), STC, Mumbai

Annex-1

**Terms of Reference**

(Refer Clause 3.1.2)

**Terms of Reference (TOR) for Project Engineer**

**1. Objective of the Project:**

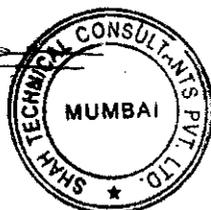
The objectives for engaging a Project Engineer are as follows:

- a. To ensure effective Development of Sewage treatment Plants (STPs) at **Unnao, Shuklaganj & Pankha**, rehabilitation of existing STPs, & associated infrastructure and operation & maintenance of all assets for 15 years in Kanpur, Uttar Pradesh under Hybrid Annuity based PPP mode, by the selected concessionaire in a time bound manner.
- b. To ensure efficiency and continued performance of the assets in the long run
- c. To ensure quality in the development of STPs by timely addressing critical issues that may affect the adherence to the Key Performance Indicators.
- d. To ensure best value for money to the project proponent.

**2. Scope of the Project**

**2.1** These Terms of Reference for the Project Engineer (the "TOR") are being specified in view of the Concession Agreement to be entered between NMC, Uttar Pradesh Jal Nigam and the Concessionaire (the "Concession Agreement"), Development of Sewage treatment Plants (STPs) at Unnao, Shuklaganj & Pankha, rehabilitation of existing STPs, & associated infrastructure and operation & maintenance of all assets for 15 years in Kanpur, Uttar Pradesh on design, build, finance operate and transfer ("DBFOT) basis under Hybrid Annuity based PPP mode") with a scope of work as follows:

- (a) Designing, financing, rehabilitating, restoring, upgrading, supplying, constructing, erecting, installing, testing, commissioning and completing the sewerage infrastructure works and facilities by the scheduled construction completion date and operating and maintaining the facilities and the associated infrastructure for 15 years from the date of COD, in compliance to applicable laws, applicable permits, technical specifications, designs and drawings, the construction plan, the EHS plan, the resource plan, Mobilization plan of manpower, material & machinery, QA/QC plan and good industry practices to ensure compliance with the KPIs.
- (b) designing, financing, Constructing, rehabilitating, restoring, upgrading the **Associated Infrastructure** in accordance with Applicable Laws, Applicable Permits, Technical Specifications, Designs and Drawings, the Construction Plan, the EHS Plan and Good Industry Practices;
- (c) **operating and maintaining the Facilities** and the Associated Infrastructure in accordance with Applicable Laws, Applicable Permits, Technical Specifications, Designs and Drawings, the O&M Manual, EHS Plan and Good Industry Practices to ensure compliance with the KPIs; and
- (d) Handback of the Facilities and the Associated Infrastructure upon expiry or early termination of the Concession Agreement in accordance with the Hand-back Conditions and the **Hand-back Requirements**.



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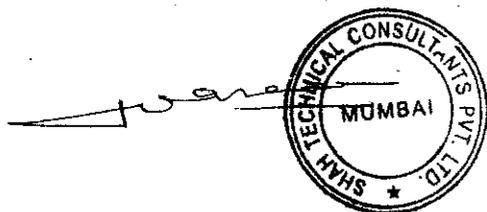
  
General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur

Details of facilities integrated with New construction,

District	Assets name	Capacity (in MLD)	
District - I	Rehabilitation, Operation & Maintenance of STP in Jajmau zone	130	
	Operation & Maintenance of STP in Jajmau zone	43	
	O & M of existing 6 IPS, 1 MPS and 1 CSPS in Jajmau zone	IPS -1 , Lakanpur	10
		IPS -2 , Lakanpur -2	1
		IPS -3 , Lakanpur - 3	1
		IPS -4 , Lakanpur -4	5
		IPS -6 , Sundar Nagar	20
		CSPS , Jajmau	130
		IPS , Jajmau	25
SPS , Jajmau	43		
District-III	Laying, Operation and Maintenance of gravity main of 16 Kms. and 0.5 Km. of Rising main in Pankha zone		
	Construction, Operations & Maintenance of SPS and MPS in Pankha Zone	Sundar Nagar	20
		ICI Nala	25
	ICI	115	
Construction, Operations & Maintenance of STP in Pankha Zone		30	
District- IV	Operation & Maintenance of STP in Bingawan zone	210	
	Operation & Maintenance of STP in Sajari zone	42	
	O & M of existing 3 IPS and 1 MPS in Bingawan zone	IPS -1 , Rakhi Mandi	100
		IPS -2 , Munsii Purwa	67
		IPS -3 , Halwakanda	20
		MPS , Bingawan	210
	O & M of existing 2 IPS and 1 MPS in Sajari zone	IPS-I , Chakeri	14
		IPS -2 , Sanigawan	14
MPS , Sajari		42	

Draft Concession Agreement is available in the website Uttar Pradesh Jal Nigam: <https://etender.up.nic.in/nicgep/app>

Other Sewage infrastructure Project undertaken in Kanpur by UP Jal Nigam under Namami Gange Programme (Please refer to clause no. 7.18 of the Terms of Reference.



General Manager  
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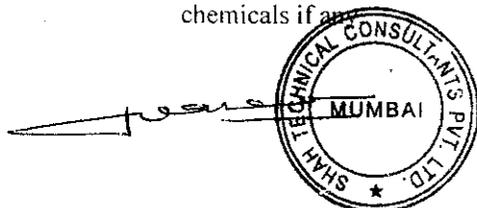
Sl. No.	Project	Status	Capacity of STP (MLD)	Sewer Network (Km.)	O&M start date
1	Sewerage scheme for Bithoor town	Bid under progress	2.4	Under Tendering	
2	Sewerage works in Sewerage District-I	Work in Progress	0	401.5	July-2020
3	I&D works for Sisamau Nala	Work in Progress	0	1.63	Oct-2018

### 3. Definitions and interpretation

- 3.1 The words and expressions beginning with or in capital letters used in this TOR and not defined herein but defined in the Concession Agreement shall have, unless repugnant to the context, the meaning respectively assigned to them in the Concession Agreement.
- 3.2 References to Articles, Clauses and Schedules in this TOR shall, except where the context otherwise requires, be deemed to be references to the Articles, Clauses and Schedules of the Concession Agreement, and references to Paragraphs shall be deemed to be references to Paragraphs of this TOR.
- 3.3 The rules of interpretation stated in Clauses 1.2 and 1.3 of the Concession Agreement shall apply, mutatis mutandis, to this TOR.

### 4. Role & Functions:

- 4.1 The role and functions of the Project Engineer shall include and not limited to the following:
- (i) Review, analysis and qualifying assessment of field investigations carried out and reported by the Concessionaire in respect of topographical surveys, hydraulic & hydrologic data verification, sub-surface investigation including laboratory testing and reports of geologists wherever applicable, investigation of construction material including lab testing.
  - (ii) Review, analysis and qualifying assessment of Design Memorandums, specifications and construction drawings prepared and submitted by the concessionaire.
  - (iii) Conduct Kick Off meetings
  - (iv) Review and monitor the submissions of the Concessionaire such as:
    - a. Work Schedule
    - b. Detailed Survey report
    - c. Basic Engineering
    - d. Detailed design and Drawings for
      - i. Civil Works
        1. Geo-tech reports
        2. Lab testing reports
        3. Third Party Inspection report
      - ii. Mechanical and Electrical Works
      - iii. Automation and Instrumentation works
      - iv. Any other allied works
    - e. QA/QC plans
    - f. Environment Health and Safety Plan, material safety data and hazardous chemicals if any



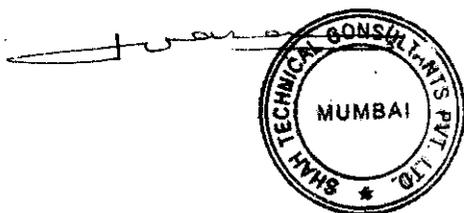
General Manager  
Ganga Pollution Control  
U.P. Jal Nigam, Kanpur

- (v) review of the Drawings and Documents as set forth in Paragraph 4 and 5;
- (vi) Identification of Construction Milestones & Project progress monitoring and issue of Milestone Construction Certificates, Construction Completion Certificate, monitoring Trail run, recommendations for issuance of COD certificate by Jal Nigam etc..
- (vii) To Assist NMCG for getting Statutory permissions
- (viii) Ensure compliance with Statutory provisions under various applicable laws
- (ix) Review, inspection, supervision and monitoring of Construction Works as set forth in Paragraph 6; conducting Tests on completion of construction and issuing Completion/ Provisional Certificate as set forth in Paragraph 6
- (iv) Review, inspection and monitoring of O&M as set forth in Paragraph 6;
- (v) determining, as required under the Concession Agreement, the costs of any works or services and/or their reasonableness;
- (vi) determining, as required under the Concession Agreement, the period or any extension thereof, for performing any duty or obligation;
- (vii) Determining the Events of default and guidance on consequent Termination notices and Payment as detailed in clauses 16.1 to 16.5 of the Concession Agreement; or
- (viii) Determine deficiencies in the commissioning & trial runs; prepare the final acceptance document for acceptance of commissioning & trial runs. Prepare & Issue Commercial Operation certificate through Uttar Pradesh Jal Nigam
- (ix) Any other matter which is not specified in ((vi),(vii), or (viii) above and which creates an obligation or liability on the Employer /NMCG beyond the provisions of the Concession Agreement.
- (x) Ensuring Interim Availability of the existing Facilities during construction period and certifying Scheduled Outages during Scheduled Maintenance.
- (xi) The Project Engineer shall submit regular periodic reports, as specified in the Concession Agreement to Uttar Pradesh Jal Nigam and NMCG, in respect of its duties and functions under the Concession Agreement.
- (xii) The Project Engineer shall aid and advise the Employer on any proposal for variation under Article 20 of the Concession Agreement.
- (xiii) Assisting the Parties in resolution of Disputes as set forth in Paragraph 9;
- (xiv) Assisting the employer in the fulfilment of Hand back requirements as detailed in clause 20.3 of the Concession Agreement; and
- (xv) Undertaking all other duties and functions in accordance with this agreement.

Project Engineer shall utilize best of analytical tools /computational models for review/analysis of structural/hydraulics wherever essential.

4.2 The Project Engineer shall discharge its duties in an efficient manner, consistent with the highest standards of professionalism and Good Industry Practice.

4.3 The Project Engineer must function in a manner to assist and equip the employer to ascertain that the Concessionaire shall operate and maintain the Facilities in a manner that:

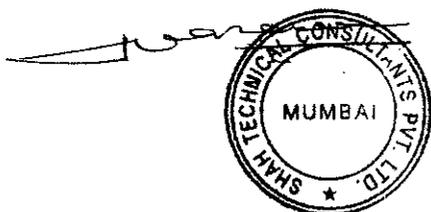


  
General Manager  
Garage Pollution Control Ur  
U.P. Jal Nigam, Kanpur

- (i) Is in compliance with the Technical Specifications, Applicable Laws, Applicable Permits and Good Industry Practice;  
Results in the Facilities achieving the KPIs as detailed in schedule 10 of the Concession Agreement and certify within 7 days the KPI adherence Report as per clause 9.12 of the Concession Agreement;
  - (ii) Ensures that the Kanpur facilities are capable of treating Sewage up to the Design Capacity on a daily basis;
  - (iii) Ensures efficient treatment of Sewage and handling and disposal of STPs By-Products and the Treated Effluent
  - (iv) STPs are safe and reliable, subject to normal wear and tear of the Facilities and the Associated Infrastructure;
  - (v) Is in compliance with the technology license agreement executed by the Concessionaire for the technology, processes, know-how and systems used or incorporated into the Facilities and/or the Associated Infrastructure;
  - (vi) Maintains the safety and security of personnel, material and property at the Site, in accordance with the approved EHS Plan, Applicable Laws and Applicable Permits; and
  - (vii) Ensures that all waste materials and hazardous substances are stored and/or disposed in accordance with the EHS Plan, Applicable Laws and Applicable Permits.
- 4.4 Overall, The Project Engineer shall assist the Uttar Pradesh Jal Nigam in supervising the construction, rehabilitation, operation and maintenance of the Facilities and shall work closely with the Uttar Pradesh Jal Nigam and NMCG to monitor compliance with the KPIs. The detailed scope of work of the Project Engineer during various stages of the project, to be read in conjunction with the provisions of the Concession Agreement, is outlined in Paragraphs 4-12 of the TOR.

## 5. Development Period

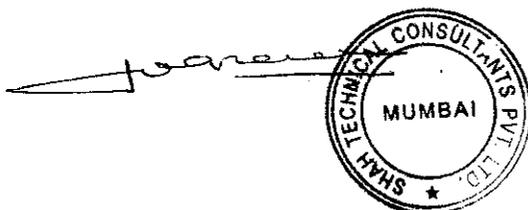
- 5.1 During the Development Period, the Project Engineer shall undertake a detailed review of the basic engineering Designs, furnished by the Concessionaire along with supporting data, including the geo-technical and hydrological investigations, characteristics of materials from borrow areas and quarry sites, topographical surveys and Sewage Flow Analysis. The Project Engineer shall complete such review and send its comments/observations to the Uttar Pradesh Jal Nigam and the Concessionaire within 10 (ten) days of receipt of such Drawings. In particular, such comments shall specify the conformity or otherwise of such Drawings with the Scope of the Project and Specifications and Standards.
- 5.2 The Project Engineer shall review and assist Uttar Pradesh Jal Nigam in approval of the submissions by the concessionaire relating to the design and, Construction Plan, rehabilitation Plan of existing facilities so as to confirm to the scope as per **Schedule I** of the Concession Agreement.
- 5.3 The basic engineering drawings for the construction and rehabilitation in the above case shall mean the designs and documents to be submitted by the Concessionaire and approved by the Uttar Pradesh Jal Nigam as a Condition Precedent and shall include but not limited to



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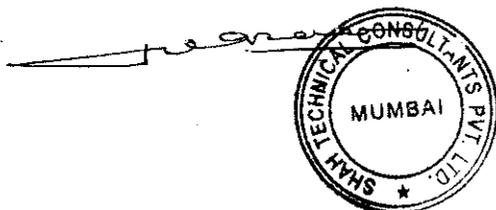
  
General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur

- (a) Conduct Kick off meeting, Scrutiny of contractors submittals
  - (b) Process description, process calculations and hydraulic calculations;
  - (c) List of design codes and standards;
  - (d) Master drawing schedule;
  - (e) Drainage design;
  - (f) STP Facilities layout;
  - (g) Process flow diagram;
  - (h) Hydraulic flow diagram;
  - (i) Mass balance diagram;
  - (j) Process and instrumentation diagram;
  - (k) Single line diagram;
  - (l) Electrical load list; and
  - (m) Structure design and drawings
  - (n) Pump Characteristics and
  - (o) General arrangement diagrams of all units of Facilities and;
  - (p) Any other information, design, drawings, etc. needed for effective development/rehabilitation and operation of Facilities.
- 5.4 The Project Engineer shall review any modified Drawings or supporting Documents sent to it by the Concessionaire and furnish its comments within 10 (ten) days of receiving such Drawings or Documents.
- 5.5 The Project Engineer shall review the detailed design, construction methodology, quality assurance procedures and the procurement, engineering and construction time schedule sent to it by the Concessionaire and furnish its comments within 10 (ten) days of receipt thereof.
- 5.6 Upon reference by the NMCG/Uttar Pradesh Jal Nigam, the Project Engineer shall review and; comment on the EPC Contract or any other contract for construction, operation and maintenance of the Project, and furnish its comments within 10 (ten) days from receipt of such reference from the NMCG/Uttar Pradesh Jal Nigam
- 6. Construction Period**
- 6.1 In respect of the Designs Drawing and Documents received by the Project Engineer for its review and comments during the Construction Period, the provisions of Paragraph 4 shall also apply, mutatis mutandis.
- 6.2 The Project Engineer shall review, and assist the Uttar Pradesh Jal Nigam in reviewing the submissions by the concessionaire, the Construction plan as defined in clause clause 8.3, 8.4 and 8.5 of the Concession Agreement including Phase I and Phase II Design & Drawings, as well as the 'As Built' drawings on completion and EHS plans as defined in clause 8.6 of the Concession Agreement.
- 6.3 The Project Engineer shall assist the Uttar Pradesh Jal Nigam submit their comments on effectiveness or otherwise of the Work plan submitted for meeting the specified payment milestones and completion of the work on or before the scheduled construction completion date.



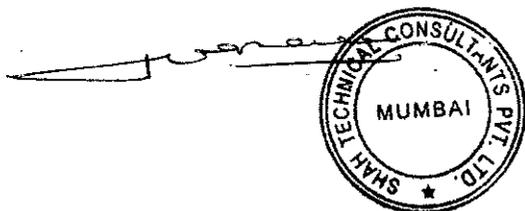
  
General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur

- 6.4 The Project Engineer shall review, in particular, the submissions by the Concessionaire as per Schedule 1 of the Concession Agreement, and assist Uttar Pradesh Jal Nigam in assessing the effectiveness them.
- 6.5 The Project Engineer shall review the monthly progress report furnished by the Concessionaire and send its comments thereon to the / Uttar Pradesh Jal Nigam and the Concessionaire within 7 (seven) days of receipt of such report.
- 6.6 The Project Engineer shall inspect the Construction Works and the Project as and when necessary, and submit a report of such inspection (the "Inspection Report"), preferably after receipt of the monthly progress report from the Concessionaire, but before the 20th (twentieth) day of each month in any case. The report shall contain, an overview of the status, progress, quality and safety of construction, including the work methodology adopted, the materials used and their sources, and conformity of Construction Works with the Scope of the Project and the Specifications and Standards. In a separate section of the Inspection Report, the Project Engineer shall describe in reasonable detail the lapses, defects or deficiencies observed by it in the construction of the Project. The Project Engineer shall send a copy of its Inspection Report to the / Uttar Pradesh Jal Nigam and the Concessionaire within 3 (three) days of the inspection.
- 6.7 However serious lapses, defects and/or deficiencies shall be reported to the Uttar Pradesh Jal Nigam/NMCG immediately without waiting for the monthly progress submissions as mentioned in the previous paragraph.
- 6.8 For determining that the Construction Works conform to Specifications and Standards, the Project Engineer shall require the Concessionaire to carry out, or cause to be carried out, tests on a sample basis, to be specified by the Project Engineer in accordance with approved norms/Good Industry Practice for quality assurance. The Project Engineer shall issue necessary directions to the Concessionaire for ensuring that the tests are conducted in a fair and efficient manner, and shall monitor and review the results thereof.
- 6.9 The timing of tests referred to in Paragraph 6.8, and the criteria for acceptance/ rejection of their results shall be determined by the Project Engineer in accordance with the norms /rules and Good Industry Practice. The tests shall be undertaken on a random sample basis and shall be in addition to, and independent of, the tests that may be carried out by the Concessionaire for its own quality assurance in accordance with Good Industry Practice.
- 6.10 In the event that the Concessionaire carries out any remedial works for removal or rectification of any defects or deficiencies, the Project Engineer shall require the Concessionaire to carry out, or cause to be carried out, tests to determine that such remedial works have brought the Construction Works into conformity with the Specifications and Standards, and the provisions of this Paragraph 5 shall apply to such tests.
- 6.11 In the event that the Concessionaire fails to achieve any of the Project Milestones, the Project Engineer shall undertake a review of the progress of construction and identify potential delays, if any. If the Project Engineer identifies that completion of the Project is not feasible within the time specified in the Concession Agreement, it shall require the Concessionaire to indicate within 15 (fifteen) days the steps proposed to be taken to expedite progress, and the period within which COD shall be achieved. Upon receipt of a report from the Concessionaire, the Project Engineer shall review the same and send its comments to the NMCG/ Uttar Pradesh Jal Nigam and the Concessionaire forthwith.



General Manager  
Ganga Pollution Control Un  
U.P. Jal Nigam, Kanpur

- 6.12 If at any time during the Construction Period, the Project Engineer determines that the Concessionaire has not made adequate arrangements for the safety of workers and common public in the zone of construction or that any work is being carried out in a manner that threatens the safety of the workers and the common public, it shall make a recommendation to the NMCG/ Uttar Pradesh Jal Nigam forthwith, identifying the whole or part of the Construction Works that should be suspended for ensuring safety in respect thereof.
- 6.13 In the event that the Concessionaire carries out any remedial measures to secure the safety of suspended works and common public, it may, by notice in writing, require the Project Engineer to inspect such works, and within 3 (three) days of receiving such notice, the Project Engineer shall inspect the suspended works and make a report to the NMCG/ Uttar Pradesh Jal Nigam forthwith, recommending whether or not such suspension may be revoked by the NMCG/ Uttar Pradesh Jal Nigam.
- 6.14 If suspension of Construction Works is for reasons not attributable to the Concessionaire, the Project Engineer shall determine the extension of dates set forth in the project completion schedule, to which the Concessionaire is reasonably entitled, and shall notify the NMCG/ Uttar Pradesh Jal Nigam and the Concessionaire of the same.
- 6.15 Upon reference from the NMCG/ Uttar Pradesh Jal Nigam, the Project Engineer shall make a fair and reasonable assessment of the costs of providing information, works and services and certify the reasonableness of such costs for payment by the NMCG/ Uttar Pradesh Jal Nigam to the Concessionaire.
- 6.16 The Project Engineer shall aid and advise the Concessionaire in preparing the Operation & Maintenance Manual.
- 6.17 Upon reference from the NMCG/ Uttar Pradesh Jal Nigam the Project Engineer shall undertake the assessment of cost of civil works, as per applicable schedule of rates, for the reduction of Scope of work if any as per Article 21.
- 6.18 The Project Engineer shall review the construction progress as per payment milestones proposed by the concessionaire and provide necessary recommendation/s to Uttar Pradesh Jal Nigam for issuance of 'Milestone Construction Certificates'.
- 6.19 The Project Engineer shall support the employer in ensuring that the provisions specified in Clause 8, of the Concession Agreement including those for liquidated damages and Bonus, are being complied with.
- 6.20 On completion of construction and at behest of Employer, the Project Engineer may review the work done as per 'as built' drawings and identify defects and suggest changes as per clause 8.14(a) of the Concession Agreement.
- 6.21 Similarly, the Project Engineer may inspect the trial process and may point out the defects and cause changes or retrial of the process as per clause 8.15(d) of the Concession Agreement.
- 6.22 Project Engineer shall ensure that the Concessionaire shall meet the Guaranteed Interim Availability of the existing Mathura STP and associated infrastructure within 30 days from the Effective Date of the Concession Agreement.
- 6.23 Project Engineer shall also ensure that the STP by-products and Treated Effluents discharged from the Existing Facilities meet the relevant Discharge Standards in accordance with the Clause 9.12(c) of the Concession Agreement, from 1 year from the Effective Date.

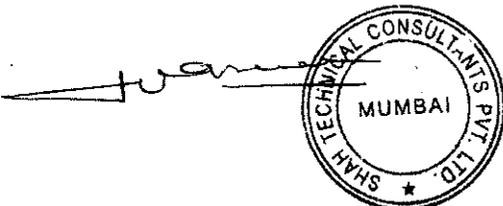


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General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur

**7. Operation Period**

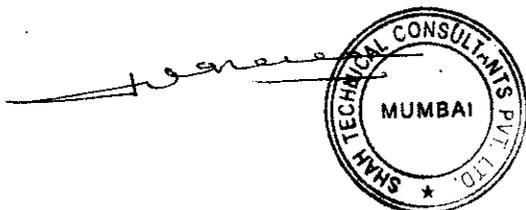
- 7.1 In respect of the Designs, Drawings, and Documents received by the Project Engineer for its review and comments during the Operation Period, the provisions of Paragraph 4 shall apply, mutatis mutandis.
- 7.2 The Project Engineer shall review the O&M Manual (Clause 8.2) and the Scheduled Maintenance Programme submitted by the concessionaire and provide its recommendations on the same, including suggestions for change, if any.  
The O&M Manual shall cover:
- a) O&M Procedures;
  - b) O&M Plan;
  - c) Provision of Spare Parts;
  - d) Sampling and Testing Methodologies;
  - e) Storage and control of Inventory;
  - f) Arrangements for data security and Integrity;
  - g) Procedures for recording and disposal of complaints;
  - h) Operational Contingencies Plans;
  - i) Human Resources Plans;
  - j) EHS Plans;
  - k) Emergency procedures;
  - l) Management of Assets Plans. And
  - m) Annual Scheduled Maintenance Programme.
- 7.3 The Project Engineer shall review the annual Maintenance Program furnished by the Concessionaire and send its comments thereon to the NMCG/ Uttar Pradesh Jal Nigam and the Concessionaire within 10 (ten) days of receipt of the Maintenance Program.
- 7.4 The Project Engineer shall review the reports generated from online monitoring systems to assess adherence to KPIs and submit the monthly KPI Adherence Report to Uttar Pradesh Jal Nigam
- 7.5 The Project Engineer shall verify the daily reports submitted by the concessionaire regarding the volume of sewage and its quality re influent standards and monitor and record the same on regular basis;
- 7.6 The Project Engineer shall monitor, review and advise the Uttar Pradesh Jal Nigam on the reports submitted by the concessionaire as per clause clause 9.8(b)(iii) (A) to (G) of the Concession Agreement.
- 7.7 The Project Engineer shall regularly verify the report submitted by the concessionaire on the tests conducted at the Inlet Point, the Outlet Point or at any other point at the Facilities for the Digested Sludge. Separately, the Project Engineer shall also have the right to take random samples of the incoming Sewage, the Digested Sludge and the Treated Effluent at any time during the O&M Period to test compliance with the Influent Standards and the Discharge Standards.
- 7.8 The Project Engineer shall review the monthly status report furnished by the Concessionaire (as required under clause 9.8(b)(iii)(E) of the Concession Agreement) and send its comments thereon to the NMCG/ Uttar Pradesh Jal Nigam and the Concessionaire within 7 (seven) days of receipt of such report.



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General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur

- 7.9 The Project Engineer shall inspect the Project once every month, preferably after receipt of the monthly status report from the Concessionaire, but before the 20th (twentieth) day of each month in any case, and make out an O&M Inspection Report setting forth an overview of the status, quality and safety of O&M including its conformity with the Maintenance Requirements and Safety Requirements. In a separate section of the O&M Inspection Report, the Project Engineer shall describe in reasonable detail the lapses, defects or deficiencies observed by it in O&M of the Project. The Project Engineer shall send a copy of its O&M Inspection Report to the NMCG/ Uttar Pradesh Jal Nigam and the Concessionaire within 7 (seven) days of the inspection.
- 7.10 The Project Engineer may inspect the project more than once in a month, if any lapses, defects or deficiencies require such inspections.
- 7.11 The Project Engineer shall in its O&M Inspection Report specify the tests, if any, that the Concessionaire shall carry out, or cause to be carried out, for the purpose of determining that the project is in conformity with the Maintenance Requirements. It shall monitor and review the results of such tests and the remedial measures, if any, taken by the Concessionaire in this behalf.
- 7.12 The Project Engineer shall determine if any delay has occurred in completion of repair or remedial works in accordance with the Concession Agreement, and shall also determine the Damages, if any, payable by the Concessionaire to the NMCG/ Uttar Pradesh Jal Nigam for such delay.
- 7.13 The Project Engineer shall monitor and review the curing of defects and deficiencies by the Concessionaire.
- 7.14 In the event that the Concessionaire notifies the Project Engineer of any modifications that it proposes to make to the project, the Project Engineer shall review the same and send its comments to the NMCG/ Uttar Pradesh Jal Nigam and the Concessionaire within 15 (fifteen) days of receiving the proposal.
- 7.15 The Project Engineer shall undertake sewage flow sampling, as and when required by the NMCG/ Uttar Pradesh Jal Nigam, under and in accordance with the provisions of this agreement.
- 7.16 The Project Engineer shall review and report to the employer on all the reports (Daily, Monthly, Quarterly and Annual), including monthly Environmental Monitoring Reports as detailed in Schedule 10(Part G) of the Concession Agreement.
- 7.17 The Project Engineer shall provide necessary training/capacity building to the operators/technicians of the STP, as and when required, so as to address the gap in skill sets of the manpower deployed by the Concessionaire.
- 7.18 The Project Engineer will provide necessary assistance to NMCG and UP Jal Nigam for the understanding various projects undertaken through other Central Government/State Government schemes /Urban Local Bodies and advice NMCG/UP Jal Nigam accordingly so that the overall objective preventing flow of untreated sewage into the river Yamuna is accomplished. The support by the proposed PE will include, but not limited to the following:
- 7.18.1 Preparation of a road map/policy note for completion of sewage related work at the City Level taking into consideration various schemes implemented through NMCG/Central/State Government funding and/or through Urban Local Body funding;



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General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur

- 7.18.2 Assist in developing dovetailing partnerships with other schemes in the sewage sector like AMRUT, SMART City Mission and Swachh Bharat Mission to develop Synergistic plans.
- 7.18.3 Assist in identification of suitable new technologies for improving sewage infrastructure, economizing investment and for sustainable development and operation of the project;
- 7.18.4 Collecting information on regular monitoring and of implementation of various projects by the project implementing agencies/Urban Local Bodies and to produce status report;
- 7.18.5 Assist in identification of bottlenecks in implementation of projects and suggesting remedial actions

## 8. Termination

- 8.1 At any time, not earlier than 90 (ninety) days prior to Termination but not later than 15 (fifteen) days prior to such Termination, the Project Engineer shall, in the presence of a representative of the Concessionaire, inspect the project for determining compliance by the Concessionaire and, if required, cause tests to be carried out at the Concessionaire's cost for determining such compliance. If the Project Engineer determines that the status of the Project is such that its repair and rectification would require a larger amount then it shall recommend retention of the required amount in the Escrow Account and the period of retention thereof.
- 8.2 The Project Engineer shall inspect the Project once in every 15 (fifteen) days during a period of 60 (sixty) days after Termination for determining the liability of the Concessionaire, in respect of the defects or deficiencies specified therein. If any such defect or deficiency is found by the Project Engineer, it shall make a report in reasonable detail and send it forthwith to the NMCG/ Uttar Pradesh Jal Nigam and the Concessionaire.

## 9. Determination of costs and time

- 9.1 The Project Engineer shall determine the costs, and/or their reasonableness, that are required to be determined by it under the Concession Agreement.
- 9.2 The Project Engineer shall determine the period, or any extension thereof, that is required to be determined by it under the Concession Agreement.

## 10. Assistance in Dispute resolution

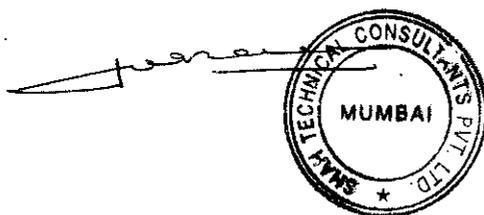
- 10.1 When called upon by either Party in the event of any Dispute, the Project Engineer shall mediate and assist the Parties in arriving at an amicable settlement.
- 10.2 In the event of any disagreement between the Parties regarding the meaning, scope and nature of Good Industry Practice, as set forth in any provision of the Concession Agreement, the Project Engineer shall specify such meaning, scope and nature by issuing a reasoned written statement relying on good industry practice and authentic literature.

## 11. Opinion and Assessment

As and when requested by NMCG/ Uttar Pradesh Jal Nigam, the Project Engineer shall provide its opinion and assessment on the events related to Emergency, Change in Law, Force Majeure, Minor or total Casualties, Variation and unforeseen Site conditions etc.

## 12. Miscellaneous

- 12.1 The Project Engineer shall notify its programme of inspection to the NMCG/ Uttar Pradesh



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General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur

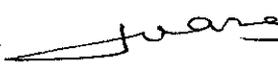
Jal Nigam and to the Concessionaire, who may, in their discretion, depute their respective representatives to be present during the inspection.

- 12.2 A copy of all communications, comments, instructions, Drawings or Documents sent by the Project Engineer to the Concessionaire pursuant to this TOR, and a copy of all the test results with comments of the Project Engineer thereon shall be furnished to the NMCG/ Uttar Pradesh Jal Nigam forthwith.
- 12.3 The Project Engineer shall retain at least one copy each of all Drawings and Documents received by it, including 'as-built' Drawings, and keep them in its safe custody.
- 12.4 Upon completion of its assignment hereunder, the Project Engineer shall duly classify and list all Drawings, Documents, results of tests and other relevant records, and hand them over to the NMCG/ Uttar Pradesh Jal Nigam or such other person as the NMCG/ Uttar Pradesh Jal Nigam may specify, and obtain written receipt thereof. Two copies of the said documents shall also be furnished in their editable digital format or in such other medium or manner as may be acceptable to the NMCG/Uttar Pradesh Jal Nigam
- 12.5 Wherever no period has been specified for delivery of services by the Project Engineer, the Project Engineer shall act with the efficiency and urgency necessary for discharging its functions in accordance with Good Industry Practice.
- 12.6 Project Engineers shall be expected to fully comply with all the provisions of the "Terms of Reference", and shall be fully responsible for supervising the Design, Construction and maintenance and operation of the Facility in accordance with the provisions of the Concession Agreement and other schedules. Any failure of the Project Engineer in notifying to the Employer and the Concessionaire on non-compliance of the provisions of the Concession Agreement and other schedules by the Concessionaire, non-adherence to the provision of this ToR and non-adherence to the time schedule prescribed under this ToR shall amount to non-performance.
- 12.7 The project Engineer shall develop & maintain a project website and with the approval of NMCG/UPJN post from time to time, information (textual and Audio- Visual) on project progress on a continuous basis. On completion of services as per this RFP document, the website with all necessary technical information shall be handed over to UPJN.

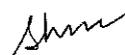
### 13. Time and Payment Schedule

- 13.1 Subject to the provisions of Paragraph 10.1 of the TOR, the total duration for the assignment shall be 3 years (2 years of construction & trial run and 1 year do O & M) including the time taken by Uttar Pradesh Jal Nigam in providing the requisite documents or in conveying its comments on the Draft Reports.
- 13.2 Time schedule for important Deliverables of the Consultancy and the payment schedule linked to the specified Deliverables of the Concessionaire for the Project. However, an indicative set of payments for the delivery of services are as follows:

#### A. During construction period


  
General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur

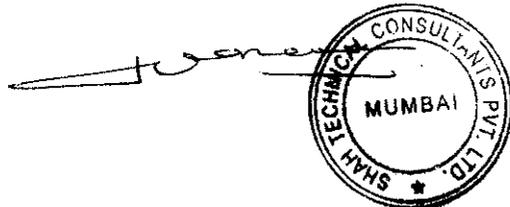


S.No	Particulars	% of fee paid	Cumulative %
1	Certification for the achievement of first construction milestone by the Concessionaire for Location's	5%	5%
2	Certification for the achievement of second construction milestone by the Concessionaire for Location's	5%	10%
3	Certification for the achievement of third construction milestone by the Concessionaire for Location's	5%	15%
4	Certification for the achievement of fourth construction milestone by the Concessionaire for Location's	5%	20%
5	Certification for the achievement of fifth construction milestone by the Concessionaire for Location's	5%	25%
6	Certification for the achievement of sixth construction milestone by the Concessionaire for Location's	5%	30%
7	Certification for the achievement of seventh construction milestone by the Concessionaire for Location's	5%	35%
8	Certification for the achievement of eighth construction milestone by the Concessionaire for Location's	5%	40%
9	Monthly Payment in accordance with the deployment of Key Personnel. (*Please see the note below)	60%	100%

\*Payment is limited to 2.5% per month of the contract value for construction period. The billing shall be on the basis of man months/man-days deployed for the month along with the submission of monthly progress report. If in any month, the deployment is lower than 2.5% of the value then balance of in that month shall be added to the next month on cumulative basis.

#### B. Payment of fees for supervision of O & M.

S.No.	Particulars	% of Fee Paid	Cumulative %
1	Payment during O & M period on submission of certificate for adherence to KPIs on prorata basis for 12 months (Billing on the basis of man days/man months spend on the project )	8 % for each month = 96 %	96 %
2	Final certification of 12 months of O & M period.	4 %	100%



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General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur

13.3 Payment shall be made in respect of each Deliverable upon completion thereof, for which bills may be raised by the Project Engineer.

13.4 Expected man days for each both key and non-key personnel:

Sl.No	Position	No.	Man months	
			Construction period	O & M period
	<b>Key Experts</b>			
1	Team leader cum waste water engineer	1	24	
2	Senior Civil Engineer	2	30	
3	Senior Process Engineer	1	8	1
4	Senior Mechanical Engineer	1	10	1
5	Senior Electrical Engineer	1	8	1
6	Senior Instrumentation Engineer	1	8	1
7	Senior Structure Engineer	1	6	
8	O & M Engineer	2	48	24
	<b>Sub total</b>	<b>10</b>	<b>142</b>	<b>28</b>
	<b>Non Key Experts</b>			
9	Safety Expert	1	10	
10	Support Engineer - Civil (2x15)	3	63	
11	Support Engineer - Mechanical	2	20	
12	Support Engineer - Electrical	1	8	
	<b>Sub Total</b>	<b>7</b>	<b>101</b>	
	<b>Total</b>	<b>17</b>	<b>243</b>	<b>28</b>

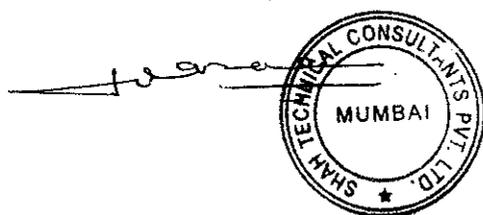
In addition to the above the selected bidder is expected to provide necessary institutional support / support personnel to the Key Personnel for successful completion of the assignment.

#### 14. Meetings

14.1 Uttar Pradesh Jal Nigam may review with the Project Engineer, any or all of the documents and advice forming part of the Consultancy, in meetings and conferences which will be held at the office of the Uttar Pradesh Jal Nigam/NMCG. Uttar Pradesh Jal Nigam /NMCG may, in its discretion, require the Project Engineer to participate in extended meetings and/ or work from the offices of Uttar Pradesh Jal Nigam /NMCG and the Project Engineer shall, on a best endeavour basis and without unreasonable delay, provide such services at the offices of the Uttar Pradesh Jal Nigam/NMCG.

#### 15. Reporting

15.1 The Project Engineer may prepare Issue Papers highlighting issues that could become critical for the timely completion of the Project and that require attention from Uttar Pradesh Jal



General Manager  
Ganga Pollution Control Ur  
U.P. Jal Nigam, Kanpur

Nigam/NMCG. The Project Engineer shall report to UPJN for routine activities and deliverables. All major and critical issues shall be reported to NMCG and UPJN simultaneously.

15.2 The Project Engineer will make a presentation on the inception report for discussion with the Uttar Pradesh Jal Nigam /NMCG at a meeting. This will be a working document. Regular communication with Uttar Pradesh Jal Nigam/NMCG is required in addition to all key communications. This may take the form of telephone/ teleconferencing, emails, and occasional meetings.

15.3 The Deliverables will be submitted as per schedule provided in this RFP.

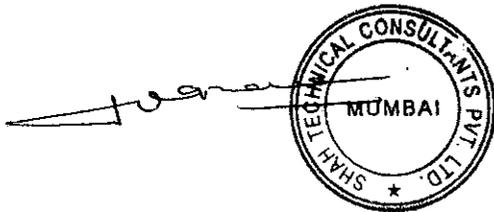
#### 16. Documents to be made available by Uttar Pradesh Jal Nigam/NMCG

NMCG/Uttar Pradesh Jal Nigam shall provide to the Project Engineer the following documents as per availability:

- (a) Detailed Project Report;
- (b) Condition Assessment report from CPSUs for the town under consideration.
- (c) Any Policy documents that would impact the project implementation.
- (d) A copy of signed Concession Agreement for the Project.
- (e) Available data as may be required by the Project Engineer will be provided by Uttar Pradesh Jal Nigam on request.

#### 17. Completion of Services

All the Deliverables shall be compiled, classified and submitted by the Project Engineer to Uttar Pradesh Jal Nigam in both hard & soft form, to the extent possible. The documents comprising the Deliverables shall remain the property of Uttar Pradesh Jal Nigam/NMCG and shall not be used by the Project Engineer for any purpose other than that intended under these Terms of Reference without the permission of Uttar Pradesh Jal Nigam/NMCG. The Consultancy shall stand completed on acceptance by Uttar Pradesh Jal Nigam of all the Deliverables of the Project Engineer. Unless completed earlier, the Services shall be deemed completed and finally accepted by Uttar Pradesh Jal Nigam and the final Deliverable shall be deemed approved by Uttar Pradesh Jal Nigam as satisfactory upon expiry of 60 (sixty) days after receipt of the final Deliverable unless Uttar Pradesh Jal Nigam, within such 60 (sixty) day period, gives written notice to the Project Engineer specifying in detail, the deficiencies in the Services. The Project Engineer shall thereupon promptly make any necessary corrections and/or additions, and upon completion of such corrections or additions, the foregoing process shall be repeated. The Consultancy shall in any case be deemed to be completed upon expiry of 5 (five) years from the Effective Date, unless extended by mutual consent of the Uttar Pradesh Jal Nigam and the Project Engineer.



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General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur

## Annex-2

**Estimate of Personnel Costs**  
(Refer Clause 4.2)

**APPENDIX-II**

Form - 3: Estimate of Personnel Costs

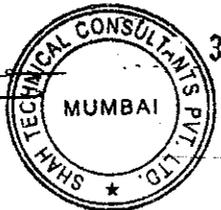
Selection of Project Engineer for Development of Sewage Treatment Plants (STPs) at Unnao, Shuklaganj & Pankha, Rehabilitation of Existing STPs & associated Infrastructure and Operation & Maintenance of all assets for 15 Years in Kanpur, UTTAR Pradesh under Hybrid Annuity Based PPP Mode

ID No.	Position	Name	Man Month Rate (Rs.)	Total Man Month	Total Rs. (Per Month)
<b>A.I Remuneration for Resident Professional Personnel (including all personal allowances)</b>					
1	Team Leader cum Waste water Engineer	Anoop Singh	450000	24	10800000
2	Senior Process Engineer	Satish Kumar P. E.	350000	8	2800000
3	Senior Civil Engineer - 1	Manish Chintamani Sane	350000	15	5250000
4	Senior Civil Engineer - 2	Chandra Mauleshwar Dimri	350000	15	5250000
5	Senior Mechanical Engineer	Sunil Krishna Basutkar	350000	10	3500000
6	Senior Electrical Engineer	Anil Kumar Seth	350000	8	2800000
7	Senior Instrumentation Engineer	Prasoon Bharadwaj	350000	8	2800000
8	Senior Structure Engineer	Preetam Walunekar	350000	6	2100000
9	O & M Engineer - 1	Jai Prakash Tripathi	275000	24	6600000
10	O & M Engineer - 1	Asheet Kumar Srivastava	275000	24	6600000
<b>Total</b>					<b>48500000</b>
<b>A.II Remuneration for Resident Support Personnel (including all personal allowances)</b>					
1	Safety Expert	Linga Krishna Rao	250000	10	2500000
2	Support Engineer (Civil) - 1	Ravi Kumar Singh	100000	21	2100000
3	Support Engineer (Civil) - 2	Rajesh Kumar Bhanjya	100000	21	2100000
4	Support Engineer (Civil) - 3	Shiv Prakash Tripathi	100000	21	2100000
5	Support Engineer (Mechanical) - 1	Sundarrajan. R	100000	10	1000000
6	Support Engineer (Mechanical) - 2	Surendra Kumar Sharma	100000	10	1000000
7	Support Engineer (Electrical) - 1	Mohit Agarwal	100000	8	800000
8	Support Site Supervisors (3 Nos.)	TBN	60000	32	1920000
9	Office Manager Cum Accountant	TBN	40000	24	960000
<b>Total</b>					<b>14480000</b>
<b>B.I Remuneration for Expatriate Personnel (including all personal allowances)</b>					
<b>Total</b>					<b>0</b>

For Shah Technical Consultants Pvt. Ltd.



Prasana M Shah (Director)  
(Signature of Authorized Signatory)



General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur

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**APPENDIX-II**

Form - 3: Estimate of Personnel Costs (O&M) Period

Selection of Project Engineer for Development of Sewage Treatment Plants (STPs) at Unnao, Shuklaganj & Pankha, Rehabilitation of Existing STPs & associated Infrastructure and Operation & Maintenance of all assets for 15 Years in Kanpur, UTTAR Pradesh under Hybrid Annuity Based PPP Mode

ID No.	Position	Name	Man Month Rate (Rs.)	Total Month	Total Rs. (Per Month)
<b>A.I Remuneration for Resident Professional Personnel (including all personal allowances)</b>					
1	Senior Process Engineer	Satish Kamaraju P.E.	350000	1	350000
2	Senior Mechanical Engineer	Sunil Krishnal Basutkar	350000	1	350000
3	Senior Electrical Engineer	Anil Kumar Seth	350000	1	350000
4	Senior Instrumentation Engineer	Prasoon Bharadwaj	350000	1	350000
5	O & M Engineer -1	Jai Prakash Tripathi	275000	12	3300000
6	O & M Engineer - 2	Asheet Kumar Srivastava	275000	12	3300000
<b>Total</b>					<b>8000000</b>

For Shah Technical Consultants Pvt. Ltd.



*Prasana M Shah*  
Prasana M Shah (Director)  
Signature of Authorized Signatory

*Prasana M Shah*  
  
4

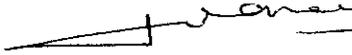
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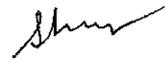
*General Manager*  
General Manager  
Ganga Pollution Control Un  
U.P. Jal Nigam, Kanpur

Annex-3

**Approved Sub-Project Engineer(s)**  
(Refer Clause 4.7)

-Not Applicable-

  
General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur

Annex-4

**Cost of Services**  
(Refer Clause 6.1)

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**APPENDIX-II**

Form-2 - Financial Proposal

Selection of Project Engineer for Development of Sewage Treatment Plants (STPs) at Unnao, Shuklaganj & Pankha, Rehabilitation of Existing STPs & associated Infrastructure and Operation & Maintenance of all assets for 15 Years in Kanpur, UTTAR Pradesh under Hybrid Annuity Based PPP Mode

S. No.	Description	Amount in INR
1	<b>COST OF ASSIGNMENT DURING CONSTRUCTION PERIOD</b>	
A	<b>Resident Personnel</b>	
A.I	Remuneration for Resident Professional Personnel (inclusive of all personal allowances)	48500000
A.II	Remuneration for Resident Support Personnel (inclusive of all personal allowances)	14480000
	<b>Total of Resident Personnel cost (A)</b>	<b>62980000</b>
B	<b>Expatriate Personnel</b>	
B.I	Remuneration for Expatriate Personnel (Inclusive of all personal allowances)	0
	<b>Total Expatriate Personnel cost(B)</b>	<b>0</b>
C	<b>Total Personnel Cost during construction period (A + B)</b>	<b>62980000</b>
2	<b>Cost Of Assignment During O &amp; M Period</b>	
D	<b>Resident Personnel cost during O &amp; M period</b>	<b>9000000</b>
3	<b>Total personnel cost of the assignment(1 + 2)</b>	<b>70980000</b>
4	<b>Local Cost During Construction</b>	
E	Office Rent(if any)	720000
F	Office Consumables like stationery, communication etc.	1800000
G	Office Furniture and Equipment (Rental)	480000
H	Reports and Document Printing	360000
I	Surveys & Investigations	0
J	Travel Expense	1000000
K	Miscellaneous Expenses (including web site maintenance)	500000
	<b>Total Local Cost During Construction (4)</b>	<b>4860000</b>
5	<b>Local cost during O &amp; M if any (such as rent, furniture, equipment, stationery etc).</b>	<b>1800000</b>
6	<b>Total of Personnel and Local Cost (3 + 4 + 5)</b>	<b>77640000</b>
7	Goods & Services Tax (GST 18%)	13975200
8	<b>Total cost including Taxes (4+5+8) in Rs Rs. 9,16,15,200 (Rupees Nine Crore Sixteen Lakhs Fifteen Thousand Two Hundred only)</b>	<b>91615200</b>

For Shah Technical Consultants Pvt. Ltd.

*Signature*  
3/12/18  
Tidki  
3.12.2018  
3/12/18



Prasane M. Shah (Director)  
(Signature of Authorized Signatory)



*Signature*  
General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur

## Annex-5

**Payment Schedule**  
(Refer Clause 6.3)

1.1 Subject to the provisions of Paragraph 10.1 of the TOR, the total duration for the assignment shall be 3 years (2 years of construction & trial run and 1 year do O & M) including the time taken by Uttar Pradesh Jal Nigam in providing the requisite documents or in conveying its comments on the Draft Reports.

1.2 Time schedule for important Deliverables of the Consultancy and the payment schedule linked to the specified Deliverables of the Concessionaire for the Project. However, an indicative set of payments for the delivery of services are as follows:

**A. During construction period**

S.No	Particulars	% of fee paid	Cumulative %
1	Certification for the achievement of first construction milestone by the Concessionaire for Location's	5%	5%
2	Certification for the achievement of second construction milestone by the Concessionaire for Location's	5%	10%
3	Certification for the achievement of third construction milestone by the Concessionaire for Location's	5%	15%
4	Certification for the achievement of fourth construction milestone by the Concessionaire for Location's	5%	20%
5	Certification for the achievement of fifth construction milestone by the Concessionaire for Location's	5%	25%
6	Certification for the achievement of sixth construction milestone by the Concessionaire for Location's	5%	30%
7	Certification for the achievement of seventh construction milestone by the Concessionaire for Location's	5%	35%
8	Certification for the achievement of eighth construction milestone by the Concessionaire for Location's	5%	40%
9	Monthly Payment in accordance with the deployment of Key Personnel. (*Please see the note below)	60%	100%



  
 General Manager  
 Ganga Pollution Control Unit,  
 U.P. Jal Nigam, Kanpur

\*Payment is limited to 2.5% per month of the contract value for construction period. The billing shall be on the basis of man months/man-days deployed for the month along with the submission of monthly progress report. If in any month, the deployment is lower than 2.5% of the value then balance of in that month shall be added to the next month on cumulative basis.

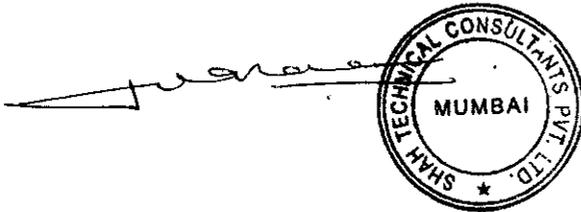
**B. Payment of fees for supervision of O & M.**

S.No.	Particulars	% of Fee Paid	Cumulative %
1	Payment during O & M period on submission of certificate for adherence to KPIs on prorata basis for 12 months (Billing on the basis of man days/man months spend on the project )	8 % for each month = 96 %	96 %
2	Final certification of 12 months of O & M period.	4 %	100%

Payment shall be made in respect of each Deliverable upon completion thereof, for which bills may be raised by the Project Engineer.

*Notes:*

1. *The above payments shall be made to the Project Engineer provided that the payments to be made at any time shall not exceed the amount certified by the Project Engineer in its Statement of Expenses.*
2. *All Reports shall first be submitted as draft reports for comments of the NMCG. The NMCG shall provide its comments no later than 2 (two) weeks from the date of receiving a draft report and in case no comments are provided within such 2 (two) weeks, the Project Engineer shall finalise its report.*
3. *Mobilisation Advance upto 10% (ten per cent) of the total Agreement Value shall be paid on request against Bank Guarantee of a Scheduled Bank. This shall attract 10% (ten per cent) simple interest per annum and shall be adjusted against the first 4 (four) bills in four equal instalments and the accrued interest will be recovered from the 5<sup>th</sup> (fifth) bill.*



*[Signature]*  
 General Manager  
 Ganga Pollution Control Un  
 U.P. Jal Nigam, Kanpur

Annex- 6

**Bank Guarantee for Performance Security**  
(Refer Clause 7.1.2)

Canara Bank   
CANARA BANK  
MUMBAI FORT MAIN  
PB NO 292 WARDEN HOUSE PM ROAD  
FORT MUMBAI-400001  
PHONE:22871181

Date: 18/02/2019

To:  
SR ECONOMIC AND FINANCE EXPERT  
NATIONAL MISSION FOR CLEAN GANGA  
1ST FLOOR MAJOR DHYAN CHAND NATIONAL STADIUM  
INDIA GATE NEW DELHI 110002  
Dear Sir/Madam

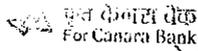


1989017

SUB:OUR GUARANTEE NO 011SPGE1904900002 DATE 18/02/2019 FOR RS 9161520/(NINETY ONE LAKHS SIXTY ONE THOUSAND FIVE HUNDRED TWENTY ONLY)on behalf of Ms SHAH TECHNICAL CONSULTANTS PVT LTD  
The above Guarantee for Rs.9161520/- is issued in your favour having validity upto 17/02/2020 and further claim upto 17/02/2020.

The original Guarantee is handed over to the party for their onward submission to you.  
Now we have enclosed a copy of the said guarantee which you may compare with the original when the original guarantee is presented to you.

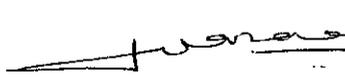
Thanking You  
Yours Faithfully  
SENIOR MANAGER  
Encl:Copy of the Guarantee

  
For Canara Bank

वरिष्ठ प्रबंधक / SENIOR MANAGER  
फोर्ट (मुख्य) शाखा, मुंबई - 400001.  
FORT (MAIN) BRANCH, MUMBAI - 400001

M







  
General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur



महाराष्ट्र MAHARASHTRA

2018 0

18 FEB 2019

AM 992839



1989017

प्रधान मुद्रांक कार्यालय, मुंबई  
प्र.सं. क्र. 4000090  
- 5 FEB 2019  
सक्षम अधिकारी

श्री. दि. क. गवई

**Bank Guarantee for Performance Security**

Sh. Economic & Finance Expert  
National Mission for Clean Ganga,  
1st Floor, Major Dhyan Chand National Stadium,  
Igdia Gate, New Delhi - 110002

In consideration of "National Mission for Clean Ganga", (hereinafter referred to as "NMCG") which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators and assigns) awarding to Shah Technical Consultants Pvt. Ltd. having its office at 407 Raheja Centre, Nariman Point, Mumbai 400021, Maharashtra, India (hereinafter referred as the "Project Engineer" which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns), vide the NMCG's Agreement no. Nil dated Nil valued at Rs. 9,16,15,200/- (Rupees Nine Crore Sixteen Lakhs Fifteen Thousand and Two Hundred), (hereinafter referred to as the "Agreement")



1989017

*[Handwritten signature]*



*[Handwritten signature]*

*[Handwritten signature]*  
General Manager  
Ganga Pollution Control  
U.P. Jal Nigam, Kanpur

गारंटी सं.  
GUARANTEE NO 1989017

10/03/2019



the assignment for consultancy services in respect of the Appointment of Project Engineer for STP Projects at Kanpur under Hybrid Annuity based PPP mode Project, and the Project Engineer having agreed to furnish a Bank Guarantee amounting to Rs. 91,61,520/- (Rupees Ninety-One Lakhs Sixty-One Thousand Five Hundred and Twenty only) to the NMCG for performance of the said Agreement.

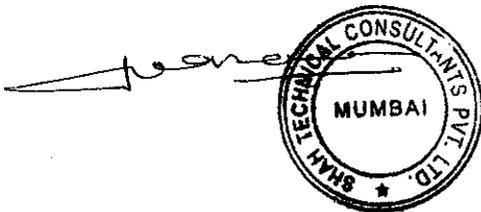
1. We, Canara Bank, Fort Branch, Warden House, Sir P.M. Road, Fort, Mumbai 400001 (hereinafter referred to as the "Bank") at the request of the Project Engineer do hereby undertake to pay to the NMCG an amount not exceeding Rs. 91,61,520/- (Rupees Ninety-One Lakhs Sixty-One Thousand Five Hundred and Twenty only), against any loss or damage caused to or suffered or would be caused to or suffered by the NMCG by reason of any breach by the said Project Engineer of any of the terms or conditions contained in the said Agreement.

2. We, Canara Bank, Fort Branch, Warden House, Sir P.M. Road, Fort, Mumbai 400001 (indicate the name of the Bank) do hereby undertake to pay the amounts due and payable under this Guarantee without any demur, merely on a demand from the NMCG stating that the amount/claimed is due by way of loss or damage caused to or would be caused to or suffered by the NMCG by reason of breach by the said Project Engineer of any of the terms or conditions contained in the said Agreement or by reason of the Project Engineer's failure to perform the said Agreement. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. 91,61,520/- (Rupees Ninety-One Lakhs Sixty-One Thousand Five Hundred and Twenty only).

3. We, Canara Bank, Fort Branch, Warden House, Sir P.M. Road, Fort, Mumbai 400001 (indicate the name of the Bank) do hereby undertake to pay to the NMCG any money so demanded notwithstanding any dispute or disputes raised by the Project Engineer in any suit or proceeding pending before any court or tribunal relating thereto, our liability under this present being absolute and unequivocal. The payment so made by us under this bond shall be a valid discharge of our liability for payment thereunder and the Project Engineer shall have no claim against us for making such payment.

4. We, Canara Bank, Fort Branch, Warden House, Sir P.M. Road, Fort, Mumbai 400001 (indicate the name of Bank) further agree that the Guarantee herein contained shall remain in full force and effect during the period that would be required for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of the NMCG under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till the NMCG certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said Project Engineer and accordingly discharges this Guarantee. Unless a demand or claim under this Guarantee is made on us in writing on or before a period of one year from the date of this Guarantee, we shall be discharged from all liability under this Guarantee thereafter.

5. We, Canara Bank, Fort Branch, Warden House, Sir P.M. Road, Fort, Mumbai 400001 (indicate the name of Bank) further agree with the NMCG that the NMCG shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extend time of performance by the said Project Engineer from time to time or to postpone for any time or from time to time any of



*Shu*

*jk*  
General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur

गारंटी नं.  
BANK GUARANTEE NO 19B9017

18 FEB 2019



the powers exercisable by the NMCG against the said Project Engineer and to forbear or enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Project Engineer or for any forbearance, act or omission on the part of the NMCG or any indulgence by the NMCG to the said Project Engineer or any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have the effect of so relieving us.

6. This Guarantee will not be discharged due to the change in the constitution of the Bank or the Project Engineer(s).

7. We, Canara Bank, Fort Branch, Warden House, Sir P.M. Road, Fort, Mumbai 400001 (indicate the name of Bank) lastly undertake not to revoke this Guarantee during its currency except with the previous consent of the NMCG in writing.

8. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to Rs. 91,61,520/- (Rupees Ninety-One Lakhs Sixty-One Thousand Five Hundred and Twenty only). The Bank shall be liable to pay the said amount or any part thereof only if the NMCG serves a written claim on the Bank in accordance with Paragraph 2 hereof, on or before 17/02/2020 (indicate the date falling 1280 days after the date of this Guarantee)].



This Bank Guarantee shall be effective only when the BG message is transmitted by the issuing Bank through SFMS to \_\_\_\_\_ and written confirmation to that effect is issued by Bank of Beneficiary.

NOTWITHSTANDING ANYTHING CONTAINED HEREIN ABOVE:-

a. Our liability under this Bank Guarantee shall not exceed Rs. 91,61,520/- (Rupees Ninety-One Lakhs Sixty-One Thousand Five Hundred and Twenty only).

b. This Bank Guarantee shall be valid upto 17/02/2020

c. We are liable to pay the guarantee amount or any thereof under this Bank Guarantee only and only if you serve upon us written claims or demands on or before 17/02/2020



For .....

Name of Bank:  
Seal of the Bank:

Dated, the 18<sup>th</sup> day of February, 2019



18 FEB 2019

(Signature, name and designation of the authorised signatory)

कृते केनरा बैंक  
For Canara Bank

निशात लखमण श्रीयान  
अधिकारी / OFFICER  
फोर्ट (मुख्य) शाखा, मुंबई - 400001  
FORT (MAIN) BRANCH, MUMBAI - 400001

निशात लखमण श्रीयान  
अधिकारी / OFFICER  
इ.अ.सं./S.P. No. 68576

योगेन्द्र वि. शिंदे  
योगेन्द्रा. व. शिंदे  
वरिष्ठ प्रबंधक / SENIORMANAGER  
इ.अ.सं./S.P. No. 50725



General Manager  
Ganga Pollution Control Unit  
U.P. Jal Bijam, Kanpur

SHARTECHNICAL CONSULTANTS PVT. LTD.  
MUMBAI  
Annex-6

## Letter of Award

F.No: Pr-12012/41/2018-PPP/NMCG  
National Mission for Clean Ganga(NMCG)  
Ministry of Water Resources, river Development & Ganga Rejuvenation  
1<sup>st</sup> Floor, Major Dhyan Chand National Stadium,  
India Gate, New Delhi – 110002.  
Dated: 4<sup>th</sup> February 2019

### Letter of Award

Sir,

**Sub: Appointment of Project Engineer for STP projects at Kanpur under Hybrid Annuity based PPP mode.**

Ref:1. Your Bid & Financial proposal dated 10<sup>th</sup> September 2018 for Kanpur STP projects.

We are pleased to inform that, your Bid for the appointment of Project Engineer for STP Projects at Kanpur under One city-One Operator concept through Hybrid Annuity based PPP mode, at the cost of Rs. 9,16,15,200/- (Rupees Nine crores Sixteen Lakhs, Fifteen Thousand and Two Hundred only), inclusive of taxes has been accepted by the Competent Authority of NMCG and you have been selected as the preferred bidder for the Project.

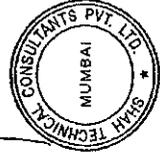
2. You are requested to sign this Letter of Award (LOA) issued in duplicate and return one original to National Mission for Clean Ganga(NMCG) within 3 days from the receipt of the LOA.

3. In accordance with the clause 2.29 of the Request for Proposal (RFP) document, within 7 days after acknowledgement of LOA, you are requested, to execute a tripartite contract agreement with Uttar Pradesh Jal Nigam (UPJN) and National Mission for Clean Ganga in the format prescribed in the Schedule II of the RFP document.

4. Also in accordance with the clause 2.21 of the RFP document you are requested to submit a bank guarantee for Rs. 91,61,520/- (Rupees Ninety One Lakhs sixty One Thousand Five Hundred and Twenty only) towards the performance security before the signing of the contract agreement, in the format prescribed in the Annexure 6 to the Schedule II of the RFP document.

*Madhava Kumar R*  
Madhava Kumar R  
Sr.Economic & Finance Expert

To,  
Shri.Prasanna M Shah,  
Director  
Shah Technical Consultants Private Limited  
407, Raheja Centre,  
Plot no: 2014, Nariman Point,  
Mumbai – 400021, Maharashtra.  
Fax: 022-22023714  
Mobile: 9821079564  
Email: ste@stc.co.in



Copy To: 1. General Manager, Ganga Pollution Control Unit, UP Jal Nigam, Kanpur



*Shri*  
General Manager  
Ganga Pollution Control Unit  
U.P. Jal Nigam, Kanpur