

Memorandum of Understanding

Between

And

Divisional Forest Officer-----

Division, Uttarakhand

(Draft for pine needle collection to be used in power plant)

This Memorandum of Understanding hereinafter referred as “MoU” is entered into as of the date last written below (“the effective date”) on the ----day of -----2010.

1. -----(Name of the firm/agency) having a registered office at ----- / a resident of ----- on the first part, hereinafter referred as **FIRST PARTY** and
2. Divisional Forest Officer ----- having its office at ----- Uttarakhand, which expression shall mean and include its successors and assignee, on the other part, hereinafter referred as the **SECOND PARTY**.

Whereas the **SECOND PARTY** is desirous of collection and removal of dry pine needles from the specified area, which fall on the forest floor in summers, and it can be put to various uses as proposed by the **FIRST PARTY** in their proposal submitted to the **SECOND PARTY**.

The **FIRST PARTY** and the **SECOND PARTY** are desirous of exploiting the areas of mutual interests within the framework of this memorandum.

Now, therefore both parties agree as follow:-

Article I- INTRODUCTION

1. The _____ Division has _____ ha. of pine forests under its management control which yields adequate quantity of dry pine needles per ha. every year. Beside this about _____ ha. of Civil and Van Panchayat forests are also under its technical supervision. These pine needles usually get burnt in the summer season, causing many a times human casualties and also contribute significantly to the pool of the Green House Gases (GHGs) in the atmosphere.
2. The **SECOND PARTY** is desirous of initiating a process where the dry pine needles are removed from the forest floor and at the same time people living in the nearby areas get some gainful employment.
3. The **FIRST PARTY** has adequate knowledge of pine needles and has already established an industry to use the pine needles at _____.
4. The **FIRST PARTY** has desire, financial capacity and technical know- how and required man power.
5. The **FIRST PARTY** with its expertise and technological orientation is keen to be a partner to the **SECOND PARTY**.

Article II- SCOPE

1. Use of dry fallen pine needles for different industrial uses.
2. Part time gainful employment to the nearby villagers.
3. Reduction in incidences of forest fires and thus less emission of green house gases in the atmosphere.

Article III- AREAS OF PARTNERSHIP

The parties are desirous of developing the partnership subject to the mutual agreement between the parties concerned and have identified the broad areas of cooperation as under:

- I. The **SECOND PARTY** will
 1. Provide information regarding list of pine forests, points of collection and approximate area in the range/ranges which are specified as below:

- (i)
- (ii)
- (iii)
2. Facilitate formation of willing groups which will help in collection of dry, fallen pine needles in the specified areas.
3. In case of collection from Panchayat forests under the control of Van Panchayats or civil Forests under the control of Revenue Department, the forest department will act as facilitator.
4. The boundaries of the proposed area will be marked in the forest by the **SECOND PARTY** at the expense of the **FIRST PARTY**.
5. The **SECOND PARTY** will also inform to the first party about any rights and concessions recognized by the Government in that area if it exists.
6. No Forest Land shall be given to the **FIRST PARTY** for establishment of the industry.

II. The **FIRST PARTY** will

1. Purchase the dry pine needles collected from the specified area at agreed rates, which in no case would be less than those fixed by the forest department. These rates would be reviewed/ revised every two years. Local persons, particularly women/self groups/ van panchayats etc. would be given preference for the work of pine needle collection. The activity should lead to local employment generation.
2. Can establish their industry in the nearby area or non forest land such as private land of land taken on lease by the **FIRST PARTY** or they can export the pine needles to different places at their own cost.
3. Provide fire fighting equipments near the collection point and near their store/godown if any and take all precautions to avoid forest fire in the area at its own expense.
4. Submit the names and addresses etc. of its authorised persons working on the site to the **SECOND PARTY**.
5. The transport of pine needle shall be done only with the transit permit duly issued by the forest department after receiving the royalty and transit fee fixed by it (the forest department) from time to time. Road tax at prevalent rates would also be payable to the forest department if forest road is used.

Article IV- PERIOD OF ENGAGEMENT

This MoU is valid for a period of ten years from the date of signing, provided the first party works/ collects chir pine needles each year as per the terms mentioned in the MoU. After the expiry of this MoU or even before that (if silvicultural requirement of the forests so demand) this agreement will be reviewed by the second party and any further extension may be considered on the mutual agreement of both the parties.

Article V- APPLICATION, APPROVAL AND OPERATIONS

1. The **FIRST PARTY** or its authorized person shall submit the application about their proposed projects with all the details to the **SECOND PARTY/any other officer nominated by the PCCF Uttarakhand for this purpose**, who, after careful examination and his recommendations, will send it for approval to the Principal Chief Conservator of forests (PCCF), Uttarakhand. The PCCF will get it examined by a committee and convey his decision to the **SECOND PARTY**.
2. In case, the project is approved, the **SECOND PARTY** will convey a meeting of the villagers of the concerned area within 15 days and will discuss and decide the modalities of the proposal with villagers and the **FIRST PARTY**.
3. Before start of the work the **FIRST PARTY** has to deposit the royalty of the pine needles as estimated by the **SECOND PARTY**, which will be adjusted at the end of the each financial year. The royalty will be paid by the first party at the rates decided by the Uttarakhand forest department from time to time.
4. The **FIRST PARTY** will also have to submit security money which will be 1% of the project cost or Rs 20,000 whichever is the maximum.
5. The removal of dry pine needles from the forest floor will not be done during rainy season i.e. 15th June to 15th September.
6. There should not be any adverse impact on the biodiversity of the forest because of the activity of pine needle collection.

Article VI- SETTLEMENT OF DISPUTES/ARBITRATIONS

1. Any matter, whether or not stipulated in this MoU, shall be settled in good faith by discussions between the parties in a spirit of mutual understanding and cooperation, within thirty days of its coming to notice of both parties to this MoU.
2. In the event of any disputes or differences remaining unsettled, the parties may take recourse to arbitration. In such case, a sole Arbitrator shall be nominated by the PCCF who will be holding the rank not below the Conservator of Forests. Arbitration shall be conducted in accordance with the provisions of the **Arbitration and Conciliation Act 1996**.
3. The MoU shall be subject to exclusive jurisdiction of courts of law in Uttarakhand, inclusive of Honorable High court of Uttarakhand, Nainital.
4. During the arbitration period, both parties shall, save as otherwise provided therein, continue to perform their respective obligations under this MoU and shall not, whether by act of omission or commission, impede or otherwise interfere with **FIRST PARTY'S** endeavor to remedy the default which gave rise to the commencement of such notice period.

Article VII- INDEMNITY

1. The **FIRST PARTY** shall provide the indemnity towards the damage, misdemeanor of their employees or authorized personnel, agents.
2. The **SECOND PARTY** shall not be responsible for any payments, statutory obligations like insurance cover for accident, mishaps or death occurring to the collectors of pine needles.

Article VIII- PENALTIES

1. The security money shall be forfeited if any of the clauses A,B,C or D of article IX of this MoU hold good . The **FIRST PARTY** may be black listed for three years under these circumstances.

Article IX- TERMINATION OF MoU

1. Termination by **SECOND PARTY**- The **SECOND PARTY** reserves the right to suspend or terminate this MoU in the following circumstances by giving 30 days notice in writing after the period specified for rectifying the default in pursuance on default notice has elapsed.
 - A. the party becomes the subject of bankruptcy, insolvency.
 - B. the party is not paying the collection charges to the pine needles collectors.
 - C. the party is not collecting the pine needles within a period of three months after signing of MoU.
 - D. If the first party violates any of the rules/acts/legal provisions related to forest management.

Article X- FORCE MAJEURE-

1. No failure or delay or omission by either party to fulfill any of its obligations under this MoU (other than the obligations to make payments when due) shall give rise to any claim against such party or be declared to be breach of this MoU if any, to the extent such failure, delay or omissions arises from the unplanned event not within the reasonable control of such party.
2. Events of force Majeure shall be
 - A. Natural calamities, revolution, riots, religious strife or civil commotion
 - B. Strikes, lock outs or other industrial actions
 - C. Act of war, terrorist or military action
 - E. A decision or order of a court or tribunal
 - F. Fire, lightening, earthquakes, cyclone, flood, landslide or any other natural disaster.
 - G. Epidemic

3. Procedure for calling Force Majeure

The affected party shall give notice to the other party, of the Force Majeure event as soon as it is reasonably practicable, but not later than fifteen (15) days after the date on which the affected party knew.

4. **Force Majeure event notice**- Force Majeure event notice shall specify
the nature of such Force Majeure event
the date and time when the party was materially and adversely affected by the Force Majeure.
the material adverse effect of such Force Majeure.

the measures which the affected party has taken, or proposed to take to mitigate the damage.

An estimate of the period of time that the affected party shall be unable to perform its obligation and / or continue to be materially affected by the Force Majeure event.

Article XI- AMENDMENTS- This MoU may be amended in writing by mutual agreement between the parties, particularly where there are changes in policy by the Government, which are relevant to this agreement.

Article XII- GOVERNING LAW- This MoU shall be covered and constituted in accordance with the laws of India including without limitation, the relevant central and State Acts and rules, regulations and notifications issued and amended there under from time to time.

In WITNESS THEREOF, the above Parties executing this agreement have set their respective hands on the day and the year and at the place mentioned above in the deed.

WITNESSES

SIGNATURE OF THE FIRST PARTY

1.

2.

SIGNATURE OF THE SECOND PARTY