

ಈ ದಸ್ತಾವೇಜು ಹಾಳೆಯನ್ನು ಕರ್ನಾಟಕ ಸರ್ಕಾರದ
ಆದೇಶ ಸಂಖ್ಯೆ ಕಂಇ 152 ಮುನೋಮು 2003
ದಿನಾಂಕ 09-05-2003ರ ಪ್ರಕಾರ ಮುದ್ರಿಸಲಾಗಿದೆ



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Government of Karnataka

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Registration and Stamps Department

STAMP DUTY

KARNATAKA

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AGREEMENT

Agreement No: 2501/2012-13

FOR MANAGEMENT, HANDLING AND TRANSPORTATION OF MUNICIPAL SOLID WASTES

This AGREEMENT entered into on this the 19th day of December Two Thousand and Twelve at Bangalore

BETWEEN

Bruhat Bangalore Mahanagara Palike, a Corporation established under the Karnataka Municipal Corporations Act, 1976 (hereinafter referred to as "BBMP" which expression shall unless excluded by or repugnant to the context, be deemed to include its successors and permitted assigns) OF THE ONE PART

AND

Sri. D. M Nagaraj, #44, Chennakeshava Nilaya, 4th Cross, Muneshwara Layout, S.E.A College Road, K.R Puram, Banagalore-560036 (Hereinafter referred to as "the Service Provider" which expression shall unless excluded by or repugnant to the context, be deemed to include its successors and permitted assigns), OF THE OTHER PART

WHEREAS:

- A. Management, handling, transportation, disposal, etc., of Municipal Solid Wastes (hereinafter referred as MSW) is an obligatory function of BBMP, under the Karnataka Municipal Corporations Act, 1976 and the BBMP is presently carrying out these functions in the areas falling within its jurisdiction.
- B. In order to more effectively carry out these functions, the BBMP invited competitive proposals from eligible service providers (package wise) to carry out the work of Management, Handling and Transportation of Municipal Solid Wastes, inter alia, including:
 - a. Door-to-door collection of segregated Municipal Solid Wastes (MSW) in the M-01 Package, 52-K.R Pura, 53- Basavanapura and 55- Devasandra wards and its transportation to designated locations.

D.M. Nagaraj

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- b. Collection of MSW from designated locations and transportation to the decentralized segregation points/dry waste collection centers/treatment facility / landfill.
 - c. Sweeping of roads, streets, footpath and pavements, cleaning of open road side drains, uprooting of vegetation, collection of construction debris from its source and transportation of the same to designated locations.
 - d. Collection of MSW from the bulk waste generators and its transportation to the treatment facility / landfill.
- C. The BBMP invited tenders for the purpose of carrying out the aforesaid task and Request for Proposal (hereinafter referred to as RFP) was published by the BBMP on the e-Portal. The said RFP, inter alia, included the broad terms and conditions of the arrangement. The said RFP shall form part of this agreement unless the same is inconsistent with the terms and conditions contained herein.
- D. In response, the BBMP received proposals from several service providers consisting of technical and financial bids. The BBMP, after evaluation of the said proposals, has accepted the proposal submitted by the Service Provider, vide Letter of Acceptance (LOA) dated: 03-11-2012 subject to the terms and conditions enumerated in the Tender Document/Request for Proposal (RFP) Document.
- E. In pursuance thereto, the BBMP and the Service Provider have agreed to reduce into writing the terms and conditions governing the arrangement. In the event of any conflict and/or repugnancy between the terms and conditions contained in the RFP and this Agreement, the terms and conditions contained in the Agreement shall have the over riding effect and the terms and conditions of the RFP to the extent there is repugnancy and /or conflict shall be treated to be non-est.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

ARTICLE I

DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively ascribed to them hereunder:

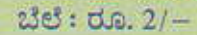
"Agreement" means this Agreement, and includes any amendments hereto made in accordance with the provisions hereof.

"Applicable Law" means all laws Environment (Protection) Act, 1986 and the Rules framed thereunder including Municipal Solid Wastes (Management & Handling) Rules, 2000, Minimum Wages Act 1948, Workmen's Compensation Act 1923, Contract Labour (Regulation & Abolition) Act, 1970, Child Labour (Prohibition and Regulation) Act, 1986 in force and effect as of the date hereof and which may be promulgated or brought into force and effect hereinafter in India including judgments, decrees, injunctions, writs or orders of any court of record, as may be in force and effect during the subsistence of this Agreement and applicable to the Service contract/the Service Provider.

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"Management Plan" means the plan for the implementation of the Service contract submitted by the Service Provider which may be amended from time to time at the instance of BBMP.

"Municipal Solid Wastes" includes commercial and residential wastes generated in a municipal or notified area in either solid or semi-solid form excluding industrial hazardous and bio-medical wastes.

"Parties" means the parties to this Agreement and **"Party"** means either of them, as the context may admit or require.

"Request for Proposal (RFP)" means a document published by the BBMP as a part of the Tender Process and accepted by the Service Provider before submitting the bids for consideration by the BBMP.

"Segregation" means to separate the municipal solid wastes into the groups of organic, inorganic, recyclables and hazardous wastes.

"Storage" means the temporary containment of municipal solid wastes in a manner so as to prevent littering, attraction to vectors, stray animals and excessive foul odour.

"Termination" means early termination of this Agreement pursuant to Termination Notice or otherwise in accordance with the provisions of this Agreement but shall not, unless the context otherwise requires, include expiry of the Agreement by efflux of time at the end of three (3) years from the date of this Agreement.

"Termination Date" means the date specified in the Termination Notice as the date on which Termination occurs.

"Termination Notice" means the notice of Termination by either Party to the other Party, in accordance with the applicable provisions of this Agreement.

"Transportation" means conveyance of municipal solid wastes from place to place hygienically through specially designed transport system so as to prevent foul odour, littering, unsightly conditions and accessibility to vectors.

1.2 Interpretation

In this Agreement, unless the context otherwise requires,

- a. any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies to, or is capable of being applied to any transactions entered into hereunder;
- b. references to Applicable Law shall include the laws, acts, ordinances, rules, regulations, notifications, guidelines or bylaws which have the force of law;
- c. the words importing singular shall include plural and vice versa, and words denoting natural persons shall include partnerships, firms, companies, corporations, joint ventures, trusts, associations, organizations or other entities (whether or not having a separate legal entity);
- d. the headings are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;
- e. the words "include" and "including" are to be construed without limitation;
- f. any reference to day, month or year shall mean a reference to a calendar day, calendar month or calendar year respectively;
- g. the Schedules to this Agreement form an integral part of this Agreement as though they were expressly set out in the body of this Agreement;

D.M. J. S.

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Registration and Stamps Department

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- h. any reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to that agreement, deed, instrument, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference;
- i. references to recitals, Articles, sub-articles, clauses, or Schedules in this Agreement shall, except where the context otherwise requires, be deemed to be references to recitals, Articles, sub-articles, clauses and Schedules of or to this Agreement;
- j. any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Agreement from or by any Party shall be valid and effectual only if it is in writing under the hands of duly authorized representative of such Party in this behalf and not otherwise;
- k. any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both such days or dates

1.3 Duration of the Agreement

BBMP hereby entrust the service provider with the task of carrying out the activities set out in Article 2.1 of this Agreement for a period of 3 (three) years from the date of this agreement.

Provided that in the Event of Termination, the Agreement Period shall mean and be limited to the period commencing from the appointed date and ending with the Termination date

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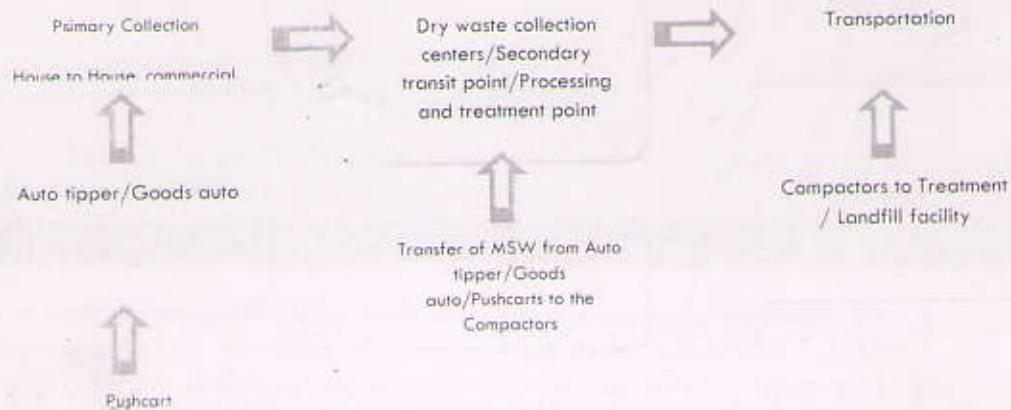
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ARTICLE 2

SCOPE OF WORK

2.1 Scope of work

The Scope of Work for MSW Management under this agreement is set out below:



- 2.1.1 The aforesaid work shall involve collection, storage and transportation of MSW as per the detailed Management Action Plan and the Service Provider shall always conform to the Management Action Plan and also the scope of work and terms and conditions as contained in **Schedule – 1** to this Agreement.
- 2.1.2 The scope of work for MSW management for street cleaning shall be as per the specifications, requirements and norms as set out in **Schedule – 2** to this Agreement.
- 2.1.3 It is herein agreed between the parties that the Service Provider shall comply with any directions which may be issued by the BBMP from time to time for the purpose of effective management, handling and transportation of MSW and Street cleaning.

ARTICLE 3

PERFORMANCE SECURITY & OBLIGATIONS OF SERVICE PROVIDER

3.1 Performance Security

- a. The Service Provider shall, for due and punctual performance of its obligations relating to the Service contract, deliver to BBMP, simultaneously with the execution of this Agreement, an unconditional bank guarantee from a nationalized bank or scheduled bank acceptable to BBMP, in the form as set forth in Schedule-1 ("**Performance Security**") for a sum of **Rs.12,77,342/-** [Rupees twelve lakh seventy seven thousand three hundred and forty two only]. In every monthly bill BBMP will deduct 1% of the monthly service fee as additional Performance Security. These amount will be refund after the completion of contract period successfully, failing which, Performance Security amount will be forfeited.
- b. The Performance Security shall be kept valid for the contract period and three months thereafter.

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3.2 Obligations of Service Provider:

Without prejudice to the generality of the obligations under the Agreement, the Service Provider shall:

- prepare Management Plan in line with the technical proposal (implementation plan) submitted during the bidding stage and shall obtain approval thereof from BBMP within 15 days from the date of signing of this agreement. The Management Plan shall include any suggestions and comments made by BBMP for implementation of the Service Contract.
- Procure all the Applicable Permits at its own cost and expense and be in compliance thereof at all times during the period of this Agreement.
- Comply with Applicable Laws at all times during the period of this Agreement.
- ensure that all aspects of the Service contract shall conform to the laws pertaining to environment, health and safety aspects including Municipal Solid Wastes (Management & Handling) Rules 2000, labour laws, policies and guidelines related thereto;
- shall at its cost and expenses obtain all necessary insurance cover of its employees including accidents, personal injury, damages to third party in case of accidental death/bodily injury, loss or damage to property and so on;
- ensure that the vehicles provided by him and used for carrying out the various activities in MSW management and street sweeping are registered with the transport authorities concerned and ensure that requisite insurances, taxes are promptly paid / arrange to be paid.
- Not sub-contract any part or whole of its obligations.
- comply with the specifications set out in Schedule 3

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ARTICLE 4

THE BBMP's OBLIGATIONS

4.1 In addition to and not in derogation or substitution of any of its other obligations under this Agreement, the BBMP shall ensure the following:

- a. In case of non-compliance by the generators of MSW, ensure that they comply with MSW management practice as notified by BBMP from time to time including:
 - i. Practice MSW segregation into organic and inorganic components and handover the same to the employees of Service Provider.
 - ii. Do not throw MSW on streets, footpaths and other public area or burn the same.

4.2 General Obligations:

BBMP shall:

- a. where appropriate, provide necessary assistance to the Service Provider in securing Applicable Permits;
- b. Observe and comply with all its obligations set forth in this Agreement.
- c. Intervene to resolve differences, if any, between the Service Provider and the generators of MSW.

ARTICLE 5

FORCE MAJEURE

5.1 Force Majeure Event

Any of the following events resulting Material Adverse Effect shall constitute Force Majeure Event:

- (a) earthquake, flood, inundation, landslide,
- (b) fire caused by reasons not attributable to the Service Provider or any of the employees of the Service Provider for purposes of the Service contract;
- (c) acts of terrorism, war, invasion, rebellion, riots, military action or civil war;

If the Parties are rendered unable to perform any of their obligations under this Agreement because of a Force Majeure Event, save and except as expressly provided in the Agreement, neither Party hereto shall be liable in any manner whatsoever to the other Party arising out of occurrence or existence of any Force Majeure Event.

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ARTICLE 6

PAYMENT TERMS

6.1 Payment of service charges to the Service Provider.

- Subject to the provisions of this Agreement and in consideration of the Service Provider undertaking to perform and discharge its obligations in accordance with the terms, conditions and covenants set forth in this Agreement, the BBMP agrees and undertakes to pay to the Service Provider a fee of Rs. 53,22,258/- (Rupees fifty three lakhs twenty two thousand two hundred and fifty eight only) per month. (Service Charge).
- For M-01 package, the BBMP, upon verification of the same shall, within 30 days, release payment to the Service Provider after deducting taxes as payable under Applicable Law and after taking into account if the any deduction/fine/penalties imposed by BBMP.
- The Service Provider should be able to absorb fluctuations in the quantity of waste and should handle the quantity of wastes over the entire Contract Period. However, after the completion of twelve months of the contract period, the BBMP would pay one time 3% extra amount on the contract amount for the remaining period of contract to accommodate the escalation charges towards fuel, etc.
- The Service Provider shall ensure compliance with the Government Order No.KE/152/LWA/2008 Dtd: 21.02.2011 and as per Labour Law to the engaged workers. In the event of increase in the wages in the future, then the difference amount will be paid by the BBMP.
- In case BBMP indicates at a later date to transport the MSW collected from the ward to a new treatment/landfill facility (which could be either at an increased distance or decreased distance from the center of the package) the amount Rs.34/- (Rupees thirty four only) per extra kilometer of compactor travel and Rs.19/- (Rupees nineteen only) amount per extra kilometer of Closed Tipper will be paid or deducted.

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- f. In case if BBMP decides to take away certain activities out of scope of work, proportionately the service charges payable will be deducted.
- g. In case of dispute, the undisputed amount will be paid and the disputed amount will be verified and if found in order shall be paid along with the bills for the following month.
- h. All payments to the Service Provider shall be made by way of account payee cheque drawn in favour of the Service Provider. BBMP also proposes to pay through ECS to ensure prompt payment.
- i. All applicable taxes as per GOK/GOI/other state government if applicable will be deducted in the monthly bill of the operator.
- j. All rates shall be inclusive of all duties and taxes such as Octroi Customs, Excise, Entry / VAT, ST / GST / Retail ST and CST, Service tax, etc.,

ARTICLE 7

EVENTS OF DEFAULT AND TERMINATION

7.1 Events of Default

Event of Default means either Service Provider Event of Default or BBMP Event of Default or both as the context may admit or require.

a. Service Provider Event of Default

Any of the following events shall constitute an event of default by the Service Provider ("**Service Provider Event of Default**") except where performance has been prevented by a Force Majeure Event.

- i. The Service Provider has stopped door-to-door segregation and collection of wet and dry MSW from the generators of MSW for any day as per the Management Plan
- ii. The Service Provider has stopped sweeping of streets, footpaths, pavements and cleaning of road side drains for any day, as per the Management Plan
- iii. The Service Provider has stopped collection of construction debris from its source and subsequent transportation as per the Management Plan.
- iv. The Service Provider has stopped collection of MSW from the bulk generators of MSW and transportation of the same to designated locations for any day.
- v. The Service Provider has failed to provide equipment and vehicles as per management plan.

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- vi. The Service Provider has failed to adhere to any other performance obligations under the Agreement; and the same has not been remedied for more than 7 days.
- vii. Penalty amounts as payable by the Service Provider is equal to or greater than 10% of the Contract Value for continuous three months or more.
- viii. The Service Provider has repudiated or abandoned the Service contract;
- ix. The decision of the Commissioner about any event constituting default shall be final and binding on the Service Provider.

b. **BBMP Event of Default**

Any of the following events shall constitute an event of default by the BBMP:

- i. The BBMP has failed to make any payments due to the Service Provider and more than 60 days have elapsed since such default;
- ii. The BBMP has failed to adhere to any other performance obligations under the Agreement; and the same has not been remedied for more than 60 days of receipt of notice thereof issued by the Service Provider;

7.2 **Penalties**

In case of a Service Provider Event of Default or non - performance of its obligations, the Service Provider shall pay to the BBMP penalty amounts as set out in **Schedule 4**

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7.3 Termination due to Event of Default

a. Termination for Service Provider Event of Default

Without prejudice to any other right or remedy which the BBMP may have in respect thereof under this Agreement, upon the occurrence of a Service Provider Event of Default, the BBMP may terminate this Agreement by issuing a termination notice setting out the underlying Event of Default and the termination date, which will be normally be taken to be within 24 hrs of the notice. BBMP will be at liberty to start immediate operations to provide SWM disposal.

b. Termination Payments

Upon Termination of this Agreement on account of Service Provider Event of Default, the Service Provider would not be entitled to any compensation from the BBMP and the Performance Security shall be forfeited.

Upon Termination of this Agreement on account of BBMP Event of Default, the Service Provider would be entitled to the payments due from the BBMP and the Performance Security shall be released. In addition, BBMP shall pay an additional compensation of 2% per month of the amount due to Service Provider till the date of payment.

- c. Notwithstanding anything contained in any of the clauses of this agreement, either of the parties any terminate this agreement, without assigning any reasons, by giving in writing a thirty days notice to the other party.

ARTICLE 8

DISPUTE RESOLUTION

8.1 Amicable Resolution

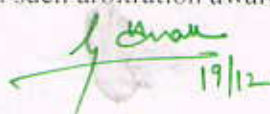
Save where expressly stated to the contrary in this Agreement, any dispute, difference or controversy of whatever nature between the Parties, howsoever arising under, out of or in relation to this Agreement, shall in the first instance be attempted to be resolved amicably by meetings between the Parties.

8.2 Arbitration

Any dispute which is not resolved amicably shall be finally settled by binding arbitration, with the Commissioner BBMP, serving as the sole Arbitrator. The place of arbitration shall ordinarily be the Commissioner's office. The Parties agree that the decision or award resulting from arbitration shall be final and binding upon the Parties.

Pending the submission of and/or decision on a dispute, the Parties shall continue to perform their respective obligations under this Agreement without prejudice to a final adjustment in accordance with such arbitration award.

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Government of Karnataka

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Document Sheet

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ನೋಂದಣಿ ಹಾಗೂ ಮುದ್ರಾಂಕ ಇಲಾಖೆ
Registration and Stamps Department

ಬೆಲೆ : ರೂ. 2/-

ಈ ಹಾಳೆಯನ್ನು ಯಾವುದೇ ದಸ್ತಾವೇಜಿಗೆ ಉಪಯೋಗಿಸಬಹುದು
This sheet can be used for any document

ದಸ್ತಾವೇಜನ್ನು ಬರೆದುಕೊಟ್ಟ ದಿನಾಂಕ
Date of execution

ಪಾವತಿಸಿದ ಒಟ್ಟು ಮುದ್ರಾಂಕ ಶುಲ್ಕ ರೂ.
Total stamp duty paid Rs.

ARTICLE 9

MISCELLANEOUS

9.1 Governing Law and Jurisdiction

This Agreement shall be governed by the laws of India and courts situated in Bangalore City will have jurisdiction relating to all matters arising from this Agreement.

9.2 Intent and Effect

Each of the Parties hereto undertakes to fully and promptly observe and comply with the provisions of this Agreement.

9.3 Non-Waiver

No omission or delay on the part of any Party in requiring a due and punctual fulfillment by any other Party of its obligations hereunder shall constitute, or be deemed to constitute, a waiver of any of such Party's rights to require such due and punctual fulfillment and in any event shall not constitute or be construed as a continuing waiver and/or as a waiver of other or subsequent breaches of the same or other (similar or otherwise) obligations of such other Party hereunder or as a waiver of any remedy.

D. M. J. 8

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9.4 Binding Effect

Subject to the terms and conditions hereof, this Agreement is binding upon and shall ensure to the benefit of the Parties and their respective successors and permitted assigns.

9.5 Invalid Provisions:

If any provision of this Agreement is held to be illegal, invalid, or unenforceable under any present or future Law, and if the rights or obligations under this Agreement shall not be materially and adversely affected thereby, (a) such provision shall be fully severable; (b) this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part hereof; (c) the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance here from.

9.6 Additional Document

Each Party hereto shall promptly execute and deliver such additional documents and Agreements as are envisaged in this Agreement and any other Agreement or document as may be reasonably required for the purpose of implementing this Agreement, provided that no such document or Agreement shall be inconsistent with the spirit and intent of this Agreement

9.7 Counterparts

This Agreement may be executed simultaneously in two counterparts, each of which shall be deemed an original, but both of these shall together constitute one and the same instrument.

9.8 Notices

All notices, requests, demands and other communications made or given under the terms of this Agreement or in connection herewith shall be in writing and shall be either personally delivered, transmitted by postage prepaid registered mail (confirmed and writing by postage prepaid registered mail), and shall be addressed to the appropriate Party at the following address or to such other address or place as such Party may from time to time designate:

To the BBMP at:

Executive Engineer,

Mahadevapura Division, Mahadevapura Zone, Bangalore-560 048.

To the Service Provider at:

Sri. D. M Nagaraj,

#44, Chennakeshava Nilaya,

4th Cross, Muneshwara Layout, S.E.A College Road, K.R Puram,
Bangalore-560036.


19/12

ಈ ದಸ್ತಾವೇಜು ಹಾಳೆಯನ್ನು ಕರ್ನಾಟಕ ಸರ್ಕಾರದ
ಆದೇಶ ಸಂಖ್ಯೆ ಕಂಇ 152 ಮುನ್ಸೂಚನಾ 2003
ದಿನಾಂಕ 09-05-2003ರ ಪ್ರಕಾರ ಮುದ್ರಿಸಲಾಗಿದೆ.

ಕರ್ನಾಟಕ ಸರ್ಕಾರ
GOVERNMENT OF KARNATAKA

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ನೋಂದಣಿ ಹಾಗೂ ಮುದ್ರಾಂಕ ಇಲಾಖೆ
Registration and Stamps Department

STAMP DUTY

KARNATAKA

ಬೆಲೆ : ರೂ. 2/-

ಈ ಹಾಳೆಯನ್ನು ಯಾವುದೇ ದಸ್ತಾವೇಜಿಗೆ ಉಪಯೋಗಿಸಬಹುದು
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ದಸ್ತಾವೇಜನ್ನು ಬರೆದುಕೊಟ್ಟ ದಿನಾಂಕ
Date of execution

ಪಾವತಿಸಿದ ಒಟ್ಟು ಮುದ್ರಾಂಕ
Total stamp duty paid Rs

Unless another address has been specified by a Party hereto by written notice thereof to the other Party, any notice, request, demand or other communication given or made pursuant to this Agreement shall be deemed to have been received (i) in the case of personal delivery, on the date of delivery, (ii) in the case of mail delivery, on the date which is fifteen (15) days after the mailing thereof and (iii) in the case of a telex or cable, the date of dispatch thereof.

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

SIGNED SEALED AND DELIVERED

For and on behalf of THE BBMP by

Sri. J. Vishwanath

Executive Engineer, Mahadevapura Division

SIGNED, SEALED AND DELIVERED

For and on behalf of the Service Provider by:

D.M.Nagaraj

Sri. D. M. Nagaraj, Service provider

In the presence of:

- 1) M. Venkatasubramanian [M. VENKATACHALAPATI]
No 40 Gundur Vijaynagar (Pust)
Bangalore 49
M.b No 9342551777
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