

**AGREEMENT
FOR SALE OF SOLID WASTE**

THIS AGREEMENT is made and executed on this ____ day of _____ 2011 by and between:

The City District Government Faisalabad, acting through _____ (hereinafter referred to as the “**Seller**” or “**CDGF**” which expression shall, where the context permits include its successors-in-interest, permitted assignees and nominees) of the first part

AND

M/s. _____ a _____ company duly incorporated and existing under the laws of Pakistan and having its registered office at _____ (hereinafter referred to as the “**Buyer**” which expression shall, where the context permits include its successors-in-interest, permitted assignees and nominees) of the second part

WHEREAS:

- i) **CDGF** is responsible for the provision of municipal services in the Faisalabad District, which also includes collection, transportation, storage, treatment and sale or disposal of solid waste generated in the city of Faisalabad.
- ii) For the purposes of transforming the existing Solid Waste Management System into an efficient and environment friendly system, **CDGF** intends to sell its daily generated solid waste for its useful utilization through setting up of waste treatment/disposal facility.
- iii) **Buyer** is a.....
established and registered under the provisions of.....and
declared successful and eligible for entering into this Agreement with **CDGF** through competitive bidding process, **Buyer** is willing to purchase the Solid Waste from the **CDGF** and also agreed to set up waste treatment/disposal facility according to the provisions of this Agreement.
- iv) Mr. [__ name __], [__ designation __], **CDGF** is hereby empowered and duly authorized by the **CDGF** to execute and enter into this agreement on its behalf and to do all acts necessary for execution of this Agreement.
- v) Mr. [__ name __], [__ designation __] is hereby empowered and duly authorized by the **Buyer** to execute and enter into this Agreement on its behalf and to do all acts necessary for execution of this Agreement.

NOW, THEREFORE, based upon the principles of mutual benefit, the parties to this Agreement agree, through negotiations, as follows;

1. DEFINITIONS

In this Agreement, in addition to the definitions in the Recitals above and elsewhere, unless: the context otherwise permits, the words set out below shall have the meanings assigned to them as follows:

- (a) **"Agreement"** means and include this Agreement between the CDGF and Buyer, along with its Schedules/Annexure, if any, forming an integral part hereof and the amendments as may be made thereto from time to time.
- (b) **"Commencement Date"** means the date of commencement of the Term of the Agreement on notification of the Collection Points by CDGF;
- (c) **"Collection Points"** means duly notified collection points established at different places within the limits of the City of Faisalabad by the CDGF for delivery of Solid Waste to the Buyer by CDGF;
- (d) **"Local Government"** means the City District Government Faisalabad, established under section 8 of the Punjab Local Government Ordinance, 2001 (Punjab Ordinance. XIII of 2001).
- (e) **"Term of Agreement"** means the period as defined in clause 7 of this Agreement.
- (f) **"Solid Waste"** means and includes non-hazardous Solid Wastes generated from households, commercial establishment, institutions, and non-hazardous industrial process waste, agricultural waste but does not include sewage sludge, liquid waste or gas, hospital waste, construction and demolition waste etc.

2. OWNERSHIP OF SOLID WASTE

Solid Waste lying at its designated places of storage or any other place within the city of Faisalabad shall be the sole property of CDGF until it is handed over to the Buyer at designated Collection points.

3. RIGHTS, OBLIGATIONS AND RESPONSIBILITIES OF CDGF

- 3.1 The CDGF shall have the exclusive right to monitor timelines and schedule of purchasing the Project Site, installation of Plant and the functioning of Plant on the agreed time frame without interfering in any manner. (Attached as Annexure-A). All persons attending the Project Site on behalf of CDGF shall follow the instructions of the Buyer or its contractors with regard to safety and security
- 3.2 The employees, agents and contractors of the local government may visit or inspect facilities of the Buyer established for the recycling, treatment and disposal process of the solid waste.
- 3.3 The local government may conduct a third party audit of the solid waste recycling, treatment and disposal process facilities of the Buyer on annual or biannual basis.
- 3.4 The CDGF shall guarantee the supply of Solid Waste per calendar day at the designated collection points to the Buyer which can be enhanced with mutual consent of the parties.
- 3.5 Any difference in quantity of Solid Waste as mentioned in clause 3.4 above shall be recovered by CDGF within one month and if the Buyer receives excess supply of Solid Waste then he shall be bound to pay as per agreed rates of per ton Solid Waste to CDGF
- 3.6 The CDGF shall provide Solid Waste to the Buyer at the designated collection points without any segregation, or separation and shall make maximum efforts to avoid construction and demolition,

toxic/hazardous and explosive waste.

- 3.7 The CDGF shall not be responsible for any environmental liability occurring after the supply of Solid Waste at the designated collection points exclusive of hazardous material.
- 3.8 After acceptance and supply of Solid Waste, CDGF shall not be responsible for any damage or loss occurring at the Collection point(s) or the Project Site.

4. RIGHTS, OBLIGATIONS AND RESPONSIBILITIES OF BUYER

- 4.1 The Buyer shall have the exclusive right to design, engineer, finance, insure, construct, complete, operate and maintain the Plant, at the Project Site on its own cost and expense as per agreed timelines and schedule specified in Annexure-A.
- 4.2 The Buyer shall be bound to receive solid waste as mentioned in clause 3.4 of this Agreement.
- 4.3 The payments of solid waste shall be made according to the provisions of clause 6 of this Agreement.
- 4.4 The Buyer shall furnish a Bank Guarantee to the tune of Rupees 5.0 million (PKR Five Million) to CDGF prior to the signing of this Agreement which will be released to the Buyer within a period of 30 days from functioning of the Plant.
- 4.5 The Buyer shall be responsible for the safe recycling, treatment and disposal process of the solid waste after collection from the designated collection points of CDGF.
- 4.6 The Buyer shall take adequate measures to minimize the possible pollution of air, water and soil.
- 4.7 The Buyer shall adhere to all the applicable Laws of Pakistan including environmental guidelines and regulations and occupational health and safety standards as may be specified under the Environmental Protection Act 1997 or any other law for the time being enforce or amended from time to time.
- 4.8 The CDGF shall, on the request, provide all reasonable cooperation, information and available data to the Buyer which is helpful in the setting up, design, construction and operations of the Project and shall not interfere in the operation of "the Plant" except to the extent permitted in accordance with the provisions of this Agreement.
- 4.9 The Buyer shall be responsible to conduct, prepare and submit Environmental Impact Assessment (EIA) at its own cost and expense and shall obtain N.O.C thereof.
- 4.10 The Buyer shall install weighbridge at .its own cost and expense and shall be manned jointly by the CDGF and Buyer.
- 4.11 In case of any problem in weighbridge, the Buyer shall be responsible for alternate private arrangements at its own cost and expense.
- 4.12 The Buyer shall give a prior notice of 30 days to the CDGF for annual shut down or for repair and maintenance of the Plant.

- 4.13 The Buyer shall be responsible and make proper arrangements to avoid littering of roads or streets during transportation of solid waste/bye products from the collection points/Project Site
- 4.14 The Buyer may dump residual or inert material on its own risk and cost to the CDGF's Landfill Site, for an initial period of three years, without charging any fee. After a period of three years CDGF may charge fee for dumping residual or inert material on its Landfill Site.

5. PROJECT SITE

The Buyer shall arrange or manage the Project Site for the period of this Agreement, within the radius of xx-xx kilometers from the designated area that is _____.

6. BANK GUARANTEE, BILLING AND SCHEDULE OF PAYMENTS

- 6.1 Prior to signing of this Agreement, the Buyer shall furnish a performance security in shape of Bank Guarantee to the tune of Rupees 5.0 Million (PKR Five Million only) in favor of CDGF initially for a period of one year which will be renewable after every year till functioning of the Plant. The performance security will be released to the Buyer within a period of 30 days from functioning of the Plant. In case the Buyer fails to fulfill its obligations with regard to supply & construction of the Plant (including allied facilities) and fails in making the same functional in accordance with the provisions of this Agreement, the CDGF shall have the right to forfeit its bank guarantee.
- 6.2 The Buyer shall pay the auction price of Rs ____ per ton (PKR ____ only per ton) for solid waste, to the CDGF, delivered to it at the designated collection points.
- 6.3 The price of solid waste per ton shall be increased at the compound rate of 5% per annum after one year from the commencement date as defined under clause 1(b) of this Agreement.
- 6.4 The Buyer shall also furnish a payment performance security in shape of bank guarantee to the tune of Rs 2.5 Million (PKR Two Million Five Hundred Thousand only) for the purposes of payment security.
- 6.5 Prior to signing of this Agreement, the Buyer shall deposit the auction price, initially calculated @ PKR ____ per ton of waste, for the first year in advance within ten days of the communication to him of confirmation of his offer. If the Buyer receives excess delivery of solid waste in a year, then the Buyer shall be bound to pay price of excess waste as per agreed rates of per ton waste to CDGF within 30 days at the end of year.
- 6.6 Provided for each subsequent year, the sale price shall be paid in advance by the Buyer by 10th day of the first month of each year.
- 6.7 In case of default in timely payment, a penalty at the rate of fifteen percent per annum shall be charged, in addition to the amount of default; provided that the agreement shall stand automatically cancelled in case default continues for more than ninety days and the bank guarantee furnished under clause 6.4 by the Buyer shall be forfeited by CDGF.
- 6.8 The CDGF shall not be entitled to share in the profits generated by the Buyer, whether from

segregation of recyclable materials, production of compost, and waste to energy or establishment of Refuse Derived Fuel (RDF) plant, Certified Emission Reduction (CER) or any other emission rights and other recyclables during the term of this Agreement.

7. TERM OF AGREEMENT

The term of this Agreement is 10 years from the commencement date, which may be extended by two further periods of 5 years each with mutual consultation. This Agreement shall take effect from the date of its signing and shall remain force until its expiry.

The CDGF shall notify the finalized location of future landfill site.

The Agreement is renewable after negotiations and with the mutual consent of both the parties to this Agreement.

The party who intends to renew this agreement shall communicate such intentions to the other party, thirty (30) days prior to the expiry of this Agreement.

8. APPLICABLE LAWS

This Agreement shall, in all respects, be read, construed and shall operate in conformity with all applicable Laws of Pakistan.

9. FORCE MAJEURE

9.1 The term "Force Majeure as employed herein shall mean the acts of God, strikes, lock-out or other industrial disturbances, acts of public enemy, wars, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosions and any other similar events, not within the control of either Party and which by the exercise of due diligence neither Party is able to overcome.

9.2 If either Party is temporarily unable by reason of Force Majeure or the Laws or regulations of Pakistan to meet any of its obligations under the Agreement, and if such Party gives to the other Party written notice, of the event within fifteen (15) days after its occurrence, such obligations of the Party, as it is unable to perform by reason of the event, shall be suspended for as long as the inability continues. Neither Party shall be liable to the other Party for loss or damage sustained by such other Party arising from any event referred to as Force Majeure or delays arising from such event. Force Majeure shall not include inability to perform due to lack of skills, expertise, and human resources, insufficiency of funds or failure to make any payment required under the Agreement.

10. CONFIDENTIALITY

Both the Parties and their nominees, employees, agents or sub-contractors shall not, after the termination or expiry of this Agreement, use the confidential information without the written consent of other being obtained first.

11. NOTICES

Any notice to be given under this Agreement shall be in writing and shall be sent by air mail or by facsimile, to the address of the other Party or to the relevant facsimile number set out below, or such other address or facsimile number as that Party may from time to time notify to the other Party in accordance with this clause, The addresses and facsimile numbers of the Parties are as follows:

For Seller

Mr. _____
(Designation)
City District Government Faisalabad (CDGF)
Address: _____

For Buyer

Mr, _____
(Designation)
M/S _____
Address _____

12. BREACH OF AGREEMENT AND DEFAULT

A breach of Agreement will be a material breach by either Party of its obligations. The Party in breach must provide the other party a plan, within one month, to rectify the breach. The time period for rectification will not exceed 90 days from the date of submission of rectification plan to other party. This may be extended by mutual consent of parties

13. DISPUTE RESOLUTION BOARD (DRB)

If a dispute of any kind whatsoever arises between the CDGF and Buyer in connection with, or arising out of the provisions of this Agreement, the matter in dispute shall, in the first place, be referred in writing to Dispute Resolution Board consisting of Secretary LG & CD Government of the Punjab (Chairman), President Faisalabad Chamber of Commerce and Industry and Administrator, City District Government Faisalabad, which will include their representative and successors-in-interest thereof. The request will be made to Dispute Resolution Board for deciding the dispute within 90 days. The decision of the Board shall be binding on the parties. If DRB does not decide matter within 90 days the aggrieved party may take further measures for redressal of their grievances.

14. ARBITRATION

Any dispute between the Parties as to matters arising pursuant to this Contract which would not be settled by DRB under clause 13 of this agreement within ninety (90) days the dispute shall be referred to the three member arbitration panel to be agreed between the Parties. Each party will select one arbitrator and both the arbitrators will select the third arbitrator called Umpire, If parties fail to appoint arbitrators under this clause the matter of appointment of arbitrator shall be referred to the Court under the Arbitration Act of 1940. The award given by arbitrators shall be final and binding upon the Parties to this Agreement.

15. TERMINATION

After exhausting all remedies provided under clause 13 & 14, the Agreement may be terminated by either Party, after giving 180 days written notice to the other Party.

16. JURISDICTION

Parties mutually agree that in case matter is not resolved through arbitration the courts of competent jurisdiction at Faisalabad shall have the jurisdiction to decide such matters

IN WITNESS WHEREOF; the authorized representatives of both the parties have executed and entered into this Agreement on this ____ day of _____, 2011 at Faisalabad have signed and sealed or stamped as under.

For and on Behalf of CDGF (Seller)
Name: _____
Designation: _____
City District Government Faisalabad

For and on Behalf of the Buyer
Name: _____
Designation: _____
M/s _____

WITNESSES

Name: _____
Designation: _____
City District Government Faisalabad

Name: _____
Designation: _____
M/s _____

Project Implementation Schedule / Time Line

Sr #	Activities	Responsibility	2011				2012				2013				2014			
			Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1	Date of Agreement	CDGF/Buyer																
2	Notification of Collection points	CDGF																
3	Setting up of Refuse Derived Fuel (RDF) Plant with 12 months from (2) above	Buyer																
4	Decision for setting up Compost unit/Waste to Energy	CDGF/Buyer																