



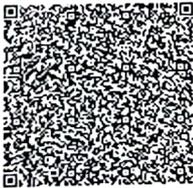
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INDIA NON JUDICIAL Government of Uttar Pradesh

e-Stamp

ACC. Name:-Praveen Kumar
Stamp Vender
Licence Number-13
E-Stamping Acc. ID-UP14324804
CIVIL COURT, AGRA

Certificate No.	: IN-UP29464022712726T
Certificate Issued Date	: 11-Nov-2021 03:27 PM
Account Reference	: NEWIMPACC (SV)/ up14324804/ AGRA SADAR/ UP-AGR
Unique Doc. Reference	: SUBIN-UPUP1432480448694512590544T
Purchased by	: ACME EXCELLENT MANAGEMENT PVT LTD
Description of Document	: Article 5 Agreement or Memorandum of an agreement
Property Description	: Not Applicable
Consideration Price (Rs.)	:
First Party	: ACME EXCELLENT MANAGEMENT PVT LTD
Second Party	: NAGAR NIGAM AGRA
Stamp Duty Paid By	: ACME EXCELLENT MANAGEMENT PVT LTD
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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**Selection of Agency to undertake Operation and Maintenance (O&M) of Community Toilets for the period of 5 years
October - 2021**

Contract

This CONTRACT AGREEMENT is made on 11-11-2021 at the office of Agra Municipal Corporation Office, Near Soorsadan, MG Road, Agra (U.P.), India- 282002

BETWEEN

Agra Municipal Corporation (AMC) (Hereinafter referred to as "AMC", which expression shall, unless repugnant to the context or meaning thereof, mean and include its successors and assigns) of the **FIRST PARTY**

AND

M/s Acme Excellent Management Pvt. Ltd. having Registered Office at New Delhi - 1100118
Through its authorized signatory **Sri Amit Pandey** (Hereinafter referred to as "Concessionaire", which expression shall, unless repugnant to the context or meaning thereof, include its successors and assigns) of the **SECOND PARTY**.

Details of Performance Guarantee:- Bank Guarantee No. QY9GPGE213050200 Date 01/11/2021 Rs. 37,28,000/- Canara Bank, Barakhamba Road, New Delhi.



Statutory Alert:

- The authenticity of this Stamp Certificate should be verified at www.shellexpress.com or the Stamp Mobile App of Stock Holding Corporation of India.
- Any discrepancy in the details on this Certificate and as available on the Website / Mobile App renders it invalid.
- The onus of checking the legitimacy is on the users of the certificate.
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WHEREAS

- A. The Agra Municipal Corporation (AMC) is responsible for providing municipal and civic services in areas falling under AMC area.
- B. AMC is desirous for operation and Maintenance of community Toilets.
- C. AMC floated tender and invited proposals, through a competitive bid process from eligible parties for implementing the Project. In response thereto, AMC received proposals from parties including the Successful Bidder for implementing the Project.
- D. Successful Bidder acknowledges that Bid was made in accordance with RFP, and Draft Concession Agreement published as part of Tender documents and further agrees to abide by the terms and conditions of Tender Documents.
- E. Pursuant thereto, after evaluating the aforesaid proposals and negotiations, AMC accepted the proposal submitted by the Successful Bidder and issued Letter of Intent No. dated to the Successful Bidder requesting the Successful Bidder to execute the Agreement, which the Successful Bidder has acknowledged. .

1. Scope of work

Successful bidder shall ensure the following deliverables:

1. To provide free access to Community Toilets.
2. To ensure cleanliness inside and outside Community toilet complex as well as in the premises.
3. Wash basin(s)/ hand wash/soap facility clean and usable at all times.
4. Availability of water during operational hours.
5. Premises are well lit at all times, both within and outside, with each seat having its own light point, and all light points should remain functional.
6. Functional bolting arrangements on all doors of all toilet seats.
7. To ensure that no untreated faecal sludge/ Septage and sewage from the toilet is discharged and/ or dumped in drains, open areas or water bodies.
8. To provide only female workers in the ladies toilet during the working hours of these toilets.
9. All Community toilets should remain opened daily for 24hrs X 7days.
10. Toilet floor is dry and clean at all times.
11. Mirrors should be clean and polished.
12. Litter Bins (covered) should be available and regularly cleaned in each toilet seat.
13. All the assets as provided by the Municipal Corporation at the time of handing over of the toilet blocks to the successful bidder, should remain functional and maintained at any hour of the day.
14. Available soap / operational soap dispenser.
15. Usable taps and fittings, with no leakage or water tank outside the structure with water available in it at all times during opening hours.
16. Check operation of taps and pipe work for leaks and repair leaks immediately.
17. Gender- segregated, separate entrances for males and females, if both facilities available in single block.
18. Entrance/ accessibility (like ramp, stairs) to toilet block is barrier free, including those for specially abled persons.
19. Premises are visible to passers-by, with clear signage, and the area within 3m from each direction of the structure is not encroached by unauthorized construction and vendors.
20. Renlenish toilet paper, soaps, paper towels and other consumables, as necessary. Refill soap dispensers where required and wipe clean.
21. Shall undertake white washing and painting of the toilets every year.
22. The Operator shall ensure all plumbing, wastewater connections up to septic tank /sewer connections, are functional.
23. The Operator shall ensure electricity is available during the operations period and all fittings are functional and electricity bill is to be paid by Operator.
24. All electrical fixtures shall be working during the Agreemental period. The Operator shall ensure timely replacements of electrical fixtures on need basis.
25. The Operator shall maintain all plumbing, floors, pump etc. in good working conditions on regular basis and undertake repairs or replacement as and when required.
26. All Staff should be in uniform which is pre-approved by AMC.
27. All staff is provided with necessary supplies of consumables, cleaning equipment, protective gear and inventory, and there is no stock out for longer than 48 hours. This should include: Enough stock of consumables for at least a week shall be made available at all times and replaced when required.

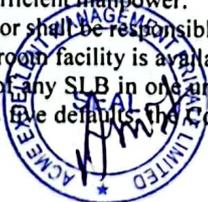


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28. The deployed staff shall be provided uniforms, identity cards, cleaning gloves, aprons, masks, gum boots, etc. All the items should be replaced atleast once in 6 months.
29. Roster being maintained for regular cleaning and maintenance and a caretaker is on duty at all times during opening hours.
30. Name and contact details of the following are displayed prominently - Toilet identification number, name of ULB under whose jurisdiction toilet is covered, ward number and maintenance authority prominently displayed for each toilet block Supervisor, Supervisor's agency and area Sanitary Inspector.
31. Air freshener (Odonil) applied/ sprayed.
32. Walls and floors are stain / graffiti free.
33. Operator must develop software for reporting Real-Time status of the cleaning activity for each toilet, report shall be provided on daily basis to designated officer of AMC.
34. Low height toilets/Indian toilets for children.
35. Plants / shrubs in the vicinity of toilet complex are well maintained/ Plant pots available.
36. Hand dryer / paper napkin / Towels to be made available.
37. Ladies toilets must have vending machine and incinerator for sanitary napkin disposal. Those toilets where this provision is missing shall be reported and will be provided by AMC.
38. Functional floodlights / LEDs outside the toilet premises during the night, without any dark, shadowy areas in the vicinity of the toilet.
39. ICT based feedback machine provided in each CT by AMC shall be maintained by operator & its daily report shall be provided to designated officer of AMC.
40. No user fee will be collected from the users ,while using the community Toilet.
41. Structural audit of toilet block has to be undertaken after every three years, by a certified civil auditor.
42. Management of complete operations
 - a) The Operator shall make own arrangement for security of the toilet facility and its fixtures.
 - b) The staff should be polite, clean and behave decently with decent verbal skills. The staff should be trained to answer any queries by the customer or citizens. The staff should also be trained with cleaning procedures and all procedures to keep the premises clean.
 - c) The Operator shall furnish names of the persons who have been appointed as cleaner/ caretaker for the toilet facilities and their names should be registered with the ULB. The said cleaner/ caretaker of the Operator shall not allow any other person to occupy the toilet facilities.
 - d) The Operator shall not allow any person to use toilets for residential purpose or for stocking of any material etc., and not keep any animal/ motor vehicle in or around the complex other than one caretaker/ cleaner at each toilet facility to ensure continuous service.
 - e) The Operator shall maintain hygiene condition around the toilet and ensure that no wastes of any kind are dumped or wastewater is stagnated or overflowed around the toilets.
 - f) The Operator shall ensure that the complaint or suggestion register along with feedback form and pen are made available and accessible to the users at all time during the operational hours.
43. The above parameters shall be observed and monitored by authorized representative on Municipal Corporation Agra on daily basis on specially designed chart for the purpose.
44. Should submit the detailed monthly report to AMC on the prescribed Performa or as per demand by MC from time to time.
45. The caretaker should remain on duty at all the time.
46. There should be a lady staff/ caretaker deployed for the female toilet blocks.
47. Operator shall have to maintain a control room and an office in city.
48. Currently AMC is ODF++ Certified by MoHUA, in case if a higher certification is available, the operator must ensure that all the CTs adhere to the required standards.

2. Other Conditions: -

- a) The successful bidder shall be handed over the Community Toilets, on "as is where is" basis and the bidder may inspect all these toilets, before participating in the bidding process. The bidder shall have to operate and maintain these toilets for a period of 5 years and will have to undertake all the repairs at their own cost as and when required.
- b) No request/ complaint regarding the premises/ toilets in question shall be entertained after participating in the tender. The parties may inspect the premises before participating in the tender process.
- c) Before handling of the toilet to successful bidder an inventory of each toilet block shall be made in presence of representatives of both the parties and after completion of the tender period, the toilets shall have to be handed back to AMC in the same conditions.
- d) The Operator shall pay electricity bill on its own and shall ensure 24 hours running water & shall also ensure proper cleanliness through sufficient manpower.
- e) The operator shall be responsible for timely cleaning of septic tanks.
- f) Wherever room facility is available at toilet site, the same may be used for the stay of caretaker only authorized by AMC.
- g) Violation of any SLB in one unit or more than one unit in any particular day shall be considered as single default and in case of continuous the default, the Corporation shall be at liberty to cancel the Contract agreement with prior notice of 15 days and in



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case of cancellation the Commissioner, AMC shall forfeit the Performance Security.

- h) The cancellation of contract agreement on account of default on the part of the successful bidder shall not only entail said penalty, but the bidder shall also be liable for all the expenses which may be incurred by the AMC for operation and maintenance of these toilets during the intervening period on account of cancellation of the contract till the work is awarded and taken over by the new successful bidder.
- i) In case any damage to the toilets is found/noticed during the time period of the contract agreement, the Performance Security shall be released only after deduction of the damages and without any interest.
- j) The Commissioner, AMC reserve all the rights to cancel or revise any or all the conditions of the tender at any later stage.
- k) Any dispute arising out of the contract agreement qua O&M of the toilets shall be in the jurisdiction of Agra Courts only.
- l) In case the successful bidder intends to leave the job under the contract, they will require issuing three-month advance notice with reasonable ground for abandoning the contract to AMC. Final decision in this regard shall be taken by the Commissioner, AMC which shall be binding upon the parties. In case of breach of contract in this regard, the Performance Security deposited by the bidder shall be forfeited, besides taking other actions as deemed fit.
- m) The staff deployed in the toilet shall avoid use of alcohol during working hours and in case of breach of this condition will entail criminal action against the said staff.
- n) The successful bidder shall ensure that no damage shall be caused to the MC property/toilets and articles/ accessories affixed in those toilets in any manner and in case of breach, the AMC shall recover the entire amount from successful bidder and shall also be liable for maintenance, upkeep and replacement of damaged articles/accessories during the time period of the contract.
- o) For revenue purpose advertisement right on the wall and the roof of the toilet shall be with the AMC.
- p) After hand overing the Community Toilet repair and maintenance work of the community toilet will be the responsibility of the successful bidder.
- q) Successful bidder has to provide contact details of supervisors/ staff deployed for the community toilets to AMC.
- r) There shall be no payment for the seats/toilets, if any seats/toilets are found non-functional during inspection.
- s) Total number of toilet seats are tentative and can be increase or decrease during the contract period and same shall also be appraised to contractor as well.
- t) AMC may, in their absolute discretion, but without being under any obligation to do so, update, amend or supplement the information in this Tender document.

3. Obligation of AMC

- a) Agra Municipal Corporation shall supervise the Successful bidder's work and services at all times and notify the Successful bidder of any defects found/ identified in operation. The Successful bidder shall have to correct a defect and improve service level within the time specified in the notices.
- b) Authority shall handover the waste community toilets to the successful bidder.
- c) The Authority will ensure that the payments of the successful bidders' service invoice is cleared at earliest.
- d) The Authority will also ensure to provide all possible and justified cooperation to the successful bidder as requested by the bidder time to time, for ensuring effective operation of the services.
- e) The Authority will also ensure that no public nuisance, strike or protest should crop up because of the services rendered under the contract obligations.

4. Performance Security

- a) The Performance Security shall be kept valid for throughout the Concession Period from the Appointed Date. Provided that if the Agreement is terminated due to any event other than a bidder Event of Default, the Performance Security if subsisting as of the Termination Date shall, subject to AMC's right to receive amounts, if any, due from the Concessionaire under this Agreement be duly discharged and released to the Concessionaire.
- b) Performance security and other securities submitted/collected from concessionaire shall be released upon expiry of the contract period and after handing over of immovable assets.

5. Financial Closure

The Concessionaire shall at their own cost; expenses and risk make such financing arrangements as would be necessary to implement the project and to meet all of their obligations under this Agreement in a timely manner.



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5.1 Maintenance and Certification of Records

The Concessionaire shall maintain records of the operation and Maintenance of Community Toilets on monthly basis and submit monthly, quarterly and annual reports of the same to AMC.

5.2 Indemnity by Concessionaire

The bidder shall indemnify and hold harmless AMC, and their employees from and against all claims, damages, losses and expenses arising out of or resulting from bidder negligence or breach in execution of the Construction Works and any activity incidental thereto.

6. Performance Penalties

The penalty amounts will be levied to the agency if the maintenance is not done satisfactorily on any particular day or on receipt of any specific complaint to the effect that the cleaning is unsatisfactory and also for not following the conditions laid down as follows:

S. No.	Performance indicator	Penalty per item / all item / per day
1.	On report from the inspection team/ visiting Officer, if operator is not maintaining & fulfilling the Service Level Benchmark (SLBs)	On report from the inspection team/ visiting Officer, if operator is not maintaining & fulfilling the Service Level Benchmark (SLBs): "a penalty @Rs 1000/ per each toilet of every visit/inspection - shall be imposed and will be deducted from the monthly Invoice raised."
2.	In case the successful bidder fails to operate and maintain the toilets as per the SLBs then in the 1st instance, if not deposited on time, then penalty shall be recovered from the security amount of the successful bidder deposited with the AMC.	The Nagar Nigam Officer shall impose a penalty of Rs 500/- per day per toilet/unit and for subsequent failure the amount of the penalty shall be doubled of the amount of the previous penalty
3.	In case if it is found that operator charges a person for using CT.	Will be considered as breach of contract and termination proceedings may be initiated.
4.	One-missed cleaning event (Minimum 3 times cleaning per day)	Rs 500/ event
5.	Toilets found unclean or taps, lights etc. not working on inspection	Rs 500/ toilet
6.	In-operative for a day	Rs 1000/ day
7.	Seats, Equipment found broken	Rs 500/ toilet
8.	Electricity bill not paid on time	Rs 500/ day
9.	10% staff non-deployment	10% of the deduction from the raised invoice shall be recovered.
10.	20% staff non-deployment	20% of the deduction from the raised invoice shall be recovered.
11.	30% staff non-deployment	30% of the deduction from the raised invoice shall be recovered.
12.	40% staff non-deployment	40% of the deduction from the raised invoice shall be recovered.
13.	50% staff non-deployment	50% deduction on the Raised Invoice Amount & penalty shall be recovered from the PBG submitted with the Authority. And even after the successful bidder fails to deploy the manpower within next one week, the contract shall be revoked and PBG shall be seized.



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7. Payment Schedule & Terms.

- Payment will be on monthly basis on submission of bill, monthly report on feedback & toilet wise MIS report on manpower, cleaning, maintenance & operation need to be submitted by operator.
- For each Toilet, feedback of atleast 100 users should be registered and presented every month along with the bill, any fault found in feedback machine should be repaired immediately by the operator, if user feedback is not submitted along with the monthly bill, no excuse will be tolerated and 50% penalty per toilet on payment will be imposed.

8. Force Majeure Event

Any of the following events which is beyond the control of the Party claiming to be affected thereby ("Affected Party") and which the Affected Party has been unable to overcome or prevent despite exercise of due care and diligence, and prevents the Affected Party from performing or discharging its obligations under this Agreement, shall constitute Force Majeure Event:

- (a) earthquake, flood, inundation and landslide
- (b) storm, tempest, hurricane, cyclone, lightning, thunder or other extreme atmospheric disturbances
- (c) fire caused by reasons not attributable to the Concessionaire or any of the employees, Contractors or agents appointed by the Concessionaire for purposes of the Project;
- (d) acts of terrorism;
- (e) strikes, labor disruptions or any other industrial disturbances not arising on account of the acts or omissions of the Concessionaire or the Contractor;
- (f) action of a Government Agency having Material Adverse Effect including but not limited to
 - i. Acts of expropriation, compulsory acquisition or takeover by any Government Agency of the Project Facilities or any part thereof or of the Concessionaire's or the Contractor's rights under any of the Project Agreements.
 - ii. any judgment or order of a court of competent jurisdiction or statutory authority in India made against the Concessionaire or the Contractor in any proceedings which is non- collusive and duly prosecuted by the Concessionaire, and
 - iii. any unlawful, unauthorized or without jurisdiction refusal to issue or to renew or the revocation of any Applicable Permits, in each case, for reasons other than Concessionaire's or the Contractor's breach or failure in complying with the Project Requirements, Applicable Laws, and Applicable Permits, any judgment or order of a Governmental Agency or of any contract by which the Concessionaire or the Contractor as the case may be is bound.
- (g) Early determination of this Agreement by AMC for reasons of national emergency, national security or the national interest.
- (h) Any failure or delay of a Contractor caused by any of the events mentioned in (f) and (g) above, for which no offsetting compensation is payable to the Concessionaire by or on behalf of the Contractor.
- (i) War, hostilities (whether declared or not), invasion, act of foreign enemy, rebellion, riots, weapon conflict or military actions, civil war, ionizing radiation, contamination by radioactivity from nuclear fuel, any nuclear waste, radioactive toxic explosion, volcanic eruptions, any failure or delay of a Contractor caused by the events mentioned in this sub-Article for which no offsetting compensation is payable to the Concessionaire by or on behalf of the Contractor.

9. Obligations of the Parties in case of Force Majeure

- (a) As soon as practicable and in any case within 10 (Ten) days of the date of occurrence of a Force Majeure Event or the date of knowledge thereof, the Affected Party shall notify the Authority setting out, inter alia, the following in reasonable detail:
 - i. the nature and extent of the Force Majeure Event;
 - ii. the estimated duration of the Force Majeure Event;
 - iii. the nature of and the extent to which, performance of any of its obligations under this Agreement is affected by the Force Majeure Event;
 - iv. the measures which the Affected Party has taken or proposes to take to alleviate/mitigate the impact of the Force Majeure Event and to resume performance of such of its obligations affected thereby; and
 - v. Any other relevant information concerning the Force Majeure Event, and /or the rights and obligations of the Parties under this Agreement.



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- (b) As soon as practicable and in any case within five (5) days of notification by the Affected Party in accordance with the preceding Article, the Parties shall meet and hold discussions in good faith and where necessary conduct physical inspection/survey of the Project Facilities in order to:
 - i. Assess the impact of the underlying Force Majeure Event,
 - ii. To determine the likely duration of Force Majeure Event and,
 - iii. To formulate damage mitigation measures and steps to be undertaken by the Parties for resumption of obligations, the performance of which shall have been affected by the underlying Force Majeure Event.
- (c) The Affected Party shall during the duration of Force Majeure event provide to the other Party with regular (not less than fortnightly) reports concerning the matters set out in the preceding Article as also any information, details or document, which the Parties may reasonably require.

10. Performance of Obligations

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

- (a) due notice of the Force Majeure Event has been given
- (b) the excuse from performance shall be of no greater scope and of no longer duration than is necessitated by the Force Majeure Event
- (c) the Affected Party has taken all reasonable efforts to avoid, prevent, mitigate and limit damage, if any, caused or is likely to be caused to the Project Facility(ies) as a result of the Force Majeure Event and to restore the Project Facility(ies) , in accordance with the Good Industry Practice and its relative obligations under this Agreement
- (d) when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party written notice to that effect and shall promptly resume performance of its obligations hereunder, the non-issue of such notice being no excuse for any delay for resuming such performance
- (e) the Affected Party shall continue to perform such of its obligations which are not affected by the Force Majeure Event and which are capable of being performed in accordance with this Agreement
- (f) Any insurance proceeds received shall, subject to the provisions of Financing Documents, be entirely applied to repair, replace or re-instate the assets damaged on account of the Force Majeure Event, or in accordance with Good Industry Practice.

11. Termination Of Contract

- a. AMC is currently certified as ODF++ by MoHUA. If during re-verification, this certification is not maintained, the contract shall be terminated immediately. Also, 100% of the performance security will be forfeited and operator will be blacklisted.
- b. If in the monthly reports of ICT feedback, more than 50% user feedback found below average than the contract may be terminated for non-attainment of required standards.
- c. If after repeated reminders & intimations, the level of service by operator doesn't meet the required standards then AMC may initiate contract termination proceedings.

12. Arbitration

a) Procedure

Subject to the provisions of Article , any dispute, which is not resolved amicably, shall be finally settled by binding arbitration under the Arbitration Act. The arbitration shall be by a panel of the arbitrators, one to be appointed by each Party and the third to be appointed by the two arbitrators appointed by the Parties. The Party requiring arbitration shall appoint an arbitrator in writing, inform the other Party about such appointment and call upon the other Party to appoint its arbitrator within 30 days of receipt of such intimation the other Party fails to appoint its arbitrator, the Party seeking appointment of arbitrator may take further steps in accordance with Arbitration Act.

b) Place of Arbitration

The Place of Arbitration shall be AMC



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- c) **English Language**
The request for arbitration, the answer to the request, the terms of reference, any written submissions, any orders and awards shall be in English and, if oral hearings take place, English shall be the language to be used in the hearings.
- d) **Enforcement of Award**
The Parties agree that the decision or award resulting from arbitration shall be final and binding upon the Parties and shall be enforceable in accordance with the provisions of the Arbitration Act subject to the rights of the aggrieved parties to secure relief from any higher forum.
- e) **Performance during Arbitration**
Pending the submission of and/or decision on a dispute and until the arbitral award is published; the Parties shall continue to perform their respective obligations under this Agreement, without prejudice to a final adjustment in accordance with such award.

Amit

(Amit Pandey)

M/s Acme Excellent Management Pvt. Ltd.,
Upper Ground Floor, E-5 LSC, DDA Market,
New Rajendra Nagar, New Delhi 110060

SECOND PARTY.



[Signature]

26.11.21

Additional Municipal Commissioner
Agra Municipal Corporation (AMC)

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