MIRA BHAYANDAR MUNICIPALCORPORATION TRANSPORT UNDERTAKING

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Selection of Operator for City Bus Operations in Mira Bhayandar Municipal Corporation Transport Undertaking

On

PPP Basis (Gross Cost Contract)

VOLUME II

DRAFT BUS OPERATOR AGREEMENT

OCTOBER- 2026

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PART – I: PRELIMINARY

RECITALS

Model Contract for City Bus Private Operations

THIS CONTRACT is entered into on this the …… day of....., 20…..at _____{*name of the city*}

BETWEEN

THE {*AUTHORITY / Special Purpose Company for provisioningof Bus Service*}, represented by represented by Commissioner and having its principal office at Mira Bhayandar Municipal CorporationTransport Undertaking Transport Office , First Floor, Chhatrapati Shivaji Marg, Bhayander (W) Tal Dist., Thane - 401101 (hereinafter referred to as the "**Authority**", which expression shall include its successors and permitted assigns);

AND

M/s {XYZ}*, a special purpose vehicle incorporated under the Companies Act, 2013**,** acting through its {_____} having its registered office at {_____} (hereinafter referred to as the "**Operator**", which expression shall include its successors and permitted assigns);

The Authority and the Operator are hereinafter individually referred to as "Party" and collectively as "Parties"

WHEREAS

A. The Authority has the power/function to ensure the provision of Bus Service within the area under its jurisdiction in the city of Mira Bhayandar in the State of Maharashtra.

B. The Authority intends to {*provide Bus Service in the Bus Service Area/improve the Bus Service being presently provided in the Bus Service Area*} by seeking private sector participation. The Authority seeks to appoint an Operator through a transparent competitive bidding process who shall inter-alia be responsible for Operation and Maintenance of Buses, Bus Depotand Parking Space(if any) and providing Bus Service in the areas/ routes within the Bus Service Area in accordance with the provisions of this Contract(the "**Project**").

C. The Authority has obtained No Objection Certificate from concerned RTA/RTO having jurisdiction over the Project and has obtained approval for the city bus operation under the current Project vide a scheme notified in the official gazette in terms of the Motor Vehicles Act, 1988 from the State Government, or obtained pre-approval of permits for the Buses to be plied under this Project.

D. [The Authority had accordingly invited proposals/ Bids by prescribing certain technical and commercial terms and conditions in its Tender Notice/ Request for Proposal No. *** dated *** for the Project].[1]

E. After evaluation of the Bids received, the Authority had accepted the Bid of M/s {.....}[name of single entity Selected Bidder/Consortium comprising of_____ and _____with_____as a "Lead Member"][2] and issued its letter of award No. …… dated ……. (hereinafter called the **"LOA"**) to M/s

[2][Drafting Note : Retain as applicable]

{……}[name of Selected Bidder] requiring, *inter alia*, the execution of this Contract within {*45 (forty five*)} days of the date of issue thereof.

F. The Selected Bidder has since promoted and incorporated the Operator as a special purpose company under the Companies Act, 2013, and has requested the Authority to accept the Operator as the entity which shall undertake and perform the obligations and exercise the rights of the Selected Bidder under the LOA, including the obligation to enter into this Contractpursuant to the LOA for executing the Project;

G. By its letter dated ....., the Operator has also joined in the said request of the Selected Bidder to the Authority to accept it as the entity which shall undertake and perform the obligations and exercise the rights of the Selected Bidder including the obligation to enter into this Contract pursuant to the LOA. The Operator has further represented to the effect that it has been promoted by the Selected Bidder for the purposes hereof

H. The Authority has agreed to the said request of the Selected Bidder, and the Operator, and has accordingly agreed to enter into this Contract with the Operator for execution of the Project, subject to and on the terms and conditions set forth hereinafter.

I. The Operator has furnished the Performance Security for an amount of Rs. {*insert amount in Rupees (Rupees in words)*} by way of an unconditional and irrevocable Bank Guarantee bearing no. ……. dated ……. from .....Bank in favour ofthe Authority prior to signing of the Contract in accordance with Article2.

NOW THEREFORE, in consideration of the foregoing and the respective covenants and agreements set forth in this Contract, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

1 DEFINITIONS &INTERPRETATIONS

1.1 DEFINITIONS

The words and expressions beginning with capital letters and defined in this Contract (including those in Article 32) shall, unless the context otherwise requires, have the meaning ascribed thereto herein and the words and expressions defined in the Schedules and used therein shall have the meaning ascribed thereto in the Schedules.

1.2 INTERPRETATIONS

1.2.1 In this Contract, unless the context otherwise requires,

a. references to any legislation or any provision thereof shall include amendment or re-enactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or consolidation applies or is capable of applying to any transaction entered into hereunder;

b. references to laws of India or Indian law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, bye laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted;

c. references to a **"person"** and words denoting a natural person shall be construed as a reference to any individual, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and shall include successors and assigns;

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

e. the words **"include"** and **"including"** are to be construed, without limitation and shall be deemed to be followed by **"without limitation"** or **"but not limited to"** whether or not they are followed by such phrases;

f. any reference to any period of time shall mean a reference to that according to Indian Standard Time;

g. any reference to day shall mean a reference to a calendar day;

h. references to a **"business day"** shall be construed as a reference to a day (other than a Sunday) on which banks in {*name of the city*}are generally open for business;

i. any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;

j. references to any dateor period shall mean and include such date or period as may be extended pursuant to this Contract;

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; provided that if the last day of any period computed under this Contract is not a business day, then the period shall run until the end of the next business day;

l. the words importing singular shall include plural and vice versa where the context requires such importation;

m. references to any gender shall include the other and the neutral gender where the context requires such importation;

n. **"lakh"** means a hundred thousand (100,000) and **"crore"** means ten million (10,000,000);

o. "**indebtedness**" shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent,

p. references to the **"winding-up"**, **"dissolution"**, **"insolvency"**, or **"reorganization"** of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganization, dissolution, arrangement, protection or relief of debtors

q. save and except as otherwise provided in this Contract, 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; provided that this Sub-clause shall not operate so as to increase liabilities or obligations of the Authority hereunder or pursuant hereto in any manner whatsoever;

r. any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Contract from or by any Party shall be valid and effective only if it is in writing under the hand of a duly authorized representative of such Party in this behalf and not otherwise;

s. the Schedules and Recitals to this Contract form an integral part of this Contract and will be in full force and effect as though they were expressly set out in the body of this Contract;

t. references to Recitals, Articles, Clauses, Sub-clauses or Schedules in this Contract shall, except where the context otherwise requires, mean references to Recitals, Articles, Clauses, Sub-clauses and Schedules of or to this Contract and references to a Paragraph shall, subject to any contrary indication, be construed as a reference to a Paragraph of this Contract or of the Schedule in which such reference appears;

u. the damages payable by either Party to the other as set forth in this Contract, whether on *per diem* basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty (the **"Damages"**);and

v. time shall be of the essence in the performance of the Parties' respective obligations. If any time period specified herein is extended, such extended time shall also be of the essence.

1.2.2 Unless expressly provided otherwise in this Contract, any Documentation required to be provided or furnished by the Operator to the Authority shall be provided free of cost and either by way of soft copy or hard copy, as specified by the Authority.

1.2.3 The rule of construction, if any, that a contract should be interpreted against the parties responsible for the drafting and preparation thereof, shall not apply.

1.2.4 Any word or expression used in this Contract shall, unless otherwise defined or construed in this Contract, bear its ordinary English meaning and, for these purposes, the General Clauses Act, 1897 shall not apply.

1.3 MEASUREMENTS AND ARITHMETIC CONVERSIONS

All measurements and calculations shall be in the metric system and calculations done to 2 (two) decimal places, with the third digit of 5 (five) or above being rounded up and below 5 (five) being rounded down; provided that the drawings, engineering dimensions and tolerances may exceed 2 (two) decimal places as required.

1.4 PRIORITY OF CONTRACTS, CLAUSES AND SCHEDULES

1.4.1 This Contract, and all other Contracts and documents forming part of or referred to in this Contract are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this Contract, the priority of this Contract and other documents and Contracts forming part hereof or referred to herein shall, in the event of any conflict between them, be in the following order:

a. this Contract; and

b. all other agreements and documents forming part hereof or referred to herein; i.e. the Contract at (a) above shall prevail over the Contracts and documents at (b) above.

1.4.2 Subject to the provisions of Clause 1.4.1, in case of ambiguities or discrepancies within this Contract, the following shall apply:

a. between two or more Clauses of this Contract, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in other Clauses;

b. between the Clauses of this Contract and the Schedules, the Clauses shall prevail and between Schedules and Annexes, the Schedules shall prevail;

c. between any two Schedules, the Schedule relevant to the issue shall prevail; and

d. between any value written in numerals and that in words, the latter shall prevail.

2 PERFORMANCE SECURITY

2.1 PERFORMANCE SECURITY

2.1.1 The Operator shall, for the due and faithful performance of its obligations hereunder during the Contract Period, provide to the Authority, 3 (three) days before the Execution Date of this Contract, an irrevocable and unconditional bank guarantee from a Bank for a sum equivalent to Rs. 2.30 Crores [Rupees Two Crores and Thirty lakhs Only] in the form set forth in Schedule IV (the "Performance Security"). Until such time thePerformance Security is provided by the Operator pursuant hereto and the same comes into effect, the Bid Security shall remain in force and effect, and upon such provision of the Performance Security pursuant hereto, the Authority shall release theBid Security to the Operator. In the event, the Operator fails to provide the requisite Performance Security as specified above, the Authority may encash the Bid Security and appropriate the proceeds thereof as Damages, and cancel the Letter of Award;

2.1.2 The Operator shall maintain a valid and binding Performance Security for a period of 90 (ninety) daysbeyond the Expiry Date.

2.1.3 The Operator shall keep and maintain the Performance Security valid and in full force and effect at all times during the Contract Period for such sums as specified in Schedule XXI (through periodic renewals, if any required, at least Two month prior to the expiry of the subsisting Performance Security Bank Guarantee). In the event the Operator fails to provide the renewed/ extended Performance Security or fresh Performance Security,as the case may be, of the applicable reduced amount at least 2 (Two) month prior to the expiry of the subsisting bank guarantee, so as to maintain the Performance Security valid throughout the term of the Contract, the Authority shall have the right to forfeit and appropriate the subsisting Performance Security. Failure of the Operator to maintain the Performance Security in full force and effect for the period as stipulated under Clause2.1.2 above, shall constitute Operator Event of Default in terms of Article 22;

2.1.4 Upon the Operator having provided fresh bank guarantee towards Performance Security of the applicable amount in terms of Clause 2.1.3, the previous bank guarantee of the Operator shall be returned back by the Authority

2.2 APPROPRIATION OF PERFORMANCE SECURITY

2.2.1 Upon occurrence of an Operator's Event of Default including failure to pay any amounts payable to Authority and/ or Damages levied by the Authority in terms of this Contract or failure to meet any Conditions Precedent, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate the relevant amounts from the Performance Security as Damages for such Operator's Event of Default or failure to meet any Condition Precedent. Upon such encashment and appropriation from the Performance Security, the Operator shall, within 30 (thirty) days thereof, replenish, in case of partial appropriation, to its original level the Performance Security, and in case of appropriation of the entire Performance Security provide a fresh Performance Security, as the case may be, and the Operator shall, within the time so granted, replenish or furnish fresh Performance Security as aforesaid failing which the Authority shall be entitled to terminate this Contract in accordance with Article 22 of this Contract. Upon replenishment or furnishing of a fresh Performance Security, as the case may be, as aforesaid, the Operator shall be entitled to an additional Cure Period in accordance with Clause 22.1 for remedying the Operator Event of Default or satisfying the Condition(s)

Precedent, and in the event of the Operator not curing its default within such Cure Period or not meeting the Conditions Precedent, the Authority shall be entitled to encash and appropriate such Performance Security as Damages, and to terminate this Contract in accordance with Article 22.

2.3 RELEASE OF PERFORMANCE SECURITY

2.3.1 On Termination of this Contract due to Authority's Event of Default, the Performance Security shall be returned within 90 (ninety) days, after the Termination Date, to the Operator without any interest, subject to any deductions which may be made by the Authority in respect of any outstanding dues under the terms of this Contract. Similarly, the Performance Security shall be returned to the Operator within 90 (ninety) days after Expiry Date.

PART – II

3 SCOPE OF WORK

3.1 SCOPE OF WORK OF THE OPERATOR

3.1.1 The scope of work of the Operator (the "Scope of Work") shall mean and include, during the Contract Period, the following:

a. undertaking the Project in accordance with the provisions of this Contract; and

b. performance and fulfilment of all other obligations of the Operator in accordance with the provisions of this Contract and matters incidental thereto or necessary for the performance of any or all of the obligations of the Operator under this Contract.

3.1.2 The detailed Scope of Work to be rendered by the Operator has been set forthinSchedule-I.

4 GRANT OF CONTRACT

4.1 THE CONTRACT

4.1.1 Subject to and in accordance with the provisions of this Contract, the Authority hereby appoints, on a non-exclusive and non-transferable basis, the Operator, and the Operator hereby accepts the Contract to undertake the Project in accordance with the terms of this Contract subject to the Applicable Laws, Applicable Permits and Good Industry Practice.

4.1.2 Subject to Clause 4.1.1 above, the Contract hereby granted, shall require the Operator to:

a. perform and fulfil all of Operator's obligations under and in accordance with this Contract;

b. operate and maintain the Project Facilities either itself or through such person as may be selected by it;

c. bear all costs, expenses and charges in connection with or incidental to the performance of the obligations of the Operator under this Contract;

d. transfer the Project Facilities excluding the plant, equipment and consumables brought by the Operator to implement the Project, to the Authority during the course of the Transition Assistance Period in accordance with the provisions of this Contract. It is however clarified that in the event, the Authority decides not to exercise its discretion to buyback the Buses on Expiry Date in terms of Article 23, Buses shall also be included in the list of exclusions specified in this sub-clause (d); and

e. have unhindered access to and License-hold rights in respect of the Bus Depot forperforming its maintenance related obligations subject to the execution of the Depot License Agreement in accordance with the terms contained herein.

4.1.3 The Operator shall neither assign, transfer or sublet or create any lien or encumbrance on this Contract nor transfer, sub-let or part possession of the Project Facilities, as the case may be, save and except as expressly permitted by this Contract.

4.2 CONTRACT PERIOD

4.2.1 This Contract shall come into effect on the Effective Date hereof, and shall cease on the Expiry Date or the Termination Date, as the case may be, unless extended in accordance with the provisions of this Contract (the "Contract Period");

4.2.2 The Operator shall commence Bus Service from the Commercial Operation Date (the "**COD**") and continue till the handover of the Project Facilities to the Authority or the succeeding operator in accordance with the provisions of this Contract (the "**Operation Period**");

4.2.3 The duration of Operation Period shall be [*Three years*].

5 CONDITIONS PRECEDENT

5.1 CONDITIONS PRECEDENT

The respective rights and obligations of the Parties under this Contract shall be subject to the satisfaction in full of the conditions precedent specified in this Article 5 (the "**Conditions Precedent**").

5.1.1 Authority's Conditions Precedent

The Authority shall fulfil the following Conditions Precedent for 74 Nos Buses within a period no later than 45 days from the Execution Date. The Authority shall:

a. execute the Depot License Agreement with the Operator within [15 (fifteen)] days from the Execution Date as per the format provided in Schedule V;

b. handover the Bus Depot within [30 (thirty)] days from the Execution Date, subject to the execution of the Depot License Agreement as per Schedule V in accordance with Article 11 and equip it with plant and equipment as specified in Schedule VI;

c. execute the Escrow Agreement with the Operator and the Escrow Bank within [15 (fifteen)] days from the Execution Date as per Article 17of this Contract and in accordance with the format provided in Schedule XII;

d. procure water supply, sewerage and electricity connection at its own cost at the Bus Depot and/or Parking Space (if any) within [30 (thirty)] days from the Execution Date;

e. procure Bus Permits; and

f. grant all approvals, permissions, and authorizations, within the competence of the Authority, that the Operator requires to complete the services under this Contract satisfactorily within [7 (seven)] days from the Execution Date subject to the condition that the Operator meets all the conditions needed to obtain these approvals.

5.1.2 Operator's Conditions Precedent

The Operator shall within a period no later than 45 days fulfil the following Conditions Precedent for 74 Nos of Buses:

a. execute the Escrow Agreement with the Authority and the Escrow Bank within [15(fifteen)] days from the Execution Date as per Article 17 of this Contract and in accordance with the format provided by the Authority in Schedule XII;

b. execute the Depot License Agreement with the Authority within [15 (fifteen)] days from the Execution Date as per the format provided in Schedule V; and

c. appoint Project Manager, Operations Director/Manager, Financial Manager/Director, HR Manager/Director along with minimum of 2 supervisors / assistants required for the purpose of the Project within [30 (thirty)] days from the Execution Date, according to the requirement, and in accordance with Applicable Law.

5.1.3 The Parties shall make all reasonable endeavours to satisfy the Conditions Precedent as provided in Clauses5.1.1 and 5.1.2 above within the time period stipulated or such longer period as may be mutually decided between the parties without payment of Damages as stipulated in Clause 5.2.

5.1.4 The Parties shall notify each other in writing at least once every week on the progress made in satisfying the respective Conditions Precedent. Each Party shall promptly inform the other Party when any Conditions Precedent for which it is responsible has been satisfied.

5.2 DAMAGES FOR DELAY OR NON-FULFILMENT OF CONDITIONS PRECEDENT

5.2.1 In the event that (i) operator does not fulfil any or all of the Conditions Precedent set forth in Article 5 within the maximum period specified, and (ii) the delay has not occurred as a result of breach of this Contract due to Force Majeure, the operator shall pay to the authority Damages of an amount calculated at the rate of Rs. 1000/- (One Thousand Only) per bus for each day's delay on the entire fleet1 till the fulfilment of such Conditions Precedent, subject to the maximum amount of damages limited to the amount of Performance Security;

5.2.2 Without prejudice to the provisions of Clause 5.2.1 and subject to the provisions of Clause 2.2 , the Parties expressly agree that in the event the Effective Date does not occur, for any reasons whatsoever other than due to Operator's Default, within 150 (one hundred and fifty) days from the Execution Date or within any further extended period mutually agreed between the Parties, all rights, privileges, claims, and entitlements of the Operator under or arising out of this Contract shall be deemed to have been waived by, and to have ceased with concurrence of the Operator, and the Contract shall be deemed to have been terminated by mutual agreement of the Parties. In the event delay in occurrence of Effective Date is attributable to the Operator, the Performance Security of the Operator shall be encashed and appropriated by the Authority as Damages thereof.

[3]For phase-wise implementation of the project, contract commences with fulfilment of Conditions Precedent for the initial phase (the first phase) and for any delay in completion of Conditions Precedent for any or all of the subsequent phases, the amount of damages be worked out as above for the bus fleets in respective phase(s).

6 OBLIGATIONS OF THE OPERATOR

6.1 OBLIGATIONS OF THE OPERATOR

Subject to and on the terms and conditions of this Contract, the Operator shall, at its own cost and expense, observe, fulfil, comply with and perform all its obligations set out in this Contract or arising hereunder including the following obligations:

6.1.1 Operation and Maintenance of Buses

The Operator shall:

a. Take possession of buses for providing Bus Service in accordance with the Fleet Deployment Plan specified in Schedule IX and the terms contained herein;
b. Intentionally Left Blank
c. ply Buses on routes at frequencies as specified in Fleet Deployment Plan and provided in Schedule IX. The Operator has no right whatsoever to the routes or to the provision of Bus Service on those routes, except what is provided for in this Contract;
d. operate and maintain the Buses in accordance with the Operation and Maintenance Standards (the O&M Standards) specified in Schedule XIV;
e. maintain ITS on the Buses to allow the Authority to monitor the Bus Service, as well as maintain any other devices deemed necessary for the smooth operation of the system;
f. procure and maintain Certificate of Fitness in respect of the Buses being operated throughout the Operation Period;
g. in an event of an accident involving one of the Buses, the Operator shall co-ordinate with the relevant medical authorities, police, etc. to ensure timely medical help and treatment for the injured passengers and expeditious removal of the damaged Bus from the site of the accident;
h. allow access to Buses to all members of the public without any prejudice or discrimination;
i. ensure cleanliness both inside and outside the Buses at the time of reporting for the first shift of operations of the Bus Service for the day;
j. ensure safety and security of the passengers, personnel and any third party using the Buses. The Operator shall be liable to pay any penalty/ies levied by the Authority for any breach in the safety and security of the passengers, etc.;
k. ensure safety and security of the Buses against theft or other forms of damage;
l. submit invoices to the Authority in a timely manner in accordance with the terms contained herein this Contract;
m. pay all monies due and payable including but not limited to Damages and/or Penalties to the Authority as per terms of this Contract without any delay;
n. make Buses available for display of Advertisements [and collect revenue from Advertisements on Buses in accordance with provisions of Clause 13.11];
o. ensure that every Bus halts to allow passenger(s) to alight / board the Bus, at the designated Bus Stops as per operational procedures defined or approved by the Authority;
p. provide and maintain (and keep up to date) first aid box and fire extinguisher in each Bus at all times during the Operation Period. The Operator shall follow the safety management requirements in accordance with Schedule XVII and also

comply with the environment management obligations in accordance withthe provisions of Schedule XVIII. The Operator shall submit to the Authority the Safety and Environment Management Plans before the COD.

p. ensure at its own cost and expense and keep available at all times, any and all equipment, fuel, consumables, machines and/or materials that are required (excluding any equipment, consumables, etc. to be specifically provided by the Authority in the terms of Schedule VI A, VI B) for the uninterrupted and continuous operation, management and maintenance of the Bus Service and the implementation of this Contract. It is clarified that all the costs in respect of such equipment, material and consumables shall be solely borne by the Operator;

q. make arrangement to co-ordinate with the concerned public agency(ies)for attending to road calls on-line, towing of Bus(es) under breakdown, if required, clearance of bus ways etc. without causing disruption of traffic, and accommodating stranded passengers on the next available Bus or providing stand-by Bus(es)to ferry passengers within a period of {*1(one) to 3 (three) hours*} from such break-down;

r. ensure that there is minimal disruption due to Bus(es) causing any obstruction to movement of other road users, by shifting Bus(es) within reasonable time to a location where it no longer causes any obstruction;

s. not tamper or interfere with any equipment, instruments or system including the ITS and any other monitoring devices installed in the Buses, to enable provision of safer Bus Service to the passengers and effective monitoring of the Bus Service by the Authority;

t. ensure the air conditioning systems (if any) provided in the Buses are operated and maintained in good working condition as per operational procedures defined by the Authority and the design capacity failing which the Authority shall have the right to impose Penalty in relation thereof in terms of this Contract;

u. in the event of providing Buses for Operation during night shift, as mentioned in the Fleet Deployment Plan, all provisions of this Contract would be applicable mutatismutandis to such operations;

v. if requested by Authority with at least [*5 (five)*] days prior written notice, provide Buses in addition to the Buses specified in the Fleet Deployment Plan, as may be *required to meet increased passenger movement on festival days/ special occasions etc.;*

w. submit the copy of the fuel bills, Employee State Insurance and Provident Fund challans as applicable of its employees to the Authority every month;

x. maintain the on-board passenger information system, if any, installed on Buses, and ensure the information is legible to the public at all times;

y. [throughout the Contract Period, procure Bus insurance]

aa. Intentionally left Blank

bb. shall be solely responsible to bear liability on account of any taxes, levies, duties etc. including Service Tax and GST, at all times during the Contract Period;

cc. be liable for arranging and bearing the costs of recruitment and training of staff and qualified personnel required in relation to the Project;

dd. be liable, at its cost, for compliance with all national, state and/ or local labour laws, etc. including compliance with the safety and welfare measures for labour in accordance with the Applicable Law and Good Industry Practice;

ee. ensure that its contractor and sub-contractors also comply with the safety and

welfare measures for labour in accordance with the Applicable Law and Good Industry Practice.

jj. All the camera's in the bus will be rectified / replaced and attended by the Bus operator for all the Operational buses. The cost incurred for rectification/ replace for all the units will be borned by Bus Operator. CCTV footage shall be retained and maintained for minimum period of 90 days

kk. All the defective Front and Rear pneumatic doors to be rectified and to be made operational . The cost of rectification to be borne by the bus operator . Non operation of pneumatic doors will attract penalties as per Schedule X

6.1.2 Operations and Maintenance of Bus Depot, Control Centre and Parking Space(if any)The Operator shall:

a. maintain Bus Depot and Parking Space (if any) including maintenance of facilities, equipment, installations thereat and ensure availability of skilled personnel and supervisor(s) for regular upkeep, maintenance, cleaning and safe-keeping of Buses, in accordance with the provisions of this Contract and the Bus Depot License Agreement;

b. bear expenses including costs relating to materials, consumables etc. that may be required from time to time throughout the Contract Period at the Bus Depot and to ensure that the Bus Depot is exclusively used for the maintenance of the Buses being operated by the Operator under this Contract;

c. Left Blank

Any failure on the part of the Operator to meet its aforestated obligation shall make the Operator liable to payment of Damages as stipulated in this Contract.

6.1.3 Sub-contracting of Operations

a. Sub-contracting the Operations of Bus Service by the Operator may be permitted with prior approval of the Authority and as per rates, terms and conditions of the current contract. Such sub-contracting shall be capped to 20% (twenty percent) ofthe Buses for a period not exceeding 15 (fifteen)days in a year. Further, the Operator with prior approval of the Authority may sub-contract its maintenance related obligations, pertaining to Buses, Bus Depot, Parking Space (if any), plant & equipment, either in part or in whole.

Sub-contracting the maintenance related obligations , pertaining to Buses, Bus Depot, Parking Space (if any), plant & equipment, either in part or in whole is permitted with prior approval of the Authority and as per rates, terms and conditions of the current contract.

6.1.4 Co-operation with the Authority

The Operator shall:

a. cooperate with the Authority and/or any Third Party appointed by the Authority for the purpose of establishing or operating any equipment, instruments or systems in the Buses, Bus Depot and Parking Space(if any);

b. make adequate communication arrangements for effective, efficient and timely communication of all incidents/ accidents/ breakdowns etc. to relevant authorities, persons, and/or officials in accordance with Clause 15.2;

c. cooperate with the Authority and/or any Third Party appointed by the Authority;

d. cooperate with the Authority or any Third Party appointed by the Authority in relation to the installation, operation and maintenance of the ticket vending and validation machines and collection of fare through hand held machines, if provided. The Authority, its personnel and its authorized contractors shall have complete access to such ticket vending and validation machines and shall not be in any manner obstructed by the Operator, its personnel, or contractors, and the said machines shall in no manner be tampered with or damaged by the Operator or its personnel;

e. cooperate with the Authority for the purposes of monitoring and supervision of the quality, efficiency and adherence of the Operator to other contractual arrangements pertaining to the Project;

f. maintain log books Bus wise and make proper entries related to all maintenance works/ activities pertaining to each Bus undertaken on regular basis in accordance with Clause 6.1.7. The Authority shall be free to inspect logbooks at all times during working hours and the Operator shall make copies of log books available to the Authority or its representative on a quarterly basis and answer all queries to its satisfaction;

g. respond to all notices/ letters/ communications received from the Authority within the given time frame;

h. abide by all directions issued and/ or answer all queries raised by statutory national and sub-national level government bodies concerning the Project;

i. provide all information, data, records, documents or information as may be required by the Authority, from time to time; and participate in all the meetings, discussions as directed by the Authority from time to time.

6.1.5 Compliance with the terms of the Warranty and Good Industry Practice

The Operator shall:

a. comply with all terms of Warranty and instructions that are provided as a part of the purchase order of each Bus;

b. undertake all preventive and corrective maintenance in compliance with the terms of the Warranty as provided by the Bus Manufacturer, standards and instructions as may be notified by the Authority from time to time and in accordance with Good Industry Practice;

c. carry out major overhaul of the Buses according to the number of kilometres travelled as per terms of the Warranty/purchase order as provided by the Bus Manufacturer, standards and instructions as may be notified by the Authority from time to time and also in accordance with Good Industry Practice;

d. comply and abide with all the instructions specified in the literature [provided by the Authority] as received from Bus Manufacturer in terms of operating, maintenance and safety instructions/manual, at all times during the Contract

Period. The Operator shall be responsible for understanding the working of owned by it or handed over to it by Authority in all aspects specified above including safety features. The inspection procedures including the frequency and type of inspection for each technical condition criteria as specified therein for Buses shall be complied with by the Operator;

e. notify defects in any Bus component or equipment and/or monitoring device(s) that may be within the scope of the Warranty/purchase order within {*1 (one) day*} of noting such defect to the [Authority and take prompt and immediate action as per the instructions of the Authority to remedy or rectify the defects. In the event that the Operator does not notify the Authority within the stipulated

time period, it shall be liable to repair or remedy at its own cost and expense such defect as per the instructions issued by the Authority].

6.1.6 Annual Maintenance Contract

The Operator shall:

a. Intentionally left Blank

b. [Procure and maintain either Annual Maintenance Contract with the Bus Manufacturer or its authorized dealer or other well equipped workshops for the purpose of ensuring regular servicing and preventive maintenance activities in relation to the Buses and Bus depot equipment's.

c. shall ensure in-house arrangements for maintaining Buses.

6.1.7 Record and Reporting Requirements

The Operator shall:

a. maintain fleet maintenance software to record all preventive maintenance related activities in the bus and in the absence of which maintenance logbook, duly authenticated by the person in charge of carrying out Bus maintenance. The Operator shall submit the log books for inspection by the Authority/ Authority's Representative as and when demanded;

b. submit to the Authority in a format as specified by the Authority from time to time:

- a monthly report which shall include but not be limited to status of all risks and issues, and any other information as and when demanded by the Authority;
- all materials prepared for knowledge transfer in connection with the management, operation, maintenance or repair of the relevant Project Facilities such as procedures and operation manuals, agreement with suppliers of goods and services, key support contact details for Third Party suppliers and any other commercial knowledge at the end of every quarter and as and when demanded by the Authority; data to be shared with Authority in accordance with Article 15;
- status of Buses with regards to Certificate of Fitness and compliance with highest maintenance standards/manufacturer's manual or instructions;
- report on an immediate basis any incidents requiring urgent attention of the Authority such as accidents, theft, etc.; and
- submit a summary of all the complaints on a monthly basis to the Authority.

6.1.8 Inspection

a. The Operator shall make available Buses to the Authority or its authorised personnel for inspection as and when required/instructed by the Authority for assessment of compliance with maintenance and fitness levels;

b. Upon such inspection(s),any reasonable suggestions, instruction(s) received from the Authority with regard to any corrective actions, maintenance requirements, part replacement requirement, etc., required to be taken by the Operator, shall beimplemented by the Operator at its own cost within [15 (fifteen)] days or within such reasonable time period as specified by the Authority. In case of non- rectification of /non-action upon such reasonable suggestions/ instruction(s) within time period specified, the Authority may replace or rectify such defect(s) at the risk and cost of the Operator. In addition, the Authority may impose Penalty in accordance with the terms contained in this Contract. The

Authority shall have the right to deduct such Penalty from the payment of the O&M Fee to be made to the Operator and/ or appropriate the same from the Performance Security of the Operator;

c. If the Authority at its sole discretion determines that such events are occurring on regular basis or are causing undue interference with the Bus Service and service level parameters, it may terminate this Contract for Operator Event of Default.

6.1.9 Repair and Replacement

Subject to obtaining prior written permission of the Authority and compliance with any instruction(s) issued by the Authority, the Operator may, if need so arises, replace or install any equipment or accessory inside or on the outside of the Buses, at its own cost and expense. In the event the Operator replaces or installs any equipment or accessory in accordance with this provision, it shall ensure that such equipment or accessory is compatible with the existing bus components, parts, software, accessories or equipment.

6.2 OBLIGATIONS RELATING TO PROJECT AGREEMENTS

6.2.1 It is expressly agreed that the Operator shall, at all times, be responsible and liable for all its obligations under this Contract, notwithstanding anything contained in the Project Agreements or any other contract, and no default under any Project Agreements or any other contract shall excuse the Operator from its obligations or liability hereunder.

6.2.2 The Operator shall submit to the Authority the drafts of all Project Agreements or any subsequent amendments or replacements thereto for its review and comments, and the Authority shall have the right but not the obligation to undertake such review and provide its comments, if any, to the Operator within 15 (fifteen) days of the receipt of such drafts. Within 7 (seven) days of execution of any Project Agreements or amendment thereto, the Operator shall submit to the Authority a true copy thereof, duly attested by a Director of the Operator, for its record. For the avoidance of doubt, it is agreed that the review and comments hereunder shall be limited to ensuring compliance with the terms of this Contract. It is further agreed that any failure or omission of the Authority to review and/ or comment hereunder shall not be construed or deemed as acceptance of any such agreement or document by the Authority. No review and/or observation of the Authority and/or its failure to review and/or convey its observations on any document shall relieve the Operator of its obligations and liabilities under this Contract in any manner nor shall the Authority be liable for the same in any manner whatsoever.

6.3 OBLIGATIONS RELATING TO CHANGE IN OWNERSHIP

6.3.1 The Operator shall not undertake or permit any Change in Ownership within a period of [3 (three)] years from COD of 1st Lot of Buses and after three years only with prior written approval of the Authority.

6.3.2 Notwithstanding anything to the contrary contained in this Contract, the Operator agrees and acknowledges that:

a. all acquisitions of Equity by an acquirer, either by himself or with any person acting in concert, directly or indirectly, including by transfer of the direct or indirect legal or beneficial ownership or control of any Equity, in aggregate of not less than 15% (fifteen per cent) of the total Equity of the Operator, or

b. acquisition of any control directly or indirectly of the Board of Directors of the Operator by any person either by himself or together with any person or persons acting in concert with him.

shall constitute a Change in Ownership requiring prior approval of the Authority from

national security and public interest perspective, the decision of the Authority in this behalf being final, conclusive and binding on the Operator, and undertakes that it shall not give effect to any such acquisition of Equity or control of the Board of Directors of the Operator without such prior approval of the Authority. For the avoidance of doubt, it is expressly agreed that approval of the Authority hereunder shall be limited to national security and public interest perspective, and the Authority shall endeavour to convey its decision thereon expeditiously. It is also agreed that the Authority shall not be liable in any manner on account of grant or otherwise of such approval and that such approval or denial thereof shall not in any manner absolve the Operator from any liability or obligation under this Contract.

For the purposes of this Clause 6.3.2:

a. the expression “acquirer”, “control” and “person acting in concert” shall have the meaning ascribed thereto in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeover) Regulations, 1997 or any statutory re-enactment thereof as in force as on the date of acquisition of Equity, or the control of the Board of Directors, as the case may be, of the Operator;

b. the indirect transfer or control of legal or beneficial ownership of Equity shall mean transfer of the direct or indirect beneficial ownership or control of any company or companies whether in India or abroad which results in the acquirer acquiring control over the shares or voting rights of shares of the Operator; and

c. power to appoint, whether by contract or by virtue of control or acquisition of shares of any company holding directly or through one or more companies (whether situate in India or abroad) the Equity of the Operator, not less than half of the directors on the Board of Directors of the Operator or of any company, directly or indirectly whether situate in India or abroad, having ultimate control of not less than 15% (fifteen per cent) of the Equity of the Operator shall constitute acquisition of control directly or indirectly of the Board of Directors of the Operator.

6.4 OBLIGATIONS RELATING TO EMPLOYMENT OF STAFF

6.4.1 The Operator shall ensure that the personnel engaged by it in the performance of its obligations under this Contract are at all times properly trained and possess the requisite skill and qualifications as per Good Industry Practice for undertaking their respective functions.

6.4.2 The Operator shall appoint such persons as Drivers who fulfil the following requirements:

a. Is a holder of a valid Driving license in accordance with the Motor Vehicle Act, 1988, for the last {*3 (Three)*} years preceding the date of employment; (the Operator tosubmit copies of the licenses of all such Drivers appointed by it to the Authority forits record);

b. should possess minimum eight standard qualifications and any other educational/other requirements such as Public Service Vehicle (PSV) badge as prescribed under the Applicable Law;

c. Possesses minimum {*3 (Three)*} years' experience of driving heavy transport vehiclesin India;

d. Should not have been blacklisted from operation of a heavy commercial vehicle and or a transport vehicle;

e. Should not have any pending cases related to fatal accidents or traffic fines due or have his license suspended at any time during the last 3 (Three) years preceding Effective Date;

f. The bus operator shall deposit verification result for all Personnel:

- Driver's license
- Police Verification including Address Verification, Indian Criminal Record Verification and City of domicile's Court Record Check

g. Should meet all requirements specified in The Central Motor Vehicle Rules, 1989.

6.4.3 The Bus Operator shall ensure deployment of competent and trained Starters/Station Officers at designated Bus Terminals, who shall be responsible for regulating bus departures and arrivals, maintaining trip schedules, coordinating with Drivers, Conductors, Depot/Control Room officials and ticket collection agency, and assisting in efficient bus operations and safeguarding Municipal Corporation revenue. The Starters/Station Officers shall perform these duties for all MBMT buses operating from the concerned terminal, irrespective of the Bus Operator to whom such buses belong, and shall monitor adherence to the prescribed schedule vis-à-vis the Services Contract entered into between MBMT and the Bus Operators.

6.4.4 The Operator prior to putting any Driver on the work of running Buses under this Contract, must ensure that each such driver receives a combination of classroom instruction and behind-the-wheel instruction as specified in Clause 13.12sufficient to enable each Driver to operate the Bus in a safe and efficient manner in terms of this Contract.

6.4.5 The Operator shall ensure that each Driver receives refresher training course from time to time during the duration of the Operation Period as specified in Clause 13.12.3.

6.4.6 The Authority may require the Operator to immediately remove any staff member/ personnel employed by the Operator for the purpose of the Project, subject to provision of reasonable evidence, who in the opinion of the Authority:

a. persists in any misconduct;

b. is incompetent or negligent in the performance of his duties,

c. fails to conform with any provisions of this Contract, or

d. persists in any conduct which is prejudicial to the safety and security of the passengers and general public.

6.4.7 The Operator shall be solely and exclusively responsible for all Drivers, employees,

workmen, personnel and staff employed for the purposes of implementing the Project. The Operator shall ensure that all personnel and staff are under its continued supervision so as to provide Bus Service in a safe and efficient manner to the public.

Provided however the Authority shall not be liable for payment of any sum or give compensation for any claim (including but not limited to compensation on account of death/ injury/ termination) of such nature to such foregoing personnel and staff of the Operator at any point of time during the Contract Period or thereafter; the Operator undertakes to keep the Authority indemnified in this regard for any claim for payment raised by such foregoing persons.

6.4.8 The Operator shall ensure that all Drivers, personnel and staff wear uniform as approved by the Authority and are always well behaved and courteous with

passengers and officials of the Authority. The Operator shall at its own cost and expense provide uniforms and shall ensure that clean uniforms are worn by Drivers and any other personnel and staff employed by it at all times when they are on duty or doing any act in relation to the Project under this Contract;

6.4.9 The Operator shall be responsible for all the costs and expenses for employment of Drivers and other personnel including but not limited to expenses for travel, training of its employees, and payment to vendors engaged by the Operator in connection with the implementation of this Project;

6.4.10 The Operator shall make efforts to maintain harmony and good industrial relations among the labour and personnel employed in connection with theperformance of the Operator's obligations under this Contract by exercising supervision and control over the establishment;

6.4.11 The Operator shall obtain registration of its establishment under Section 7 of the Contract Labour (Regulation and Abolition) Act, 1970

6.4.12 The Bus Operator shall ensure that salaries/wages of all Personnel deployed under the Agreement are released/credited to their respective bank accounts on or before the 7th day of every month for the corresponding previous month, so as to ensure timely payment, uniformity in wage disbursement, and proper compliance and accounting practices.

6.4.13 The Operator shall be responsible for employing any and all manpower, personnel, labour, etc., as may be required to be deployed by it for implementation of the Project and as such the Operator on an exclusive basis shall be responsible for exercising supervision and control over such manpower, personnel, labour, etc. For all intents and purposes under this Contract, the Operator alone shall be the principal employer in terms of the provisions of the Factories Act, 1948 and the Contract Labour (Regulation and Abolition) Act, 1970 in respect of such manpower, personnel, labour, etc. The Authority shall at no point of time be concerned in any manner whatsoever with any employee or labour related issues of such manpower, personnel, labour, etc. of the Operator and shall not have any liability or responsibility towards them. The Operator shall keep the Authority indemnified for all claims that may arise due to Operator's non-compliance with any provisions of the aforesaid Acts.

6.4.14 The Contractor shall obtain and maintain, at its own cost, a Group Mediclaim / Health Insurance Policy of not less than ₹5,00,000 (Rupees Five Lakh) per employee for all personnel deployed under the contract. The policy shall remain valid throughout the contract period and shall cover hospitalization expenses on cashless basis.

The Contractor shall submit documentary proof of policy issuance, premium payment and renewals to the Corporation from time to time. Non-maintenance of such insurance cover shall be treated as breach of contract.

7 OBLIGATIONS OF THE AUTHORITY

7.1 OBLIGATIONS OF THE AUTHORITY

In addition to the various obligations, terms and conditions as specified elsewhere in this Contract, the Authority shall:

7.1.1 [Provide Buses as per Available Fleet Schedule VIII for the purposes of the implementation of this Project and hand over the possession of the same to the Operator for the limited purpose of enabling it to operate and maintain the Bus Service as per this Contract];

7.1.2 obtain at its own cost Bus Permit, [Certificate of Registration, Certificate of Fitness, make payment of taxes etc.] from the relevant RTA/ RTO;

7.1.3 Provide to the Operator a Revolving Letter of Credit from a Scheduled Bank in India for a sum equal to {2 (two) months} O&M Fee as security for payment of O&M Fee.

7.1.4 construct the Control Centre, preferably at the Bus Depot, and equip it with ITS in accordance with the requirements set forth in Schedule VI -B and thereafter operate and maintain the same, on its own or through a Third Party, Authority shall procure and/ or install ticketing equipment in each bus as specified in Schedule VII;

7.1.5 monitor and supervise the functioning of the Operator by analysing data generated by the ITS and maintain records and reports in relation to the implementation of the Project. The Authority shall also share real-time ITS feed with the Operator;

7.1.6 monitor complaints, public grievances in relation to the Bus Service being undertaken by the Operator under this Contract;

7.1.7 provide to the Operator the Right of Way and right to use the Bus Depot in accordance with the terms of this Contract and Depot License Agreement;

7.1.8 provide to the Operator the right to access the Bus Stops {and Bus Terminal} for provisioning of Bus Service in accordance with the terms of this Contract;

7.1.9 provide assistance to the Operator, on best effort basis, in obtaining the Applicable Permits, provided the Operator has made the applications for such permits/ clearances to the concerned Government authorities and is otherwise in compliance with the terms applicable for grant of the same;

7.1.10 provide the right of use and Right of Way to the Operator, in respect of the Parking Space(if any)for parking of Buses for the purposes set forth in this Contract;

7.1.11 conduct regular inspections of Buses and the Project at any time during the Operation Period to determine whether the Operator is providing Bus Service in accordance with the provisions of this Contract;

7.1.12 penalise passengers commuting without ticket, in cash as per the rates determined by it;

7.1.13 regulate and oversee the management, planning, and control activities of the Operator with respect to the routes;

7.1.14 procure, install, operate, maintain and repair ETVM in each Bus. The specifications of these machines have been specified in Schedule VII;

7.1.15 collect all revenues (from Passenger Fare and seasonal passes) accruing from the Project and deposit them in the Escrow Account;

7.1.16 shall assign Conductors either directly or through Third Party, in each Bus to collect Passenger Fare and ensure that Conductors perform their duty diligently and honestly;

7.1.17 make timely payment of O&M Fee to the Operator in accordance with the terms of this Contract;

7.1.18 appoint one or more officers of suitable seniority in rank and tenure to act as Authority's Representative, who would assist in the implementation of the Project and for enabling the resolution of any issues that may arise in the implementation of the Project;

7.1.19 [throughout the Contract Period, procure and maintain insurance of the Buses with proceeds received from the Operator. Liability of Passenger Insurance shall be limited to the approved Passenger Capacity of the vehicle by RTA of [Name of City]];

7.1.20 be responsible for marketing/ branding of the Project;

7.1.21 Left Blank

7.1.22 Left Blank

7.1.23 make timely payment of Damages, if any, payable by the Authority to the Operator in terms of this Contract.

7.2 RIGHTS OF AUTHORITY

7.2.1 In addition to the other rights as specified elsewhere in this Contract, the Authority shall:

a. have the right to direct Operator to provide additional Bus Service that in the opinion of the Authority are emergency situations;

b. have the right to modify Fleet Deployment Plan;

c. have the right to levy Damages and/ or Penalty as provided in this Contract and in the event the Operator fails to make payments of such Penalty within 7 (seven) days of receipt of written notification from the Authority in this regard, the Authority shall have the right to deduct the amount in question from the payment of the O&M Fee and/ or appropriate the same from the Performance Security of the Operator;

d. have the right to issue operating instructions or any other advisory instruction/s as deemed necessary to maintain highest standards of Bus Service including safety, functionality and operationality of the Bus Service.

8 REPRESENTATIONS AND WARRANTIES

8.1 REPRESENTATIONS AND WARRANTIES OF THE OPERATOR

8.1.1 The Operator represents and warrants to the Authority that:

a. it is duly organized and validly existing under the laws of India, and has full power and authority to execute and perform its obligations under this Contract and to carry out the transactions contemplated hereby;

b. it has taken all necessary corporate and other actions under Applicable Laws to authorize the execution and delivery of this Contract and to validly exercise its rights and perform its obligations under this Contract;

c. it has the financial standing and capacity to undertake the Project in accordance with the terms of this Contract;

d. this Contract constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Contract will be legally valid, binding and enforceable obligations against it in accordance with the terms hereof;

e. it is subject to the laws of India, the State Government of {*Maharashtra*} and local laws of the {*name of the city*}, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Contract or matters arising there under including any obligation, liability or responsibility hereunder;

f. the information furnished in the Bid and as updated on or before the date of this Contract is true and accurate in all respects as on the date of this Contract;

g. the execution, delivery and performance of this Contract will not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of Operator's constitution documents {*or those of any member of the Consortium*} or any Applicable Laws or any covenant, agreement, contract, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;

h. there are no actions, suits, proceedings, or investigations pending or, to Operator's knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Contract or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Contract;

i. it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any Authority Instrumentality which may result in any material adverse effect on the Operator's ability to perform its obligations under this Contract and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Contract;

j. it has complied with Applicable Laws in all material respects and has not been subject to any penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a material adverse effect on its ability to perform its obligations under this Contract;

k. it shall permit Change in Ownership only in accordance with the provisions of Clause 6.3and that the {existing promoter(s)}, together with {its/their} Associates, hold not less than 51% (fifty one per cent) of its issued and paid-up Equity in the special purpose company/ Operator as on the date of this Contract and for a period of [3 (three)] years from COD of 1st Lot of Buses and that no member of the Consortium whose technical and financial capacity was evaluated for the purposes of short-listing in response to the Request for Proposal shall hold less than 26% (twenty six per cent) of such Equity for a period of [3 (three)] years from COD of 1st Lot of Buses. After [three years] Change in Ownership shall be permitted only with the prior written approval of the Authority;

l. [name of the Selected Bidder][4]has/ have the financial standing and resources to fund the required Equity and to raise the debt necessary for undertaking and implementing the Project in accordance with this Contract;

m. {name of the Selected Bidder} is duly organized and validly existing under the laws of the jurisdiction of its incorporation, and has requested the Authority to enter into this Contract with the Operator pursuant to the Letter of Award, and has agreed to and unconditionally accepted the terms and conditions set forth in this Contract;

n. subject to the provisions of Article 26, all rights and interests of the Operator in the Bus Depot in terms of this Contract and the Depot License Agreement, shall pass to and vest in the Authority on the Termination Date or Expiry Date, whichever is earlier, free and clear of all Encumbrances and claims, without any further act or deed on its part or on part of the Authority. The Depot License Agreement shall also terminate on the Termination Date or Expiry Date, whichever is earlier;

o. no representation or warranty by the Operator contained herein or in any other document furnished by it to the Authority or to any Government Instrumentality in relation to Applicable Permits contains or will contain any untrue or misleading statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;

p. no sums, in cash or kind, have been paid or will be paid, by the Operator or on its behalf, to any person by way of fees, commission or otherwise for securing the Contract or entering into this Contract or for influencing or attempting to influence any officer or employee of the Authority in connection there with; and

q. neither it nor [Members of the Consortium][5] have intentionally withheld from the Authority, any material information or material document, whose nondisclosure would have a Material Adverse Effect or would have adversely affected the evaluation or acceptance of the Bid submitted by {name of the Selected Bidder}.

8.2 REPRESENTATIONS AND WARRANTIES OF THE AUTHORITY

8.2.1 The Authority represents and warrants to the Operator that:

a. it has full power and authority to execute, deliver and perform its obligations under this Contract and to carry out the transactions contemplated herein and

[4] [Drafting Note : If the Selected Bidder is a Consortium, then the names of all the Consortium Members be mentioned here]

[5] [Drafting Note : Retain this provision, only if the Selected Bidder is a Consortiumand In case the Selected Bidder is not a Consortium, replace these words with “any of its authorized signatory]

that it has taken all actions necessary to execute this Contract, exercise its rights and perform its obligations, under this Contract;

b. it has taken all necessary actions under the Applicable Laws to authorize the execution, delivery and performance of this Contract;

c. it has the financial standing and capacity to perform its obligations under this Contract;

d. this Contract constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof;

e. there are no actions, suits, or proceedings pending or, to the Authority's knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi – judicial or other Authority, the outcome of which may result in the default or breach of this Contract of which individually or in the aggregate may result in any material impairment of its ability to perform its obligations under the Contract;

f. it has complied with Applicable Laws in all material respects;

g. all information provided by the Authority in the RFP in connection with the project is to the best of its knowledge and belief true and accurate in all material aspects

h. it has good and valid right to the Bus Depot, and has power and authority to grant a lease or license, as the case may be, in respect thereto to the Operator; and

i. upon the Operator submitting the Performance Security and complying with the covenants herein, it shall not at any time during the term hereof, interfere with peaceful exercise of the rights and discharge of the obligations by the Operator, subject to and in accordance with the provisions of this Contract

8.3 DISCLOSURE

In the event that any occurrence or circumstance comes to the attention of either Party that renders any of its aforesaid representations or warranties untrue or incorrect, such Party shall immediately notify the other Party of the same. Such notification shall not have the effect of remedying any breach of the representation or warranty that has been found to be untrue or incorrect nor shall it adversely affect or waive any obligation of either Party under this Contract.

9 DISCLAIMER

9.1 DISCLAIMER

9.1.1 The Operator acknowledges that prior to the execution of this Contract, the Operator has, after a complete and careful examination, made an independent evaluation of the historical data on passenger volumes, traffic conditions, quality parameters, revenue and cost projections and all information provided by the Authority or obtained, procured or gathered otherwise and has determined to its satisfaction the accuracy or otherwise thereof and the nature and extent of difficulties, risks and hazards as are likely to arise or may be faced by it in the course of performance of its obligations hereunder. The Authority makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy, adequacy, correctness, reliability and/or completeness of any assessment, assumptions, statement orinformation provided by it and the Operator confirms that it shall have no claim whatsoever against the Authority in this regard;

9.1.2 The Operator acknowledges that prior to the execution of this Contract, the Operator has, after a complete and careful examination, made an independent evaluation of the RFP, Scope of Work, specifications and standards, availability of Bus Depot/ Bus Stops, Parking Space (if any), local conditions, and all information provided by the Authority or obtained, procured or gathered otherwise and has determined to its satisfaction the accuracy or otherwise thereof and the nature and extent of difficulties, risks and hazards as are likely to arise or may be faced by it in the course of performance of its obligations hereunder. The Authority makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy, adequacy, correctness, reliability and/or completeness of any assessment, assumptions, statement or information provided by it and the Operator confirms that it shall have no claim whatsoever against the Authority in this regard;

9.1.3 The Operator acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth in Clause 9.1.1and 9.1.2above and hereby acknowledges and agrees that the Authority shall not be liable for the same in any manner whatsoever to the Operator or any person claiming through or under it;

9.1.4 The Parties agree that any mistake or error in or relating to any of the matters set forth in Clause 9.1.1 and 9.1.2above shall not vitiate this Contract, or render it voidable.

9.1.5 In the event that either Party becomes aware of any mistake or error relating to any of the matters set forth in Clause 9.1.1and 9.1.2above, such Party shall immediately notify the other Party, specifying the mistake or error; provided, however, that a failure on part of the Authority to give any notice pursuant to this Clause 9.1.5shall not prejudice the disclaimer of the Authority contained in Clause 9.1.1 and 9.1.2and shall not in any manner shift to the Authority any risks assumed by the Operator pursuant to this Contract;

9.1.6 Except as otherwise provided in this Contract, all other risks relating to the Contract shall be borne by the Operator and the Authority shall not be liable in any manner for such risks or the consequences thereof.

PART - III: OPERATIONS

10 BUSES

10.1 STANDARDS AND SPECIFICATIONS OF BUSES AND FLEET SIZE

The standards and specifications of Buses and fleet size have been specified inSchedule VII to this Contract.

10.2 INVESTMENT AND OWNERSHIP OF BUSES

10.2.1 The investment towards procurement of Buses shall be made by the Authority;

10.2.2 Subject to the terms of this Contract, the ownership of the Buses shall at all times remain solely vested with the Authority during the Contract Period;

10.2.3 All the Buses shall be registered in the name of the Authority, and at no time during the Contract Period shall any right, title, or interest over any of the Buses vest in the Operator;

10.2.4 [It is hereby clarified that the Operator only has a limited right to operate and maintain the Buses for the sole purpose of implementation of this Contract and the Operator will have no other right whatsoever in relation to such Buses, without the prior written permission of the Authority.]

10.3 INTENTIONALLY LEFT BLANK

10.4 [HANDOVER OF BUSES]

10.4.1 The Authority shall handover possession of Buses after completing the activities specified in Clause12.1.1. The delivery schedule of the Buses is provided in Schedule VIII to this Contract.

10.5 INTENTIONALLY LEFT BLANK

10.6 DELAY IN HANDOVER OF BUSES

10.6.1 Left Blank

10.6.2 Left Blank

10.6.3 Left Blank

10.6.4 Left Blank

10.6.5 Left Blank

10.7 READINESS FOR COMMENCEMENT OF BUS SERVICE

10.7.1 For achieving Readiness for Commencement of Bus Service, the Authority shall be required to undertake such activities as required under Applicable Law & Applicable Permits including but not limited to:

a. Joint inspection of Buses with the Operator

b. Certificate of Registration

c. Certificate of Fitness

d. Payment of taxes

e. Insurance of Buses as specified in Article 18

f. Any other readiness related activity to ensure roadworthiness of the Buses in accordance with Applicable Law and/ or Good Industry Practices.

10.7.2 Subject to the fulfilment of the Conditions Precedent in accordance with provisions of Article 5, the Authority shall achieve Readiness for Commencement of Bus Service for Buses procured by it in terms of Clause 10.4 above, no later than 45 (forty five) days from the date of Agreement or any extended period as may be agreed upon by the Parties in writing;

10.7.3 Left Blank

10.8 DAMAGE DUE TO ACCIDENT

10.8.1 Any damage(s) arising to the Bus due to an accident of the Bus shall be the liability of the Operator. The Operator shall ensure repair of such damaged/ accidental Bus to the satisfaction of the Authority. [Any insurance proceeds received from the Insurance company against the affected Bus (es), shall be deposited by the Authority in the Escrow Account within {*7 (seven) days*} of receipt of such proceeds from the insurance company (to the extent received) towards cost of such repair or renovation or restoration or replacement of the Buses, upon submission of due proof by the Operator that such Bus (es) has/have been repaired or restored by it. Any shortfall between the actual cost incurred by the Operator towards repair and restoration of the damaged Bus and the insurance proceeds received shall be borne by the Operator.

10.8.2 The Operator clearly understands and agrees that the Authority shall not be responsible for any consequences/liability arising out of any civil or criminal proceedings instituted by the affected parties as a result of such accident of the Bus and the Operator shall keep the Authority fully indemnified in this regard;

10.8.3 The Operator shall notify about such accident within 1 (one) hour of its occurrence and in the event, such accident involves any fatality, the Operator shall remain bound to intimate within 5 (five) minutes, the relevant authorities and persons/ officials of the Authority and if permitted by the concerned authorities make adequate arrangements for effective towing away/ removing of the affected Bus from the spot. Where any persons involved in the accident have suffered injuries, the Operator shall co-ordinate with the relevant medical authorities, police, etc. to ensure timely medical help and treatment. The Authority shall provide support to the Operator on best efforts basis.

10.8.4 In the event of an accident of a Bus leading to its complete destruction, such that the Bus cannot be repaired and operated in normal circumstances, and is rendered inoperable, the Operator will be required to replace the damaged Bus with another new Bus of such make and model acceptable to the Authority. [The Authority will credit any insurance proceeds received by it towards damage of the Bus in question into the Escrow Account with an instruction to the Escrow Bank to deposit the same in the Operator's account, for contributing to the purchase of the new Bus, subject to such proceeds not exceeding the cost of the new Bus. The Operator will bear all the remaining cost of replacement of the Bus to the extent not covered by the insurance proceeds. Such replaced Bus will be owned by the Authority and shall form part of the Buses contracted under the present Contract and shall be operated and maintained under similar contract conditions as the other Buses during the remaining Operation Period. The period of Contract for such replaced Bus shall be concurrent with the balance period of the Bus it has replaced.

11 BUS DEPOT

11.1 HANDOVER OF BUS DEPOT

For the purposes of maintenance, daily cleaning and parking of Buses, subject to the execution of a Depot License Agreement as provided in Schedule-V to this Contract, the Authority shall provide a Bus Depot to the Operator. It is hereby clarified that the Operator shall only have a limited right of way and right to use the Bus Depot subject to the terms of the Depot License Agreement and the terms contained herein.

11.2 OWNERSHIP OF BUS DEPOT

It is hereby clarified that the ownership of the Bus Depot shall remain vested solely with the Authority at all times. The Operator shall only be provided the limited right of way and right to use as a licensee under the Depot License Agreement in respect of the Bus Depot and upon the end of the Transition Assistance Period, the Depot License Agreement shall also terminate or expire, whereupon the Operator shall vacate and hand back to the Authority such Bus Depot along with any permanent structure(s) created by it to fulfil its obligations as per the terms of this Contract. Provided however, upon such Termination or Expiry, the Operator shall be entitled to remove any equipment, machinery, tools, apparatus, consumables, etc. procured and brought by it, at its own cost, to the Bus Depot during the Contract Period for implementing the Project.

11.3 EQUIPMENT AND FACILITIES TO BE MADE AVAILABLE BY THE AUTHORITY AT BUS DEPOT

11.3.1 The Authority shall provide such facilities, plant and equipment to the Operator at the Depot which has been detailed in Schedule-VI A. The Operator shall also have the right to use the facilities and equipment made available by the Authority at the Bus Depot.

11.3.2 If the Operator brings to the notice of the Authority any deficiencies in the equipment, machinery or consumables being handed over by the Authority to the Operator within 7 (seven) days from the date of handing over of the Bus Depot or such equipment, machinery or consumable as specified in Schedule- VI A, the same shall be addressed/ rectified by the Authority within{*insert number of days*}days from such notice;

11.3.3 The Operator shall have the right to use the facilities and equipment made available by the Authority at the Bus Depot.

11.4 EQUIPMENT TO BE ARRANGED BY THE OPERATOR

11.4.1 The Operator shall at its own cost and expense bring any such consumables, moveable equipment, machinery, etc. and appoint skilled personnel and supervisor for regular upkeep, maintenance, cleaning and safekeeping of the Buses and Bus Depot as detailed in Schedule-VI A, during the term of this Contract. The Operator shall ensure compliance with the provisions of the Factories Act, 1948 and the Rules made thereunder, as amended from time to time, while carrying out its maintenance related obligations at the Bus Depot including deployment of a qualified person as Bus Depot in charge/ supervisor for exercising control, monitoring and supervising the activities of the personnel of the Operator deployed at the Bus Depot.

11.4.2 Any other equipment / facility / tools etc. if any required by the operator for operation, repair and maintenance of buses and for other facilities under his control would be acquired by the operator at his cost

11.5 PAYMENT OF UTILITIES

11.5.1 The Operator shall be liable to pay bills for utilities such as electricity, water, sewerage, etc. on actual basis for consumption at the Bus Depot. Provided, however, the Operator shall be liable to pay bills for the actual consumption of utilities only on a pro–rata basis in relation to the area of the Bus Depot, and Parking Space (if any) allotted to the Operator.

11.6 SECURITY, SAFETY AND FIRE HAZARDS

11.6.1 The Operator shall:

a. at its own cost and expense maintain the area of the Bus Depot which has been specifically allocated and handed over to it under the terms of the Depot License Agreement and the terms contained herein in good working condition to ensure security and safety of the equipment, consumables, machines, Buses, etc. at the Bus Depot.

b. at its cost ensure adequate security, watch & ward services at the Bus Depot and take adequate preventive measures to safeguard against fires and install the requisite fire-fighting equipment at the Bus Depot;

c. not cause any damage in the area of the Bus Depot provided to it under the terms of the Depot License Agreement and the terms contained herein nor do any act which will in any way be prejudicial to the rights of the Authority or other users/ occupants of the same.

11.7 CONTROL CENTRE

11.7.1 The Control Centre shall be constructed and equipped with basic equipment and software/hardware system as mentioned in Schedule VI B by the Authority. The Authority shall also be responsible to operate and maintain the equipment installed by it at the Control Centre either on its own or through a Third Party;

11.7.2 The Authority shall also share real-time ITS feed with the Operator, to enable Operator to optimize its performance.

11.8 HANDBACK OF BUS DEPOT

11.8.1 Subject to the provisions of Article 23, the Operator shall at the end of the Transition Assistance Period, handover without payment of any monies and free from Encumbrances the peaceful possession of the Bus Depot and any other immovable assets that may have been provided by the Authority to the Operator, in sound condition, subject to normal wear and tear;

11.8.2 Unless the Authority decides to exercise its option to purchase at fair market rate or hire the Operator's equipment in terms of Clause 23.2.8, the Operator shall be allowed to take away any temporary structures, equipment installed by it at the Control Centre including any consumables procured by Operator for the execution of the Project.

12 ENTRY OF RESPECTIVE LOT OF BUSES INTO COMMERCIAL SERVICE

12.1 COMMERCIAL OPERATION DATE (COD)FOR RESPECTIVELOTOFBUSES

12.1.1 The Authority shall within {45 (forty five) days}from the date of delivery of respective Lot of Buses as specified in Schedule VIII, comply with the following:

a. handover Buses to the Operator as per Clause10.4;

b. ensure activities related to Readiness for Commencement of Bus Service such as Certificate of Registration of Buses and Certificate of Fitness as per Motor Vehicle Act, 1988 and Rules made thereunder, payment of taxes, joint inspection etc., are completed before handover of Buses to the Operator;

c. construct the Control Centre and equip it with basic equipment and software/hardware system as mentioned in Schedule VI;

d. ensure that all requisite insurances under Applicable Law in accordance with Article18 of this Contract have been procured and maintained; and

e. Provide to the Operator a Revolving Letter of Credit from a Scheduled Bank in India for a sum equal to {2 (two) months} O&M Fee. The Revolving Letter of Credit shall be equivalent to {2 (two) months} O&M Fee at all times during the remaining Operation Period.

12.1.2 The Operator shall within {45 (forty five) days}from the date of delivery/handover of respective Lot of Buses comply with the following:

a. intentionally left blank;

b. ensure that all requisite insurances under Applicable Law in accordance with Article 18 of this Contract have been procured and maintained;

c. appoint duly experienced and trained Drivers holding valid driving license and other personnel required for the purpose of the Project in accordance with Clause
6.4 of this Contract and in accordance with Applicable Law;

d. deposit copy of the driving license of the appointed Drivers with the Authority; and

e. Left Blank

f. procure and install the necessary movable assets such as plant and equipment, materials, consumables, etc.at the Bus Depot as required for the operation and maintenance of Buses.

12.1.3 Upon accomplishing of the activities enumerated in Clause 12.1.2above for a particular Lot of Buses, the Operator shall intimate in writing to the Authority of its readiness to achieve COD, along with detailed proofs of completing each such activity. The Authority shall within 2 (two) days of receiving such written intimation, inspect the relevant documents and the Bus Depot to determine compliance by the Operator. Upon being satisfied that the Operator has duly complied with all the requirements set forth in this Contract for achieving COD, the Authority shall within a period no longer than 5 (five) days from such inspection, issue to the Operator a No-Objection Certificate (NOC). In the event, some

deficiencies or shortcomings are observed and notified by the Authority to the Operator within 2 (two) days of such inspection, the Operator shall rectify/ remove the deficiencies within such period as specified by the Authority and the Authority upon being satisfied shall forthwith issue the NOC;

12.1.4 The date of issuance of NOC for a particular Lot of Buses shall be reckoned as the "**Commercial Operation Date** or "**COD** under this Contract. The date when such NOC is issued for 1st Lot of Buses shall be the Commercial Operation Date under this Contract whereupon the Project enters into commercial service.

12.2 DAMAGES FOR DELAY

12.2.1 If operator is not able to achieve COD within 45 (forty five) days from the date of handover of Buses, operator shall be entitled to a further period not exceeding [45 (forty five)] days, or any such period as may be mutually decided, subject to payment of Damagesto the authority as liquidated damages at the rate of 0.5% of Estimated Project Cost for each week of delay; provided further that no Damages shall be payable if such delay in achieving COD for respective, has occurred solely as a result of delay in achieving Readiness for Commencement of Bus Service due to Force Majeure.

12.2.2 The Damages shall be due to be payable by the Operator from its own financial sources, within 7 (seven) days of receipt of written notification in this regard from the Authority. If the Operator fails to pay the Damages within 7 (seven) days of notification, then the amount of Damages in question will be deducted from the O&M Fee payment of the Operator and/ or appropriated from the Performance Security of the Operator.

12.2.3 In the event that COD does not occur even within the extended period set forth in Clause 12.2.1 above, the authority shall be entitled to terminate the Contract in terms of Article 22.

13 OPERATIONS

13.1 OPERATION OF BUSES

13.1.1 The Operator shall Operate Buses under the provisions of this Contract;

13.1.2 The Operator shall observe the minimum O&M Standards for operations of Buses as per Schedule XIV of the Contract;

13.1.3 In addition to the Applicable Permits, the Operator shall ensure that it procures and maintains a valid Certificate of Fitness and pollution control certificate from the relevant authorities for all the Buses throughout the Contract Period in accordance with Applicable Law;

13.1.4 In the event the Operator fails to ensure the security of the Buses and there is any theft of or damage to any Bus component/ spare parts/hardware/software/instruments, then the Operator shall reinstall/replace such Bus component/spare parts/hardware/software/instrument(s) of the same or equivalent quality and specification, after giving prior written notice to the Authority;

13.1.5 If required, the Operator shall provide additional Drivers for operating additional Buses but shall be paid for at the prevalent Per Kilometre O&M Fee. “The maximum number of additional Buses which may be made operational under this sub-clause 13.1.5 shall be capped at [20%] of the Buses within one year of Execution Date and [50%] over the Contract Period subject to adequate availability of space and infrastructure (in the form of Bus Depot, Parking Space, etc.) with the Authority for parking, maintenance and cleaning of Buses;

13.1.6 The Operator shall ensure that the Buses being operated are without infractions, staffed with efficient Drivers, and equipped with fully functional mounted devices as specified in this Contract.

13.2 BUS DEPOT

13.2.1 The Operator shall use the Bus Depot, handed over by the Authority, only for the purposes specified in the Depot License Agreement;

13.2.2 For smooth Operations at the Bus Depot, the Operator shall ensure that Bus Depot is adequately staffed with skilled staff, equipped with requisite equipment, plant & machinery and stocked with consumables, so as to ensure compliance with O&M Standards as mentioned in this Contract

13.3 ROUTES AND SCHEDULES

13.3.1 The Authority shall have the exclusive authority to determine Routes, frequency and schedules of the Buses as part of Fleet Deployment Plan throughout the Contract Period;

13.3.2 In the event the Operator makes any unscheduled or unauthorized trip outside operation hours and beyond the Routes or in violation of any requirement of the Fleet Deployment Plan or without specific instructions of the Authority in relation thereof, it shall be liable for payment of penalty set forth in Clause 16.5of this Contract;

13.3.3 If the Operator operates with 15% (fifteen percent) deficiency in Service Quality in 3 (three) months or 10% (ten percent) deficiency in contracted level of Bus reliability as specified in Schedule X, then the Authority shall have right to, after Cure Period in accordance with Clause 22.1, consider this as an Operator Event of Default;

13.3.4 The Authority may after due notification to the Operator, change the route(s)/ frequency/ schedule of the Buses due to any reason whatsoever including but not limited to passenger feedback, special circumstances, festivals and seasonal requirements. In case the Authority makes any such change(s), it shall notify the Operator in writing 5 (five) days prior to implementation of such change;

13.3.5 Unless directed by the Authority, the Operator should maintain the frequency of the Buses as specified in the Fleet Deployment Plan;

13.3.6 The actual hours of operations in a day are specified in the Fleet Deployment Plan. This will be segregated into peak hours and off peak hours of operation;

13.3.7 In the event, due to some en-route conditions, there is a need for change in route of Bus, then in such a situation, the Operator shall inform the Control Centre about it and the same shall be tallied with the change in route length measured by ITS or Odometer reading at the end point of the route and the distance so measured shall be reckoned for the purpose of making payment to the Operator.

13.4 FLEET DEPLOYMENT PLAN

13.4.1 The Authority shall develop a Fleet Deployment Plan which shall contain details including but not limited to number and type of Buses, details of the Assured Fleet Availability during the Operation Period, routes, schedules of Buses including description of Bus Stops, frequency and table of schedule providing Bus headways, based on peak and off peak hour (the "**Fleet Deployment Plan**"), more particularly specified in Schedule IX;

13.4.2 The Authority while developing the Fleet Deployment Plan may consult the Operator. However, the suggestions made by the Operator shall not be binding on the Authority;

13.4.3 The Operator shall operate the Buses in accordance with the Fleet Deployment Plan, and shall at all times ensure that the required frequency of Buses is maintained as specified under the Fleet Deployment Plan or as per the instructions of the Authority issued from time to time;

13.4.4 The Operator shall make available Buses at prescribed locations as per the Fleet Deployment Plan;

13.4.5 The Authority reserves the right to make changes to the Fleet Deployment Plan from time to time with prior notification, of atleast5 (five) days, of such change to the Operator;

13.4.6 The Authority may review the Fleet Deployment Plan if there is delay in completing Bus trips for a continuous period of 1 (one) month.

13.5 COLLECTION OF FARE BOX REVENUE

13.5.1 The Operator shall facilitate collection of Fare Box Revenue by the Authority or through a Third Party engaged by the Authority;

The Conductor for collection of ticket revenue shall be made available by the Authority or by a Third Party engaged by the Authority every day prior to commencement of operations for the day, either at the Bus Depot or at a specified location and on the time decided by the Authority. In the event the Conductor does not report on time or remains absent, the Operator shall immediately inform the Authority's Representative or the representative of the Third Party engaged by the Authority, as the case may be, who shall provide a replacement. The Operator in case due to non-availability of the Conductor is not able to ply the Bus either on time

or for the entire day, the same shall not constitute a breach of Operator's obligations and the Authority shall be liable to make payment of O&M Fee to the Operator The O&M Fee payable for km not operated by the Operator due to the Authority failing to provide a conductor shall be at the rate as applicable to un-operated Annual Assured Kilometers.

13.5.2 The Operator and its employees shall always extend courtesy while interacting with public in general;

13.6 Operations & Maintenance (O&M) Standards

The Operator shall at all times during the Operation Period abide with minimum O&M Standards as provided in Schedule XIV.

13.7 Passenger Fare Determination

The Authority shall determine the quantum of Passenger Fare that will be charged from the users/passengers of the Buses or persons who avail the Bus Service.

13.8 Passenger Fare Collection

13.8.1 The Authority retains the right to collect Passenger Fare either by itself or through a Third Party using any technology or methodology it deems appropriate;

13.8.2 The Operator shall not directly or indirectly collect Passenger Fare or any portion thereof;

13.8.3 The Operator shall not in any way cause any interference in the process of collection of Passenger Fare and shall fully co-operate and facilitate the process of Passenger Fare collection undertaken by the Authority through itself or through a Third Party.

13.9 Incidents en-route

13.9.1 In case of breakdown of a Bus en-route during normal course of Operations, the Operator shall immediately inform the Control Centre and its maintenance team whereupon the Operator shall ensure speedy tow-away of the affected Bus within {*1 (one) to 3 (three) hours*} of breakdown. The Operator should immediately provide a Bus replacement to complete the route after such Bus failure, failing which it will be deemed as an Operator Event of Default;

13.9.2 The Operator shall ensure regular communication with en-route Buses throughout the Operation Period by making use of relevant technology as specified in this Contract;

13.9.3 In an unforeseen event of fight or vandalism in or involving the Bus, the Operator should intimate the Authority of the same. If the Bus in question is not in a condition to complete the route or go back to the Bus Depot, then the Operator shall arrange to tow-away the failed Bus within {*1 (one) to 3 (three) hours*}of such occurrence, failing which Operator shall be liable to pay a Penalty in accordance with provisions of Schedule X;

13.9.4 The Operator shall if required, provide first aid to the injured on-site and also co-ordinate with the relevant police and medical authorities etc. to ensure timely medical help to the injured passengers;

13.9.5 If required, the Operator shall extend all cooperation to the Authority including but not limited to filing complaints to the police and or any other investigation undertaken in relation there;

13.10 EXCUSE FROM PERFORMANCE OF OBLIGATIONS

The Operator shall not be considered in breach of its obligations under this Contract if any Bus is not available for operation on account of any of the following reasons:

(a) an event of Force Majeure; or

(b) to wards compliance with a request from the Authority or the directions of any GovernmentInstrumentality.

Notwithstanding the above, the Operator shall keep the remaining unaffected Buses available for operations.

13.11 ADVERTISING ON BUSES

13.11.1 Subject to Applicable Law, the Authority may permit the Operator to display advertisements on the Buses;

13.11.2 In the event the Operator is permitted to display advertisements on the Buses, it shall submit for the approval of the Authority a proposal in relation thereof including but not limited to details such as the content of the advertisements, dimensions and material to be used for advertisement posters and the places on/ within Buses where advertisements are proposed to be displayed;

13.11.3 The Operator shall display advertisements on the Buses in accordance with the proposal approved and any instructions issued by the Authority in regard thereto, and provisions of Applicable Laws;

13.11.4 The Parties agree that no display of negative content in advertisement shall be permitted on the Buses irrespective of the time of the day and scale of the advertisement. Such negative content/ advertisement include but is not limited to:

a. advertisements prohibited by the Applicable Law and/or the Advertisement Council of India;

b. advertisements of goods or services which are prohibited by Applicable Law;

c. advertisements of political parties or religious groups;

d. advertisements of any kind of prohibited drugs, alcohol and all kinds of to bacco products for smoking;

e. advertisements containing pornographic contents and/ or an “indecent representation of women” within the meaning of the Indecent Representation of Women (Prohibition) Act, 1986;

f. advertisements containing sexual overtone and/ or nudity;

g. advertisements glorifying exploitation of women or child;

h. advertisements showing violence and cruelty to either human being or any kind ofplant or animal;

i. advertisements showing racial abuse to any caste or community or propagatingethnic differences;

j. advertisements related to lottery tickets, sweepstakes entries and slot machines;

k. any other advertisement policy or regulation as may be notified by the[State/Central] Government from time to time;

l. advertisements that are derogatory towards or portray a negative image of public transport or other forms of sustainable transport; and

m. any other advertisement found inappropriate by the Authority.

13.11.5 Notwithstanding the provisions of Clause 13.11.1above, the Operator shall at all times ensure that no part of the Buses including but not limited to the external and internal colour, body of the Buses or any part thereof are damaged due to advertisement stickers or any other form of display material. Further, the Operator shall ensure that the advertisements are displayed in such a manner that it does not obstruct partially or completely, the visibility from inside and outside of the Buses.

13.11.6 Placement of Advertisement

a. The Operator may place the advertisement inside and outside the Buses at designated slots described in Schedule VII such that it does not obstruct any safety, advisory or other mandatory information;

13.11.7 Revenue collection and appropriation

[Subject to Applicable Law, the Operator shall be entitled to appropriate entire revenue generated from the display of advertisements on the Buses.

13.12 TRAINING OF STAFF

13.12.1 Training

The Operator shall regularly provide training to its staff including drivers in accordance with the provisions of this Clause 13.12.

13.12.2 Annual training programme

At the commencement of each year, the Operator shall prepare an annual training programme in consultation with the Authority with minimum [45 (forty five) hours] of training attended by each employee annually till 3 (three) years from the COD of 1st Lot of Buses. After the [3 (three)] years from the COD of 1st Lot of Buses, minimum of [20 (twenty)] hours of training shall be attended by each employee annually. The Operator shall be obligated to conduct training courses as per the aforesaid annual training programme.

13.12.3 Content and duration of training

a. The content of training shall comprise imparting of knowledge and skills required for operation and maintenance of Buses and Bus Depot, as the case may be, and shall be developed by the Operator in consultation with the Authority. The

[6][Drafting Note : Authority to select the clause which is relevant to their requirement depending upon the fact that whether the revenue is being appropriated by the Operator completely or being shared between the Authority and the Operator]

duration of training courses shall normally be for a minimum period of 6 (six) days and a maximum of 24 (twenty four) days in a year. The number of trainees participating in training at any time shall normally be a minimum of 10 (ten) and a maximum of 20 (twenty);

b. The Operator shall hold periodic training sessions for Drivers, staff and other personnel (temporary or on contractual or permanent basis) so as to ensure implementation of Project efficiently;

c. Drivers must receive a combination of classroom instruction and behind-the-wheel instructions sufficient to enable each Driver to:

   i. operate the Bus in a safe and efficient manner, including fuel efficiency;

   ii. safely run on a fixed route, stopping at railroad crossings and performing other specialized driving manoeuvres;

   iii. handle emergency situations, including vehicle evacuation procedures;

   iv. operate any special equipment, such as ITS, wheelchair lifts, assistance devices or special occupant restraints;

   v. conduct routine maintenance and safety checks of the Bus;

   vi. maintain accurate records as necessary; and

   vii. diligently deal with customers.

d. Drivers must receive refresher training courses including the topics listed in paragraph (c) above and any additional necessary training to meet the specific requirements applicable in the State where the Operator operates;

e. The Operator shall hold periodic training sessions for Drivers staff and other personnel (temporary or on contractual or permanent basis) so as to ensure implementation of Project efficiently.

13.12.4 Location of training

Training courses as per the approved annual training programme shall be conducted on or before every anniversary of the Execution Date by the Operator at the[insert name of place].

13.12.5 Training Facilities

a. The Operator shall set up training facilities (the "**Training Institute**"), no later than the [insert number of days] of the Execution Date, for training of staff in accordance with the provisions of this Contract;

b. The Operator shall make arrangements for providing training to meet the O&M Standards as defined in Schedule XIV;

c. The Operator for the purpose of providing training shall operate at the training premises: (a) driving simulator or(b) any other facilities and infrastructure required for conducting the training in accordance with the provisions of this Contract.

14 MAINTENANCE

14.1 SERVICE PROGRAMME

Save and except as otherwise provided in this Contract, the Operator shall perform its Operation and Maintenance obligations at periodic intervals set forth herein, and as specified in Schedule XIV.

14.2 MAINTENANCE OF BUSES

14.2.1 The Operator shall also be responsible for Maintenance of all the Buses during the term of the Contract. The Operator shall ensure that the following activities are regularly undertaken as a part of the maintenance activities of the Buses without causing any disruption to the frequency or the availability of the Buses in accordance with the terms contained herein:

a. Repair and maintenance of on-board ITS

b. Fuelling

c. Water topping of radiators

d. Checking and topping of engine oils

e. Checking of tyres

f. Cleaning, sweeping and washing of Buses, including soap washing every week

g. Attending to defects reported by Drivers.

14.2.2 The Operator shall carry out its Operation and Maintenance related obligations in accordance with the Operation and Maintenance standards specified in Schedule XIV. In the event of any negligence, delay, deficiency, or failure in carrying out preventive maintenance, penalties shall be imposed as per Schedule–10 of this Agreement. Further, if despite repeated imposition of penalties, the Operator fails to improve performance or continues such non-compliance, the same shall be treated as a material breach of contract by the Operator.

14.2.3 The Operator shall ensure and procure compliance of each of the Key Performance Indicators specified in Schedule X and for repeated increase in satisfactory performance during a quarter, as may be determined by the Authority for reasons to be recorded in writing based on passenger feedback and inspections by the Authority, it shall pay incentive equal to [0.05% (zero point zero five per cent)] of the Performance Security for achievement in any such performance indicator.

14.2.4 The Authority or Authority's Representative shall monitor the replacement or re-installation done by the Operator and shall determine whether the replaced or re-installed Bus component/spare parts/hardware/software/instrument is the same or of equivalent quality as originally provided or installed in the Bus. In the event that the Authority or Authority's Representative determines that the replaced or re-installed bus component/spare parts/hardware/software/ instrument is of an inferior quality, the Operator shall be obligated to replace the same as per the directions of the Authority. In the event, the Operator fails to carry out the aforesaid directions of the Authority, then the Authority may do the needful at its own cost and deduct the cost so incurred from the Invoice Amount. If the Operator continuously fails to carry out the aforesaid directions of the Authority on 3 (three) such occasions in a span of 30 (thirty) days, the same shall be considered an Operator's Event of Default.

14.3 MAINTENANCE OF BUS DEPOT

14.3.1 Painting of civil structures

a. The Operator shall repaint the civil structures in the Bus Depot at a regular interval of 2 (two) years and intimate Authority after undertaking such activity;

b. The Authority and the Operator shall undertake a joint inspection of the Bus Depot every 6 (six) months. Pursuant to such inspection, if the Authority points out any deficiencies to the Operator in writing, the Operator shall address them within the time period specified by the Authority.

14.3.2 Maintenance of utilities

a. The Operator shall be responsible for maintaining all utilities;

b. The Operator shall ensure the waste water recycling system, if provided by the Authority, is kept functional at all times during the Contract Period and treated water is reused;

c. The cleaning of the recycling system should be undertaken annually by the Operator;

d. The Operator shall, at its own cost, make arrangements for provision of electricity, including installation of generators. The Operator shall also be responsible for repair and maintenance of electrical equipment installed within or adjacent to the Bus Depot.

14.3.3 Maintenance of plant and equipment

The Operator shall be responsible for both operating and maintaining all the plant and equipment installed at the Depot, either by the Authority or by the Operator during the term of the Contract as specified in Schedule VI-A.

14.4 SPARES AND CONSUMABLES

The Operator shall make adequate arrangements at its own cost and expense to make available all spares and consumables for the Operation and Maintenance of Buses as specified in Schedule VI.

14.5 DAMAGES FOR BREACH OF MAINTENANCE OBLIGATIONS

14.5.1 In the event that the Operator fails to repair or rectify any defect or deficiency set forth in the O&M Inspection Report under Article 15 and/ or fails to repair or rectify any defect or deficiency notified in respect of any of the activities comprising the Operation and Maintenance Standards within the period specified therein, the Operator shall be deemed to be in breach of this Contract and the Authority shall be entitled to recover Damages, to be calculated and paid for each day of delay until the breach is cured, at the higher of (a) 0.3% (zero point three per cent) of the Performance Security, or (b) 5% (five per cent) of the cost of such repair or rectification as estimated by the Authority. Recovery of such Damages shall be without prejudice to the rights of the Authority under this Contract, including the right of Termination thereof;

14.5.2 The Authority may, in its discretion, demand a smaller sum as Damages, if in its opinion, the breach has been cured promptly and the Operator is otherwise in compliance with its obligations hereunder. The Operator shall pay such Damages forthwith and in the event that it contests such Damages, the Dispute Resolution Procedure shall apply.

14.5.3 The Authority may, without prejudice to its rights under Clause 14.5.1 to levy Damages and terminate the Contract, undertake such repair and rectification at the risk and cost of the Operator, and recover its cost from the Operator.

14.5.4 In the event of the failure of the Operator to either pay Damages or cost for such repairs undertaken by the Authority in terms of this Clause 14.5, the Authority shall be entitled to deduct the same from any payments to be made to the Operator and/ or appropriate the same from the Performance Security of the Operator.

14.6 AUTHORITY'S RIGHT TO TAKE REMEDIAL MEASURES

In the event the Operator does not maintain and/or repair the Buses in conformity with the provisions of this Contract, and fails to commence remedial works within 15 (fifteen) days of receipt of a notice in this regard from the Authority, the Authority shall, without prejudice to its rights under this Contract including Termination thereof, be entitled to undertake such remedial measures at the risk and cost of the Operator, and to recover its cost from the Operator.

14.7 DAMAGE TO BUSES DUE TO VANDALISM

14.7.1 In the event any damages to or need for repair of the Bus, Bus Depot, and/or Parking Space (if any) or any other asset handed over by the Authority to the Operator, arises during the Contract Period on account of Vandalism, the Operator shall be required to make good such damages and carry out such repairs so as to bring it/ them to the original condition to the extent possible. The Operator shall claim re-imbursement of cost, after deducting the insurance proceeds, if any received, for such repair and rectification from the Authority, in accordance with the manner specified below;

14.7.2 For claiming the cost incurred, the Operator shall send a written request to the Authority specifying the amount payable. In the event, the Authority fails to pay the same within 15 (fifteen) days from the date of receipt of the aforesaid request from the Operator, the Operator shall be entitled to seek payment of the amount in question along with interest of Bank Rate plus 2% (two percent) per annum up to a period of 45 (forty five) days to be reckoned from the date of receipt of such request from the Operator;

14.7.3 For the purpose of this clause, "Vandalism" is defined as destroying or damaging Bus, Bus Depot, and/or Parking Space (if any) or any other asset deliberately and/or for no reasons attributable to act of omission or breach of obligation of the Operator by the persons other than the employee or sub-contractor of the Operator;

14.7.4 Provided however, damage to Bus or any part thereof, or Bus Depot due to regular wear and tear, or breach of maintenance obligations or any other obligations by the Operator and/ or due to any act of omission/commission by the Operator shall not be considered within the scope of definition of Vandalism as defined herein, and shall be the liability of the Operator. In such cases, the repair, servicing and rectification shall be undertaken by the Operator at its own cost to the satisfaction of the Authority**.**

15 MONITORING OF OPERATION AND MAINTENANCE

15.1 REAL-TIME DATA

15.1.1 During the Operation Period, the Authority shall give the Operator access to the raw feed of the monitoring system pertaining to the performance of the Operator under this Contract and as generated by ITS. If the Authority fails to provide the daily raw feed on regular basis then it shall be deemed to be an Authority Event of Default.

15.2 REPORTS OF UNUSUAL OCCURRENCE

The Operator shall, prior to the close of each day, send to the Authority, by facsimile or e-mail, a report stating any accidents and/or unusual occurrences on the Project relating to the safety and security of the passengers/ personnel/ Third Parties and the Project Facilities in general. A weekly and monthly summary of such reports shall also be sent within 3 (three) days of the closing of each week and month, as the case may be. The standard operating procedures for emergencies shall be jointly prepared by operator and the authority. For the purposes of this Clause 15.2, accidents and/or unusual occurrences on the Project shall include but not limited to the following:

a. damaged or dislodged fixed equipment;

b. any obstruction to the Project, which results in disruption, including change of route, accident etc., of the Bus Service being provided by the Operator;

c. disablement of any equipment during operation;

d. communication failure affecting the operation of the Project;

e. smoke or fire;

f. flooding of Bus Depot and/or Parking Space (if any); or

g. death or injury to any person, security alerts and other instances of serious incident should be reported immediately.

15.3 INSPECTION AND EVALUATION OF PERFORMANCE OF OPERATOR

15.3.1 The Authority/ Authority's Representative shall inspect and assess the Project at least once a week. It shall make a report of such inspection (the "O&M Inspection Report") stating in reasonable detail the defects and deficiencies, if any, with particular reference to the Operation and Maintenance Standards, and send a copy thereof to the Operator within 7 (seven) days of such inspection;

15.3.2 The Authority shall review the O&M Inspection Report and the performance of the Operator based on parameters indicated in Schedule X;

15.3.3 The Operator shall be liable to pay Damages to the Authority for non-performance. The Damages for non-compliance to service standards and poor performance are specified as part of Schedule X;

15.3.4 The Operator shall have to pay the applicable amount of Damages within first 7 (seven) days of the month following the month in which the Damages have been levied and in case Damages are not paid by the Operator within the above said period, then the same shall be deducted from any payment of O&M Fee to be made to the Operator by the Authority and/ or appropriated from the Performance Security of the Operator.

15.4 REMEDIAL MEASURES

15.4.1 The Operator shall repair or rectify the defects or deficiencies, if any, set forth in the O&M Inspection Report and furnish a report in respect thereof to the Authority within 15 (fifteen) days of receiving the O&M Inspection Report; provided that where the remedying of such defects or deficiencies is likely to take more than 15 (fifteen) days, the Operator shall submit progress reports of the repair works once every week until such works are completed in conformity with this Contract;

15.4.2 The Authority shall inspect the remedial measures being undertaken by the Operator. In the event that remedial measures are not completed by the Operator in conformity with the provisions of this Contract, the Authority shall be entitled to recover Damages from the Operator under and in accordance with the provisions of Clause 14.5. For the avoidance of doubt, the Damages mentioned in this Clause 15.4.2 are in addition to the Damages levied under Clause 15.3.3 hereinabove.

PART - IV: FINANCIAL COVENANTS

16 PAYMENT TO THE OPERATOR

16.1 O&M FEE

16.1.1 O&M Fee

a. In consideration for undertaking the Project, the Authority shall make payment, based on Bus Kilometre plied to the Operator as per the provisions of this Contract (the "**O&M Fee**");

b. The O&M Fee shall be fixed except where varied or adjusted in accordance with this Article 16.

16.1.2 Bus Kilometre

a. Bus Kilometre shall constitute:

i. Distance travelled by a Bus assigned on a particular Route as per the Fleet Deployment Plan;

ii. Distance travelled by a Bus from the Bus Depot to the first point of loading passengers at the commencement of its service on a day;

iii. Distance travelled by a Bus from its last Bus Stop as per the Fleet Deployment Plan to the Bus Depot at theend of the day's service;

iv. Distance travelled by a Bus without passengers which is outside the Fleet Deployment Plan but approved by the Authority for meeting specific requirements.

16.1.3 Bus Kilometre for the purpose of payment to the Operator, shall not comprise any Kilometre travelled by the Bus to a maintenance facilities other than that set up by the Operator at the Bus Depot provided for by the Authority or for any travel not authorized by the Authority;

16.1.4 The Operator shall compute and provide to the Authority, for every Payment Period, the total number of kilometres that a Bus has travelled for the period being reckoned for the purpose of raising invoice. Such calculation shall be made using ITS and in case of absence of ITS, manually with the supervision of the Authority's Representative using Odometer Reading. In the event Odometer is also faulty then Bus Kilometres shall be the same as recorded the previous day. The Operator shall be paid based on the Bus Kilometre logged and verified in this manner multiplied with the Per Kilometre O&M Fee (the "**PKOMF**")

16.1.5 Basis of Payment

a. Payment to the Operator by the Authority for the Bus Service rendered shall be as per the provisions described hereinafter;

b. The Operator shall be paid for Bus Kilometre plied by Bus, at PKOMF quoted by the Operator in its Bid and enclosed in Schedule XIX, for different categories of Buses.

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16.1.10 Payment Terms

a. *Invoicing Period*:

For each Contracted Bus that has been put into regular operations from the date of COD, the Operator shall submit an invoice at the end of every 15 (fifteen) days (the "**Payment Period**"") specifying:

i. registration number of each Contracted Bus and the type of bus that has travelled as part of the Bus Service,

ii. Bus Kilometres travelled by each Contracted Bus as part of the Bus Service in the relevant payment period (clearly identifying the Contracted Bus)

iii. Applicable Kilometre Charge for the period for the particular type of Contracted Bus.

iv. Service tax, and any applicable surcharge or cess on it, if any, payable on the amount; and

v. copy of fuel purchase bills indicating source, quantity and rate per fuel purchased.

(hereinafter together referred as "**Invoice Amount**")

b. Payment Period

The Authority shall within a period of 10 (Ten) days from receipt of the invoice, subject to verification of the invoice against the records that it has in relation to the Bus Services and the evidence of salary paid to employee, make the payments of 80% of the Invoice Amount. The payment of balance 20% of the Invoice Amount shall be made within 20 (Twenty) days of the receipt of invoice after adjustment against or fines or making other adjustments (Fines/Incentives) as may be applicable against the invoice under the terms of the Agreement. All payments shall be made by the Authority to the Operator after making any tax deductions at source under Applicable Law.

c. Method for Calculation of Aggregate Payment

The Payment will be separately calculated for each type/category of Bus which forms part of the Contracted Buses and aggregated, for each relevant payment period of 15 (fifteen) days/Payment Period.

The payment for Bus Kilometres up to Assured Bus Kilometres per each Contracted Bus deployed shall be calculated as

Payment = Applicable Kilometre Charge for the relevant Contracted Bus category **x** [Operated KM]

(Where Operated KM is Bus Kilometres Operated by Fleet as part of the Operating Plan during the relevant Payment Period)

Any Fines levied/Incentive to be provided shall be adjusted from the Aggregate Payment subject to Clause 23 of this Agreement.

Service tax, and any applicable surcharge or cess on payment for services rendered by the Operator, if any, shall be levied and billed over and above the payment amount based on the number of operated kilometres in the given period multiplied by the Applicable Kilometre Charge. The Authority is liable to pay this additional amount on the Invoice Amount if Applicable.

d. Guarantee to operate particular number of kilometres

The Authority hereby assures the Operator that the Operating Plan/Route Plan will be formulated so as to ensure that the average number of Bus Kilometres travelled by each of the Contracted Buses, in a continuous period of twelve (12) calendar months, commencing from COD Lot of Contracted Buses, and then onwards on annual basis, will be no fewer than the Annual Assured Bus Kilometres as provided in table below ("**Annual Assured Kilometres**").

Sr. No.	Bus Type	Annual Assured Km for that type of Bus (Annual Assured Kilometres per Bus)
1	Fully built, 900 mm Diesel Midi Non AC Buses	60000
2	Fully built, 900 mm Diesel standard Non AC Buses	68000
3	Fully built, 400 mm Diesel Premium segment AC	55000

e. Annual Assured Payment Amount after Reconciliation

i. Payment for Unutilised Kilometres:

In the event that the Authority is unable to demand from the Operator the operations of the Contracted Bus trips such that the average number of kilometres operated per Contracted Bus is not equal to the Annual Assured Bus Kilometres, Authority will pay to the Operator, in addition to the payments made for Bus Services based on invoices presented by the Operator, an amount ("**Annual Assured Payment Amount**"), which shall be determined as follows:

Annual Assured Payment Amount = 0.25 x (Tm – Ta) x Applicable Kilometre Charge

where

Tm = Annual Assured Bus Kilometres x Available fleet

Ta = Actual Bus Kilometres Operated by all Contracted Buses comprising the Available Fleet during the relevant period of 12 (twelve) calendar months that has triggered this provision

It should be noted that the Annual Assured Payment Amount will not be payable for any shortfall in Kilometres of the Fleet that arises due to:

a. Default of the Operator under this Agreement
b. Non-availability of Contracted Buses for reasons attributable to maintenance or accidents
c. Breach of law by the Operator
d. Occurrence of a Force Majeure Event.

ii. Payment for Excess Kilometres

If the Contracted Buses operated under this Agreement exceed the Annual Assured Bus Kilometres, then the Kilometre Charge payable applicable for such additional kilometres in excess of the Annual Assured Bus Kilometres shall be calculated as follows;

Additional Kilometre Payment = Applicable Kilometre Charge for the relevant payment period x 0.75 x Additional Km done by the each Lot of Contracted Buses in aggregate beyond the Annual Assured Km

iii. The Applicable Kilometre Charge for the purpose of the Payment of Unutilised or Excess Km shall be the weighted average of the applicable Kilometre Charge used in payment periods during the relevant year.

iv. The determination of whether Annual Assured Payment Amount is due will be done at the end of a period of twelve consecutive calendar months. The Authority will provide the Operator with a notice of the calculation with the supporting data (the kilometres travelled by each of the Contracted Buses comprising the Available Fleet).

v. The Authority shall have right to compute on its own and verify the Annual Assured Kilometres. The Authority shall compute and provide to the Operator, every year from the COD for the respective lot of buses, the total number of Kilometres that the Available Fleet has travelled for the aforesaid period. Such

calculation shall be made using GPS and in case of absence of GPS, with the help of Authority staff or its authorised agency.

16.1.11 **Intentionally Left Blank**.

16.1.12 **Intentionally Left Blank**.

16.1.13 The Authority shall also be liable to make an adjustment payment to take account of all changes in cost due to variation in input costs in the last review period. This payment shall be made in the next payment cycle after the revision of PKOMF.

Basis of Revision of Kilometre Charge

The Kilometre Charge shall be reviewed and (if applicable) revised.

Kilometre charge for any given payment period shall be called the Applicable Kilometre Charge and shall be revised;

a. For variable cost change, using fuel price as an indicator, on a

monthly basis. The fuel price must reflect a legal source of supply of fuel for urban bus operations.

b. For fixed cost change, using the Wholesale Price Index, annually.

RL = [RL-base] +

[RL-base x 0.5 x (F-F-base)/F-base] +

[RL-base x 0.5 x (W-W-base)/W-base]

Where

RL is the Kilometre charge for each Lot

R-base is the Base Kilometre Charge

F is present Price of Fuel/unit

F-base is the Base Year Price of Fuel/unit

W is the Present Year Wholesale Price Index

W-base is the Base Year Wholesale Price Index

16.1.14 Intentionally Left Blank;

16.1.15 The Authority shall also be liable to make an adjustment payment to take account of all changes in cost due to variation in input costs in the last review period. This payment shall be made in the next payment cycle after the revision of PKOMF.

16.1.16 The Authority shall not be liable to make any other payments other than the payments described in this Article 16 to the Operator for Bus Service;

16.1.17 Any penalties levied by traffic police or any competent authority will be borne solely and directly by the Operator. The Authority shall have no liability in relation thereof.

16.2 SERVICE QUALITY EVALUATION

16.2.1 Evaluation of service quality

a. The Operator shall be evaluated on the performance parameters as defined in Schedule X on quarterly basis;

b. Authority shall monitor the performance of the Operator on its own or through a Third Party.

16.3 EXTENSION OF CONTRACT PERIOD

16.3.1 The Contract Period may be extended by the Authority for any period that the

Authority may decide in writing, at its sole discretion.

16.4 DELAY IN PAYMENT OF O&M FEE

16.4.1 The Authority shall ensure that payment of O&M Fee to the Operator is made within the time lines stipulated in this Article 16.

16.5 LEVY OF PENALTIES

16.1.1 Penalty on account of Non-Performance

a. The Operator shall be liable to pay Penalty every month during the Operation Period to the Authority in respect of the default or deficiencies (infractions) provided in Schedule X of this Contract or elsewhere in this Contract (the "**Penalty**");

b. Intentionally left blank

c. Operator shall be required to rectify default or deficiencies (infractions)noted/ intimated by the Authority through a written notice, within the time period, as indicated in Schedule X or within the number of days indicated by the Authority for rectification of any default or deficiencies (infractions)in its notice, failing which the Operator shall have to take such Buses suffering from default or deficiencies (infractions), out of Bus Services at its risk and cost. In addition, pre-estimated Penalty towards non-availability of Bus for Bus Services as indicated in Schedule X shall be payable by the Operator;

d. In the event of a Bus being held up on account of any default or deficiencies (infractions), the cause/ reason thereof needs to be recorded and maintained by both the Authority and by the Operator's Representative before any Penalty is imposed on this account**;**

e. If the Operator breaches any of the obligations of operating and maintaining Buses and/ or the equipment installed in the Buses and/ or at the Bus Depot, in

accordance with the condition or as per the specifications prescribed herein and/ or by the Bus Manufacturer, the Authority shall have the right to impose a Penalty under this Article calculated in the manner prescribed under Clause 16.1.4;

f. If the Operator breaches any of the provisions related to quality of service for passengers, particularly when Operator's conduct infringes/ disregards the respect and dignity of the users/ passengers, then for each parameter breached, the Authority may impose a Penalty equivalent to that applicable category;

g. The Authority may identify and individualize the conducts, leading to user service Penalty, by means of a manual for user service and quality regulation or any other manual or regulation issued or to be issued, taking account of complaints and claims it receives from passengers, and the conduct of the Operator, its employees, representatives or agents, which may affect the degree of passenger satisfaction;

h. In the event, a Driver engages in any of the default or deficiencies (infractions)specified in Schedule X, Authority may impose a sanction of temporary suspension of the Driver for the day or direct the Operator to relieve him of duty with immediate effect besides imposing Penalty as indicated in

Schedule X. In such event, the Operator shall be obligated to make provision for his replacement with immediate effect;

i. The Authority shall verify compliance of all parameters, requirements, obligations and responsibilities enforceable against the Operator by virtue of the provisions of this Contract. If the Operator fails to comply with any of the requirements assigned to it under this Contract, the Authority may impose corresponding Penalty in accordance with the provisions of this Contract, without requiring any statement by or approval from any judicial or quasi-judicial authority of any kind;

j. Upon execution of this Contract, Authority and the Operator agree that causes and amounts of Penalty provided for under this Contract may be modified, new Penalty may be added and existing Penalty may be eliminated. In order to modify and alter conducts or situations which generate Penalty, recommendations from a designated committee, constituted by the Authority, will be taken into account where Operator's submissions will be heard and considered before taking the final decision;

k. Verification of conduct which led to default or deficiencies (infractions)related to the conditions of the Bus or Bus Depot will be subject to procedures of visual and mechanical reviews performed by the Authority. Visual and mechanical reviews will be made by technical inspectors designated by the Authority, either on a regular or periodic basis, either through visits to the Bus Depot, workshops and garages commonly used by the Operator, or to the Bus during service hours;

l. If any infraction persists for more than 3 (three) days after occurrence of default or deficiencies (infractions)which led to levy of Penalty, then per day Penalty payable will be doubled till the time such default or deficiencies (infractions)persists. However, if the infraction is not rectified within a period of45 (forty five) days from the occurrence of default or deficiencies (infractions)which led to the Penalty then it will amount to Operator Event of Default;

m. If any default or deficiencies (infractions)related to administrative, institutional, MIS etc. aspects persists for 7(seven) days, the Authority may direct the Operator that the employee responsible for such administrative and other default or deficiencies (infractions)to be replaced, and this point will also be stipulated in the regulations or operation manuals of the Operator.

16.1.2 The Authority and Operator'sRepresentatives shall meet every 2 (two) weeks to discuss and sort out any persisting default or deficiencies (infractions), and ways to find early resolution;

16.1.3 The Authority shall issue written warning for default or deficiencies (infractions)classified as unacceptable in accordance with Schedule X. The Operator on receiving such warning in written shall take immediate steps to rectify such default or deficiencies(infractions).;

16.1.4 Calculation of Penalty

a. The Penalty shall be calculated in the manner as specified in Schedule X;

b. The Authority may impose all applicable Penalty until compliance, if according to the nature of the default or deficiencies (infractions)its restoration or compliance is possible;

c. For the purpose of imposing Penalty referred to above, quantification of applicable Penalty shall be as per category of default or deficiencies in Schedule X;

d. Intentionally left blank

16.5.1 The maximum amount of Penalty on account of default or deficiencies (infractions) per Bus should not exceed 10% of billing amount of that month.

17 ESCROW ACCOUNT

17.1 ESCROW ACCOUNT

17.1.1 The Authority shall within {insert number of days} days from the Execution Date open and establish an account (the "Escrow Account") with a Bank (the "Escrow Bank") in accordance with this Contract read with the Escrow Agreement;

17.1.2 For the purpose of opening and operating an Escrow Account, the Authority shall enter into an agreement with the Operator and the Escrow Bank ("the Escrow Agreement") in accordance with the format provided in Schedule XII to this Contract. The Escrow Agreement shall remain in full force and effect until the Escrow Account is not discharged in accordance with the terms contained thereof;

17.1.3 The Authority shall at all times throughout the Contract Period maintain in the Escrow Account, a balance of at least an amount equivalent to {2(two)} month's estimated O&M Fee payable to the Operator as a revolving fund and for this purpose, the Authority shall replenish with its own resources, any deficit that may arise in maintaining such balance of funds.

17.2 DEPOSIT IN ESCROW ACCOUNT

17.2.1 The Authority shall deposit or cause to be deposited the following inflows and receipts into the Escrow Account:

a. all the revenues generated and all the income accruing from the Project including but not limited to the Passenger Fare, any deposits by the Authority from its own resources in order to maintain an amount equivalent to {2 (two)} month's estimated O&M Fee in the Escrow Account;

b. all amounts collected by way of penalizing the passengers commuting without ticket;

c. Left Blank;

d. all payments by the Authority including insurance claims, if any, received;

e. Dues towards Termination Payment to the Operator; and

f. any other revenues or capital receipts from or in respect of the Project

17.2.2 The Operator shall deposit or cause to be deposited the following in the Escrow Account :

a. Left Blank

b. all payments to the Authority towards Damages.

17.2.3 The Operator, subject to the approval of the Authority, may transfer part of its right in the Escrow Account to Financial Institutions as long as it is done to guarantee payment to wards procurement of Buses;

17.3 WITHDRAWAL DURINGCONTRACT PERIOD

17.3.1 The Escrow Account shall, inter alia, provide for a priority order for payment to be made out of it at the beginning of every Payment Period. The order of priority shall be as given below:

a. All payments towards taxes and other statutory levies, as applicable to the Authority in respect of the Project;

b. All payments to the Operator towards O&M Fee;

c. All payments to the Operator towards Damages;

d. Any other payment as due and payable to the Operator by the Authority;

e. payment to Operator towards insurance claims, if any, received;

f. Costs and expenses incurred by the Authority in accordance with the provisions of this Contract, including but not limited to payment of employee salary, administrative expenses etc.;

g. Balance funds to flow to the Authority, subject to the maintenance of balance of amount equivalent to {2 (two) months} estimated payment of O&M Fee to the Operator.

Provided however, if at any time during the Contract Period, adequate amount is not available in the Escrow Account for meeting any payments due to the Operator under Clause 17.3 (b) to (e), then in such an event the Authority shall pay the amount in question to the Operator from its own financial sources.

17.4 WITHDRAWAL UPON TERMINATION

17.4.1 Notwithstanding anything to the contrary contained in the Escrow Agreement upon Termination or Expiry of this Contract, all amounts standing to the credit of the Escrow Account shall be appropriated in the following order.

a. Payment towards taxes and other statutory levies, as applicable to the Authority in respect of the Project;

b. Payments to the Operator towards outstanding O&M Fee;

c. All payments towards Damages as due and payable by it to the Operator;

d. Costs and expenses incurred by the Authority in accordance with the provisions of the Contract, including payment of staff salary, administrative expenses, etc.;

e. payment to Operator towards insurance claims, if any, payable/ received;

f. Dues towards Termination Payment to the Operator or any other payment required to be made under this Contract; and

g. Balance, if any, to flow to the Authority.

18 INSURANCE

18.1 [INSURANCES TO BE TAKEN BY AUTHORITY

18.1.1 Left Blank.

18.1.2 Left Blank.

18.2 INSURANCES TO BE TAKEN BY OPERATOR

18.2.1 The Operator shall also effect and maintain at its own cost, during the Contract Period, such insurances for such maximum sums as may be required under this Contract and the Applicable Laws, and such insurances as may be necessary or prudent in accordance with Good Industry Practice. The Operator shall also effect and maintain such insurances as may be necessary for mitigating the risks that may devolve on the Authority as a consequence of any act or omission of the Operator during the Contract Period.

18.2.2 Without prejudice to the generality of Clause 18.2.1 above, the Operator shall, during the Contract Period, procure and maintain Insurance Cover including but not limited to the following:

a. comprehensive Third Party liability insurance for the life of the Drivers engaged by the Operator;

b. comprehensive third party liability insurance for life, goods or property, including adequate consumables as required for regular upkeep of vehicles, injury to or death of personnel of the Authority or others, arising from any accident occurring at the Bus Depot due to negligence of the Operator;

c. workmen's compensation insurance

d. any other insurance that may be necessary to protect the Operator and its employees, including all Force Majeure Events that are insurable and not otherwise covered in items (a) to (c) above.

e. any other insurance that may be necessary to protect the Operator and its employees, including all Force Majeure Events that are insurable and not otherwise covered in items (a) to (d) above.

18.2.3 The operator shall, with effect from the date of handover of Buses, procure and maintain all/any insurances on behalf of and in the name of the Authority in respect of each Lot of Buses as per the Motor Vehicles Act, 1988 and Rules made thereunder, from time to time.

18.2.4 The operator shall procure and maintain any additional insurance as may be reasonably considered necessary and prudent in accordance with Good Industry Practices, during the Contract Period, including but not limited to the following:

a. A comprehensive third party insurance cover as per the Motor Vehicles Act, 1988 and any amendments thereof for any incident resulting in the death of the users of the Buses or to any third party due to accident, for unlimited occurrences. Liability of passenger insurance shall be limited to the approved passenger capacity of the vehicle by RTA/RTO;

b. Any other insurance that may be necessary to protect the Buses, passengers and the personnel on board against loss, damage or destruction at replacement value including all Force Majeure Events that are insurable and not otherwise covered inabove clauses with the Authority as beneficiary/co-beneficiary;

c. Standard fire and perils policies as per market practices for any loss and damages to the extent possible to Buses, Bus Depot, and Parking Space (if any) handed over to the Operator;

18.3 EVIDENCE OF INSURANCE COVER

18.3.1 No later than 45 (forty five) days from the Execution Date, the authority shall by notice furnish to the operator, in reasonable detail, information in respect of the insurances that it proposes to effect and maintain in accordance with the provisions hereof. Within 30 (thirty) days of receipt of such notice, the operator may require the authority to effect and maintain such other insurances as may be necessary pursuant hereto, and in the event of any difference or disagreement relating to any such insurance, the Dispute Resolution Procedure shall apply;

18.3.2 All insurances obtained by the Operator in accordance with this Article 18 shall be maintained with insurers on terms consistent with Good Industry Practice. Within 15 (fifteen) days of obtaining any Insurance Cover, the Operator shall furnish to the Authority, notarized true copies of the certificate(s) of insurance, copies of insurance policies and premium payment receipts in respect of such insurance, and no such insurance shall be cancelled, modified, or allowed to expire or lapse until the expiration of at least 45 (forty five) days after notice of such proposed cancellation, modification or non-renewal has been delivered by the Operator to the Authority;

18.3.3 If the Operator fails to procure and maintain the insurance for which it is responsible pursuant hereto, Authority may take or keep in force any such insurance, and pay such premium, and in such an event shall have the right to seek reimbursement or recover such costs from the Operator thereof.

18.4 PROCESS OF CLAIMING INSURANCE AND APPLICATION OF INSURANCE PROCEEDS

18.4.1 Subject to the provisions of this Contract for insurance policies where the Authority is

the beneficiary and where it received the insurance proceeds in the Escrow Account, only such sums as are required from the insurance proceeds for restoration, repair and renovation of the Buses, shall be released by the Authority to the Operator within {*7 (seven) days*} of receipt towards repair or renovation or restoration or substitution of the Buses based on such proof that such Buses or any equipment/ part have been damaged or required repair/ modification.

18.4.2 In the event of breakdown/ accident of a Bus leading to the complete destruction, such that the Bus cannot be repaired and operated in normal circumstances, and is rendered inoperable, the Operator will be required to replace the damaged Bus with another new Bus of such make and model acceptable to the Authority, at its own cost. The Authority will pass on any insurance proceeds received by it towards damage of the Bus in question to the Operator for contributing to the purchase of the Bus, subject to such proceeds not exceeding the cost of the new Bus. The Operator will bear all the remaining cost of replacement of the Bus to the extent not covered by the insurance proceeds. Such replaced Bus will be owned by the Authority and shall form part of the Buses and shall be operated and maintained under similar contract conditions as the other Buses during the remaining Operation Period. The period of Contract for such replaced Bus shall be concurrent with the Bus it has replaced.

18.4.3 For the purpose of claiming insurance under this Clause, the Operator shall raise an insurance claim in an applicable format as may be notified by the Authority from time to time.

18.4.4 However, a possibility of Tripartite Agreement between Authority, Insurance Company and Bus Operator will be explored.

19 ACCOUNTS AND AUDIT

19.1 AUDITED ACCOUNTS

19.1.1 The Operator shall maintain, in accordance with standard accounting practices and statutory requirements under Indian Law, complete, accurate and up-to-date records and accounts relating to the Project and the Project Facilities including the assets, liabilities, revenues and expenses, costs of repair, as well as records of the Operator's staff/ employees/ personnel/ sub-contractors involved in performing the Operator's obligations under the Contract, from time to time;

19.1.2 The Operator shall provide copies of such accounts, duly audited and certified by its Statutory Auditors, to the Authority no later than 90 (ninety) days from the date of close of each Financial Year to which they pertain. The Operator shall promptly furnish to the Authority copies of relevant extracts of its books of accounts, duly certified by its Statutory Auditors, as may be reasonably required by them for verification of such accounts. The Operator shall also furnish to the Authority, within 7 (seven) days of its publication, a certified copy of the audited accounts and the annual report published by the Operator under the Applicable Laws.

PART - III: FORCE MAJEURE AND TERMINATION

20 FORCE MAJEURE

20.1 FORCE MAJEURE

As used in this Contract, the expression "Force Majeure" or "Force Majeure Event" shall mean occurrence of any or all of Non-Political Event or Political Event, as defined in Clauses 20.2, and 20.3respectively, if it affects the performance by the Party claiming the benefit of Force Majeure (the "Affected Party") of its obligations under this Contract and which act or event (i) is beyond the reasonable control of the Affected Party, and (ii) the Affected Party could not have prevented or overcome by exercise of due diligence and following Good Industry Practice, and (iii) has Material Adverse Effect on the Affected Party.

20.2 NON-POLITICAL EVENTS

A Non-Political Event shall mean one or more of the following acts or events:

a. act of God, epidemic, earthquake, flood, chemical or radioactive contamination or ionizing radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Project Facilities);

b. strikes or boycotts (other than those involving Operator, or their respective employees/representatives, or attributable to any act or omission of any of them) interrupting supplies and services to the Project for a continuous period of 7 (seven) days and an aggregate period exceeding 14 (fourteen) days in an Accounting Year, and not being a Political Event set forth in Clause20.3;

c. any judgment or order, any court of competent jurisdiction or statutory authority made against the Operator in any proceedings for reasons other than (i) failure of the Operator to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Contract, or (iv) exercise of any of its rights under this Contract by the Authority;

d. the discovery of geological conditions, toxic contamination or archaeological remains on the Project Facilities that could not reasonably have been expected to be discovered through a site inspection; or

e. any event or circumstances of a nature analogous to any of the foregoing Non-Political Events.

20.3 POLITICAL EVENTS

A Political Event shall mean one or more of the following acts or events by or on account of any Government Instrumentality:

a. an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;

b. industry-wide strikes for a continuous period of 48 (forty eight) hours and exceeding an aggregate period of 14 (fourteen) days in an Accounting Year;

c. any Political Event that causes a Non-Political Event;

d. change in Law, only if consequences thereof cannot be dealt with under and in accordance with the provisions of Article 25;

e. compulsory acquisition in national interest or expropriation of the Project or rights of the Operator;

f. unlawful or unauthorized or without jurisdiction revocation of or refusal to renew or grant without valid cause, any clearance, license, permit, authorization, no objection certificate, consent, approval or exemption required by Operator to perform their respective obligations under this Contract; provided that such delay, modification, denial, refusal or revocation did not result from Operator's inability or failure to comply with any condition relating to grant, maintenance or renewal of such clearance, license, authorization, no objection certificate, exemption, consent, approval or permit;

g. any event or circumstance of a nature analogous to any of the foregoing.

20.4 DUTY TO REPORT FORCE MAJEURE EVENT

20.4.1 Upon occurrence of a Force Majeure Event, the Affected Party shall by notice report such occurrence to the other Party forthwith. Any notice pursuant hereto shall include full particulars of:

a. the nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Article 20 with evidence in support thereof;

b. the estimated duration and the effect or probable effect which such Force Majeure Event is having or will have on the Affected Party's performance of its obligations under this Contract;

c. the measures which the Affected Party is taking or proposes to take for alleviating the impact of such Force Majeure Event; and

d. any other information relevant to the Affected Party's claim.

20.4.2 The Affected Party shall not be entitled to any relief for or in respect of a Force Majeure Event unless it shall have notified the other Party of the occurrence of the Force Majeure Event as soon as reasonably practicable, and in any event no later than 7 (seven) days after the Affected Party knew, or ought reasonably to have known, of its occurrence, and shall have given particulars of the probable material effect that the Force Majeure Event is likely to have on the performance of its obligations under this Contract;

20.4.3 For so long as the Affected Party continues to claim to be materially affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than weekly) reports containing information as required by Clause 20.4.1, and such other information as the other Party may reasonably request the Affected Party to provide.

20.5 EFFECT OF FORCE MAJEURE EVENT ON THE CONTRACT

20.5.1 Upon the occurrence of any Force Majeure Event prior to COD the period set forth in Clause 12.1 for achieving COD shall be extended by a period equal in length to the duration of the Force Majeure Event;

20.5.2 If any Force Majeure Event occurs after COD, whereupon the Operator is not able to undertake the whole or any part of the Project despite making best efforts or it is directed by the Authority to suspend the Project during the subsistence of such Force Majeure Event, the Operation Period shall be extended bya period, equal in length to the period during which the Operator was prevented from undertaking Bus Service on account thereof.

20.6 ALLOCATION OF COSTS ARISING OUT OF FORCE MAJEURE

Save and except as expressly provided in this Article20, neither Party shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, claims, demands

and proceedings relating to or arising out of occurrence or existence of any Force Majeure event or exercise of any right pursuant hereto.

20.7 TERMINATION NOTICE FOR FORCE MAJEURE EVENTS

If a Force Majeure Event continues or is in the reasonable judgment of the Parties likely to continue beyond a period of 60 (sixty) days, the Parties may mutually decide to terminate this Contract or continue this Contract on mutually agreed revised terms. If the Parties are unable to reach a settlement in this regard, either Party shall after the expiry of the said period of 60 (sixty) consecutive days, be entitled to terminate this Contract by giving written notice to the other Party, in which case, neither Party shall have the right to claim Damages from the other Party except Termination Payment as per Clause 20.8, and upon issue of such Termination Notice, this Contract shall, notwithstanding anything to the contrary contained herein, stand terminated forthwith; provided that before issuing such Termination Notice, the Party intending to issue the Termination Notice shall inform the other Party of such intention and grant 15 (fifteen) days' time to make a representation, and may after the expiry of such 15 (fifteen) days period, whether or not it is in receipt of such representation, in its sole discretion issue the Termination Notice.

20.8 TERMINATION PAYMENT FOR FORCE MAJEURE EVENTS

20.8.1 Upon termination of this Contract on account of Non-Political Force Majeure Event, the Operator shall be entitled to receive from the Authority:

a. payment of O&M Fee due for the number of days Bus Service has been provided by the Operator up to the date of termination, after deducting Penalties and Damages, if any;

b. The Performance Security of the Operator shall be released to the Operator provided there are no outstanding dues of the Authority with the Operator.

20.8.2 If Termination is on account of a Political Force Majeure Event:

a. The Authority shall make Termination Payment to the Operator in an amount that would be payable under Clause22.3.2 as if it were an Authority Event of Default.

For the avoidance of doubt, no Termination Payment shall be payable to the Operator for termination of the Contract due to occurrence of any Force Majeure Event prior to the Effective Date.

b. The Performance Security of the Operator shall be released to the Operator provided there are no outstanding dues of the Authority with the Operator.

20.9 DISPUTE RESOLUTION

In the event that the Parties are unable to agree in good faith about the occurrence or existence of a Force Majeure Event, such Dispute shall be finally settled in accordance with the Dispute Resolution Procedure; provided that the burden of proof as to the occurrence or existence of such Force Majeure Event shall be upon the Party claiming relief and/or excuse on account of such Force Majeure Event.

20.10 EXCUSE FROM PERFORMANCE OF OBLIGATIONS

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

a. the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;

b. the Affected Party shall make all reasonable efforts to mitigate or limit damage to the other Party arising out of or as a result of the existence or occurrence of such Force Majeure Event and to cure the same with due diligence; and

c. when the Affected Party is able to resume performance of its obligations under this Contract, it shall give to the other Party notice to that effect and shall promptly resume performance of its obligations hereunder.

21 CHANGE OF SCOPE

21.1 GENERAL

21.1.1 Subject to Clause 21.3.2, either Party may propose a Change of Scope in accordance with Clause 21.3 and such Change of Scope proposed shall be dealt within accordance with this Article21;

21.1.2 Both Parties shall conduct discussions relating to any proposed Change of Scope in good faith;

21.1.3 A Change of Scope does not take effect until such time as a Change of Scope Order has been issued by the Authority. Until such time the Parties shall continue to perform their obligations in accordance with this Contract;

21.1.4 Change of Scope shall not be proposed where the implementation of the Change of Scope would violate any Applicable Laws.

21.2 EVENTS THAT TANTAMOUNT TO CHANGE OF SCOPE

21.2.1 The following events shall tantamount to Change of Scope:

a. the need to cater to new Routes, requiring the deployment of additional Buses anytime during the Contract Period;

b. any other situation requiring the deployment of additional Buses

Provided the maximum number of additional Buses procured under the provision of this Article 21 shall be in no event more than 20 percentage of the number of Buses for which the Operator was contracted for.

21.2.2 Either Party may propose a Change of Scope in accordance with Clause 21.3.

21.3 PROCEDURE FOR CHANGE OF SCOPE INITIATED BY AUTHORITY

21.3.1 In the event of the Authority determining that a Change of Scope is necessary, it shall issue to the Operator a notice specifying in reasonable detail the event leading to Change of Scope (the **"Change of Scope Notice"**);

21.3.2 The Change of Scope Notice shall state in sufficient detail, the number of Buses to be put into operation and on which routes; who shall procure the Buses and whether any amount towards procurement of Buses and other associated costs shall be payable by the Authority to the Operator .If additional Buses are to be procured then the Change ofScope Notice shall also mention the Bus Specifications for such additional Buses to be procured; whether or not any additional or relaxed conditions for their operation shall be applicable or not, etc.;

21.3.3 Upon receipt of Change of Scope Notice, the Operator shall within 15 (fifteen) days, after due diligence, provide to the Authority such information as is necessary, together with preliminary documentation in support of the impact that the proposed Change of Scope is likely to have on the costs and time thereof;

21.3.4 The Response to the Change of Scope Notice (the "**Response to Change of Scope**") should include the following -

a. The impact of Change of Scope on the provisioning of the Bus Service;

b. Whether the Operator requires relief from compliance with any of its obligations under this Contract during the implementation of the proposed Change of Scope;

c. Any additional Change of Scope required to implement the proposed Change of Scope specified in the Change of Scope Notice;

d. The financial impact to implement the Change of Scope in terms of capital cost and expected yield in additional revenue;

e. The Operator's plan to implement the Change of Scope;

f. Any regulatory approvals required to implement the proposed Change of Scope.

21.3.5 For finalization of response to Change of Scope Notice, the Operator shall :

a. provide evidence that it has used reasonable endeavours (including the use of competitive quotes) to minimize any increase in costs and maximize any reduction in costs; and

b. demonstrate that any expenditure that has been avoided, which was anticipated to be incurred to replace or maintain Project Facilities that have been affected by the proposed Change of Scope, has been taken into account

21.3.6 Following discussions with the Operator in relation to the Response to Change of Scope, the Authority may modify the Change of Scope Notice, in which case the Operator shall, as soon as possible, and in any event no later than 15 (fifteen)days after receipt of such modification (or such other period as is agreed by the parties), issue a revised Response to Change of Scope;

21.3.7 The Authority shall thereafter issue an order (the "Change of Scope Order") requiring the Operator to proceed with the performance thereof or withdraw the Change of Scope Notice;

21.3.8 The provisions of this Contract in so far as they relate to the Operation and Maintenance of the Buses, except to the extend specifically modified in pursuance to the Change of Scope Order, shall apply mutatis mutandis to the additional Buses that are deployed by the Operator under this Article 21;

21.3.9 In the event of Change of Scope, the Fleet Deployment Plan as provided in the Schedule IX shall stand amended accordingly.

21.4 PROCEDURE FOR CHANGE OF SCOPE INITIATED BY OPERATOR

21.4.1 The Operator's Change of Scope Notice shall set out the proposed Change of Scope in sufficient detail to enable the Authority to evaluate it in full and shall include details of the items specified in Clause 21.3.4;

21.4.2 Within a period of 7 (seven) days after receiving the Operator's Change of Scope Notice, the Parties shall discuss the matters referred to in it. The Authority may require the Operator to make modifications to the Operator's Change of Scope Notice or accept/ reject the Operator's Change of Scope Notice;

21.4.3 If the Authority accepts the Operator's Change of Scope Notice (with or without modification), the Authority shall instruct the Operator to implement the Change of Scope as per Change of Scope Order;

21.4.4 The relevant Change of Scope shall be implemented by the Operator in accordance with the Change of Scope Order issued by the Authority by the date(s) set out therein;

21.4.5 If the Authority rejects the Operator's Change of Scope Notice, it shall not be obliged to give reasons for such rejection.

21.4.6 Provided however, the Authority shall not reject a notice for Change of Scope that is required in order to conform to a change in any Applicable Law.

21.5 PAYMENT FOR CHANGE OF SCOPE

21.5.1 The cost of procurement of additional Buses under the Change of Scope Order shall be borne by the Authority;

21.5.2 The rate of O&M Fee applicable in respect of the period when the Change of Scope Order is issued shall be the O&M Fee as specified in Schedule XIX. However, this O&M Fee shall be revised by increasing the capex component in O&M Fee by the same percent by which the cost of bus has gone up, fuel component in O&M Fee shall be varied by the same percent factor by which the bus mileage varies. The bus mileage values provided by Bus Manufacturer shall be used for reference;

22 TERMINATION

22.1 TERMINATION FOR OPERATOR'S DEFAULT

Save as otherwise provided in this Contract, in the event that any of the defaults specified below shall have occurred, and the Operator fails to cure the default within the Cure Period specified, or where no Cure Period is specified within a Cure Period of 60 (sixty) days or any period that Authority may deem fit, the Operator shall be deemed to be in default of this Contract (the **"Operator Event of Default"**) unless the default has occurred solely as a result of any breach of this Contract by the Authority or due to Force Majeure. The defaults referred to herein shall include the following:

a. the Operator abandons or manifests intention to abandon the operation of the Project without the prior written consent of the Authority;

b. the Operator is in breach of the O&M Standards;

c. the Operator has failed to make payment of Damages and/ or Penalty to the Authority within the period specified in this Contract;

d. the Operator creates any Encumbrance in breach of this Contract;

e. a breach of any of the Project Agreements by the Operator has caused a Material Adverse Effect;

f. the Operator repudiates this Contract or otherwise takes any action or evidences or conveys an intention not to be bound by the Contract;

g. a Change in Ownership has occurred in breach of the provisions of Clause6.3;

h. there is a transfer, pursuant to law either of (i) the rights and/or obligations of the Operator under any of the Project Agreements, or of (ii) all or part of the assets or undertaking of the Operator, and such transfer causes a Material Adverse Effect;

i. an execution levied on any of the assets of the Operator has caused a Material Adverse Effect;

j. the Operator is adjudged bankrupt or insolvent, or if a trustee or receiver is appointed to the Operator for whole or material part of its assets that has a materiaI bearing on the Project;

k. the Operator has been, or is in the process of being liquidated, dissolved, wound-up, amalgamated or reconstituted in a manner that would cause, in the reasonable opinion of the Authority, a Material Adverse Effect;

l. a resolution for winding up of the Operator is passed or any petition for winding up of the Operator is admitted by a court of competent jurisdiction and a provisional liquidator or receiver is appointed and such order has not been set aside within 90 (ninety) days of the date thereof or the Operator is ordered to be wound up by Court except for the purpose of amalgamation or reconstruction;

m. any representation or warranty of the Operator herein contained which is, as of the date hereof, found to be materially false, incorrect or misleading;

n. the Operator submits to the Authority any statement, notice or other document, in written or electronic form, which has a material effect on the Authority's rights, obligations or interests and which is false in material particulars;

o. the Operator has failed to fulfil any obligation, for which failure Termination has been specified in this Contract;

p. the Operator commits a default in complying with any other provision of this Contract if such default causes a Material Adverse Effect on the Authority; or

q. the Operator continuously commits breach of any of its Operations and Maintenance related obligations as specified in this Contract.

Without prejudice to any other right or remedies which the Authority may have under this Contract, upon occurrence of an Operator Event of Default, the Authority shall be entitled to terminate this Contract by issuing a Termination Notice to the Operator; provided that before issuing the Termination Notice, the Authority shall by a notice inform the Operator of its intention to issue such Termination Notice and grant 15 (fifteen) days to the Operator to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice.

22.2 TERMINATION FOR AUTHORITY'S DEFAULT

In the event that any of the defaults specified below shall have occurred, and the Authority fails to cure such default within a Cure Period of 60 (sixty) days or such longer period as has been expressly provided in this Contract, the Authority shall be deemed to be in default of this Contract (the "**Authority Event of Default**") unless the default has occurred as a result of any breach of this Contract by the Operator or due to Force Majeure. The defaults referred to herein shall include the following:

a. Left Blank.

b. the Authority has failed to make any payment to the Operator within the period specified in this Contract;

c. Left Blank.

Without prejudice to any other right or remedy which the Operator may have under this Contract, upon occurrence of an Authority Event of Default, the Operator shall, be entitled to terminate this Contract by issuing a Termination Notice to the Authority; provided that before issuing the Termination Notice, the Operator shall by a notice inform the Authority of its intention to issue the Termination Notice and grant 15 (fifteen) days to the Authority to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice.

22.3 TERMINATION PAYMENT

22.3.1 Termination due to Operator's Event of Default

In the event of termination for an Operator Event of Default:

Before COD

a. The Operator shall not be entitled to receive any Termination Payment from the Authority;

b. The Authority shall invoke and retain the Performance Security in full;

c. The Authority shall take over unencumbered possession of all Buses, Bus Depot, Parking Space (if any), Control Centre or any other immovable and movable assets such as equipment, plant or machinery, etc. forming part of the Project Facilities as per the tabulation in Schedule VI-A handed over/ provided bythe Authority to the Operator for implementing the Project.

After COD

a. The Authority shall invoke and retain the Performance Security in full;

b. The Authority shall take over unencumbered possession of all Buses, Bus Depot, Parking Space (if any) or any other immovable and movable assets such as equipment, plant or machinery, etc. forming part of the Project Facilities as per the tabulation in Schedule VI - A handed over/ provided by the Authority to the Operator for implementing the Project;

c. Left Blank.

d. The Operator shall be entitled to receive from the Authority, payment of O&M Fee due for the number of days for which the Bus Service has been provided after deducting of Penalties, if any

22.3.2 Termination due to Authority's Event of Default

In the event of termination for an Authority Event of Default:

Before COD

a. The Authority shall return the Performance Security to the Operator provided there are no outstanding dues of the Authority on the Operator;

b. intentionally left blank

c. The Authority shall take over unencumbered possession of all Buses, Bus Depot,Parking Space (if any) or any other immovable and movable assets such as equipment, plant or machinery, etc. forming part of the Project Facilities as per the tabulation in Schedule VI-A handed over/ provided by the Authority to the Operator for implementing the Project.

After COD

a. Release/ refund the Performance Security (if still subsisting) in full provided there are no outstanding dues of the Authority on the Operator;

b. The Operator shall be entitled to receive from the Authority, payment of O&M Fee due for the number of days for which the Bus Service has been provided after deducting of Penalties, if any.

c. The Authority shall take over unencumbered possession of all Buses, subject to the provisions of the Clause 22.3.2(d),Bus Depot, Parking Space (if any) or any other immovable and movable assets such as equipment, plant or machinery, etc. forming part of the Project Facilities as per the tabulation in Schedule VI-A handed over/ provided by the Authority to the Operator for implementing the Project in terms of this Contract.

d. Left blank.

e. Left blank.

22.3.3 The Operator understands and agrees that no Termination Payment shall be payable to the Operator for termination of the Contract prior to the Effective Date due to failure to achieve Conditions Precedent by either of the Parties in terms of Article 5;

22.3.4 Left Blank.

22.3.5 Intentionally Left Blank

22.3.6 The Operator expressly agrees that Termination Payment under this Article 22 shall constitute a full and final settlement of all claims of the Operator on account of Termination of this Contract for any reason whatsoever and that it shall not have any

further right or claim under any law, treaty, convention, contract or otherwise;

22.3.7 The Operator agrees and confirms that notwithstanding Termination of the Contract in terms of this Article 22, it shall continue to provide Bus Service for a period not exceeding 45 (forty five) days in accordance with provisions of Clause23.1.

22.4 OTHER RIGHTS AND OBLIGATIONS UPON TERMINATION

Upon Termination under this Article 22, for any reason whatsoever, the Parties shall in good faith co-operate with each other on best effort basis to implement the Transition Management Plan for smooth transition of possession and/or control of the Project from the Operator to the Authority or the successor operator, as the case may be.

22.5 SURVIVAL OF RIGHTS

Notwithstanding anything to the contrary contained in this Contract, but subject to the provisions of Clause 22.3.6, any Termination pursuant to the provisions of this Contract shall be without prejudice to the accrued rights of either Party including its right to claim and recover money damages, insurance proceeds, security deposits, and other rights and remedies, which it may have in law or contract. All rights and obligations of either Party under this Contract, including Termination Payments, Transition phase and hand back requirements, shall survive the Termination to the extent such survival is necessary for giving effect to such rights and obligations.

23 TRANSITION PHASE ANDHANDBACK OF PROJECT FACILITIES

23.1 TRANSITION PHASE

23.1.1 The Operator is required to ensure the orderly transition of the Project/ Project Facilities from it to the Authority and/or any successor operator, in the event of Termination or Expiry of this Contract;

23.1.2 The Parties shall continue to perform their obligations under this Contract notwithstanding the issuance of any Termination Notice until the end of the transition phase in accordance with the Transition Management Plan. The Operator shall be responsible for the overall management of the transition phase;

23.1.3 During the Contract Period, the Operator shall:

a. maintain a register in respect of all the components and facilities comprising the Project Facilities and all the equipment, plant, machinery, materials, spare parts,etc. at the Bus Depot, detailing :

i. their ownership and status - as either owned by Authority or Operator;

ii. their net book value;

iii. all Project Agreements executed with any contractors/ sub-contractors/ Third Parties for the implementation of the Project including all software licenses, maintenance and support agreements, equipment rental and lease agreements;

b. maintain a database detailing the technical infrastructure/ procedures including, without limitation, software through which the Operator provides the Bus Service in sufficient detail to facilitate the Authority and/or successor operator to understand how the Operator operates, runs and monitors the Bus Service so as to enable the smooth transition of the Project (or any part of the Bus Services) with minimum of disruption or inconvenience to the general public.

23.1.4 Transition Management Plan

a. The Operator shall, within 3 (three) months from the Execution Date or before achieving COD of Last Lot of Buses, whichever is earlier, deliver to the Authority a Transition Management Plan which sets out the Operator's proposed methodology for achieving an orderly transition of Project from the Operator to the Authority and/or its successor operator on the Expiry or Termination of this Contract.

b. The Transition Management Plan shall:

i. include details for separate mechanisms for dealing with Termination and Expiry of Contract. The provisions relating to Termination being prepared on the assumption that the Operator may be unable to provide full level of assistance vis-a-vis the provisions relating to Expiry;

ii. include details of the management structure to be employed during both transfer and cessation of the Project after Termination and Expiry;

iii. include a detailed description of both the transfer and cessation processes, including a timetable applicable after Termination and Expiry;

iv. demonstrate how the Project will transfer to the successor operator and/or the Authority, including details of the processes, documentation, data transfer, systems migration, security and the segregation of the Authority owned Project facilities and the Bus Depot plant and equipment from any non-Authority owned;

v. specify the scope of any services in connection with the Transition Management Plan that may be required for the benefit of the Authority and detail how such services would be provided;

vi. set out procedures to deal with requests made by the Authority and/or a successor operator for information relating to any employees, agents, suppliers, consultants or contractors/ sub-contractors of the Operator;

vii. address each of the issues set out in this Article 23 to facilitate the transition of the Project from the Operator to the successor operator and/ or the Authority with the aim of ensuring that there is no disruption to or deterioration of Bus Service during the Transition Phase; and

viii. identify critical issues for providing the Transition Services.

c. The Authority shall review and comment on the Transition Management Plan and the Operator shall incorporate any suggestions/ requirements of the Authority in the Transition Management Plan and resubmit the Transition Management Plan for approval by the Authority.

23.1.5 Transition Assistance Period

The Operator shall provide the Transition Services in accordance with the Transition Management Plan for a period of 45 (forty five) days or any such time period as specified by the Authority in writing (the "**Transition Assistance Period**") after the Termination or Expiry Date, whichever is applicable.

23.1.6 Transition Services

a. During the Transition Assistance Period, the Operator shall continue to undertake the Bus Service. In addition, the Operator shall provide to the Authority any other reasonable assistance requested by the Authority to allow the Bus Service to continue without interruption and to facilitate the orderly transfer of the Project Facilities to the Authority and/or its successor operator(the "**Transition Services"**);

b. Where the Operator demonstrates to the Authority's reasonable satisfaction that the Transition Services during the Transition Assistance Period will have a material, unavoidable adverse effect on the Operator's ability to meet the specified service level(s), the Parties shall vary the relevant service level(s) and/ or the applicable penalty to take into account such adverse effect.

23.1.7 Transition Assistance Period Obligations

a. The Operator shall comply with all of its obligations contained in the Transition Management Plan;

b. At the end of the Transition Assistance Period, the Operator will return to the Authority:

i. the entire Project Facilities except the equipment, consumables, etc. procured by the Operator at its own cost which it is allowed to take back;

ii. all copies of any software licensed to or by the Authority under this Contract;

iii. all materials created or used by the Operator under this Contract, the Intellectual Property Rights which are owned by or licensed to or by the Authority.

c. Except where this Contract provides otherwise, all licenses, leases and authorizations granted by the Authority to the Operator in relation to the Project shall be terminated with effect from the end of the Transition Assistance Period.

d. Notwithstanding the foregoing, the Operator may keep a single copy of such materials, documents and software as may be required to be kept by it in terms of any Applicable Law but only for so long as required;

e. During this period, the Operator shall continue to receive O&M Fee as per Article 16 for Bus Services being provided.

f. During the Transition Assistance Period, the Operator shall not, without the Authority's prior written consent:

i. terminate, enter into or vary any agreement with a contractor/ sub-contractor/ supplier in connection with the Project;

ii. subject to normal maintenance requirements, make material modifications to, or dispose of, any Project Facilities, Control Centre and Bus Depot plant and equipment owned by the Authority; or

iii. terminate, enter into or vary any license for software with Third Party in connection with the Project.

23.1.8 Scope of the Transition Services

a. The Transition Services to be provided by the Operator shall include the following:

i. notifying the Operator's sub-contractors of procedures to be followed during the Transition Assistance Period and providing managerial support to ensurethese procedures are followed;

ii. providing assistance and expertise as necessary to examine all operational and business processes and implementing processes and procedures such that they are comprehensive, clear and capable of being used by the Authority and/or successor operator after the end of the Transition Assistance Period;

iii. repair and rectify any defect(s) or deficiency(ies) in the Project Facilities pointed out by the Authority during a joint inspection carried out by both the Operator and the Authority, to the satisfaction of the Authority within the Transition Assistance Period prior to handover;

iv. facilitating the smooth handing over of the Bus Depot from the Operator to the Authority on the last day of the Transition Assistance Period;

v. providing details of staffing requirements over the 12 (twelve) months period immediately prior to the commencement of the Transition Services;

vi. analysing and providing information about capacity and performance requirements and known planned requirements for capacity growth across these areas;

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viii. assisting in the execution of operation and maintenance of the Project until the end of the Transition Assistance Period or as otherwise specified by the Authority; and

ix. answering all reasonable questions from the Authority and/or its successor operator regarding the Project.

23.1.9 Knowledge Transfer

a. During the Transition Assistance Period, the Operator will:

i. transfer all training material prepared in connection with the management, operation, maintenance or repair of the relevant Project Facilities; and

ii. provide for transfer to the Authority and/or the successor operator all knowledge reasonably required for undertaking the Project which may, as appropriate, include information, records and documents.

b. The information which the Operator shall provide to the Authority and/or its successor operator shall include:

i. copies of up-to-date procedures and operation manuals;

ii. agreements with suppliers of goods and services to be transferred;

iii. key support contact details for Third Party suppliers/ personnel under contracts which are to be assigned to the successor operator/ Authority pursuant to this Article;

iv. information regarding any unresolved faults in progress at the commencement of the Transition Assistance Period as well as those expected to be in progress at the end of the Transition Assistance Period; and

v. any other relevant information.

23.2 HANDBACK

23.2.1 During the Transition Assistance Period, the Authority will provide written notice to the Operator setting out the components of the Project Facilities including the Bus Depot owned by Authority which is required to be handed back/ transferred back to the Authority and/or its successor operator during the course of the transition phase;

23.2.2 By the end of the Transition Assistance Period, the Operator shall have handed over without payment of any monies and free from Encumbrances, the peaceful possession of Buses, Bus Depot, Parking Space (if any) or any other immovable and movable assets such as equipment, plant or machinery, etc. forming part of the Project Facilities as per the tabulation in Schedule VI handed over/ provided by the Authority to the Operator for implementing the Project in sound condition normal wear and tear excepted as well as all the documents, materials and software as specified in Clause 23.1 above;

23.2.3 The Operator is allowed to take away any temporary structures, equipment, machinery, consumables, etc.(more particularly detailed in Schedule VI) as erected or procured by it at its own cost, for the execution of the Project in accordance with the provisions of this Contract unless the Authority decides to buyback the same in terms of Clause23.2.8;

23.2.4 A joint inspection shall be undertaken 2 (two) months before the Expiry Date. The Authority may direct the Operator in writing to undertake any repairs to the Bus Depot, Parking Space (if any) or any other immovable assets forming part of the

Project Facilities that may have been provided by the Authority to the Operatorduring the Transition Assistance Period;

23.2.5 The Operator shall undertake the necessary repairs/ improvement and intimate the Authority in writing within 20 (twenty) days of the commencement of the Transition Assistance Period;

23.2.6 The Authority shall within a period of 5 (five) days inform the Operator in writing whether the suggested improvements have been satisfactorily undertaken or not. If not, the Operator shall be again instructed to remove the deficiencies and if the Operator again fails to do so, then an amount equivalent to the amount required to undertake the work shall be deducted from the Performance Security;

23.2.7 The Parties shall cooperate on a best effort basis and take all necessary measures, in good faith, to achieve a smooth handover of the Project in accordance with the provisions of this Contract so as to protect the safety of and avoid undue delay or inconvenience to the passengers, other members of the public or the lawful occupiers of any part of the Project Facilities;

23.2.8 The Authority shall have the option to purchase or hire from the Operator at a fair market value and free from Encumbrance all or any part of any temporary structures, any equipment, machinery, consumables, etc. procured by the Operator at its own cost and used in connection with the Project at mutually agreed rates that may be required in connection with operation of the Bus Depot by the Authority after Termination Date or Expiry Date, as the case may be.

23.3 VESTING CERTIFICATE

23.3.1 The divestment of all rights, title and interest in the Project and the Project Facilities excluding the Buses not being bought by the Authority in accordance with provisions of Clause 20.8 and 22.3,and also the equipment, machinery, consumables etc., procured by the Operator at its own cost during the Contract Period for the implementation of the Project, shall be deemed to be complete on the date on which all of the divestment/ hand over equirements have been fulfilled by the Operator, and the Authority shall, without unreasonable delay, thereupon issue a certificate substantially in the form set forth in Schedule XIII (the "**Vesting Certificate**"), which will have the effect of constituting evidence of divestment/handover by the Operator of all of its rights, title and interest in the Project and the Project Facilities to the extent specified herein, and their vesting in the Authority pursuant hereto.

PART - IV: OTHER PROVISIONS

24 ASSIGNMENT AND CHARGES

24.1 RESTRICTIONS ON ASSIGNMENT AND CHARGES

24.1.1 This Contract shall not be assigned by the Operator to any person, save and except with the prior consent in writing of the Authority, which consent the Authority shall be entitled to decline without assigning any reason.

24.1.2 The Operator shall not create nor permit to subsist any Encumbrance, or otherwise transfer or dispose of all or any of its rights and benefits under this Contract or any Project Agreement to which the Operator is a party except with prior consent in writing of the Authority, which consent the Authority shall be entitled to decline without assigning any reason.

24.1.3 The Operator cannot create any form of Encumbrance in favour of any Third Party on the following:

a. On any Buses or such facilities/ infrastructure/ Bus Depot/equipment etc. formingpart of the Project Facilities, which have been provided by the Authority;

b. On any asset in relation to the Project that has been procured for and on behalf of Authority; and

c. Land, if any that belongs to Authority and has been provided by the Authority to the Operator for the purposes ofthe Project.

24.2 PERMITTED ASSIGNMENT AND CHARGES

The restraints set forth in Clause 24.1 shall not apply to:

a. liens arising by operation of law (or by an agreement evidencing the same) in the ordinarycourse of business of the Operator;

b. mortgages/pledges/hypothecation of goods/ assets procured by the Operator from its own financial resources, and their related documents of title, arising or created in the ordinary course of business of the Operator, and as security only for indebtedness to the Lenders for working capital arrangements for the Operator; and

c. liens or encumbrances required by any Applicable Law

24.3 ASSIGNMENT BY THE AUTHORITY

Notwithstanding anything to the contrary contained in this Contract, the Authority may, after giving 60 (sixty) days' notice to the Operator, assign and/ or transfer any of its rights and benefits and/or obligations under this Contract to an assignee who is, in the reasonable opinion of the Authority, capable of fulfilling all of the Authority's then outstanding obligations under this Contract.

25 CHANGE IN LAW

25.1 CHANGE IN LAW

25.1.1 "Change in Law" means occurrence of any of the following events after the Bid Due Date having an impact on the Project:

a. enactment of any new Indian law;

b. the repeal in whole or in part (unless re-enactment with the same effect) or modification of any existing Indian law;

c. the change in interpretation or application of any Indian law by a judgment of a court of record which has become final, conclusive and binding, as compared to such interpretation or application by a court of record prior to the date of the Contract;

d. the imposition of a requirement for a permit not required on the date of this Contract;

e. any change in taxes, duties, levies, cess or any other form of charges;

f. any order, decision or direction of a court of record;

g. any other government notification.

Provided, *however*, Change in Law shall not include:

a. coming into effect, after the date of execution of this Contract, of any provision or statute which is already in place as of the date of execution of this Contract;

b. non-availability of any spare part, equipment, component due to price escalationor otherwise.

25.1.2 In the event of a Change in Law, and such change has a material adverse effect, the Operator shall notify the Authority the nature and the impact of Change in Law on the Contract and the Project. Upon receipt of such notice, the Authority and the Operator will hold discussions and consultations in relation thereof in good faith to agree to such modifications to the Contract as may be acceptable to both the Parties, and in the event any agreement cannot be reached, the Parties shall follow the Dispute Resolution Procedure.

26 LIABILITY AND INDEMNITY

26.1 GENERAL INDEMNITY

26.1.1 The Operator will indemnify, defend, save and hold harmless the Authority and its officers, servants, agents and employees(the "**Authority Indemnified Persons**") against any and all suits, proceedings, actions, demands and third party claims for any loss, damage, cost and expense of whatever kind and nature, whether arising out of any breach by the Operator of any of its obligations under this Contract or any related Contract or on account of any defect or deficiency in the provision of services by the Operator to any person or from any negligence of the Operator under this Contract or tort or on any other ground whatsoever, except to the extent that any such suits, proceedings, actions, demands and claims have arisen due to any negligent act or omission, or breach or default of this Contract on the part of the Authority Indemnified Persons.

26.1.2 The Authority will indemnify, defend, save and hold harmless the Operator against any and all suits, proceedings, actions, demands and third party claims for any loss, damage, cost and expense of whatever kind and nature arising out of (i) defect in title and/or the rights of the Authority in the land comprised in the Project Facilities, and/or (ii) breach by the Authority of any of its obligations under this Contract or any related Contract, which materially and adversely affect the performance by the Operator of its obligations under this Contract, save and except that where any such claim, suit, proceeding, action, and/or demand has arisen due to a negligent act or omission, or breach of any of its obligations under any provision of this Contract or any related Contract and/or breach of its statutory duty on the part of the Operator, its subsidiaries, affiliates, sub-contractors, servants or agents, the same shall be the liability of the Operator.

26.2 INDEMNITY BY THE OPERATOR

26.2.1 Without limiting the generality of Clause 26.1, the Operator shall fully indemnify, hold harmless and defend the Authority and the Authority Indemnified Persons from and against any and all loss and/or damages arising out of or with respect to:

a. failure of the Operator to comply with Applicable Laws including any compliances under labour laws & regulations including Factories Act 1948, and Applicable Permits;

b. payment of taxes required to be made by the Operator in respect of the income or other taxes of the Operator's contractors, suppliers and representatives; or

c. non-payment of amounts due as a result of materials or services furnished to the Operator by any of its contractors which are payable by the Operator or any of its contractors.

26.2.2 Without limiting the generality of the provisions of this Article 26, the Operator shall fully indemnify, hold harmless and defend the Authority Indemnified Persons from and against any and all suits, proceedings, actions, claims, demands, liabilities and damages which the Authority Indemnified Persons may hereafter suffer, or pay by reason of any demands, claims, suits or proceedings arising out of claims of infringement of any domestic or foreign patent rights, copyrights or other Intellectual Property, proprietary or confidentiality rights with respect to any materials, information, design or process used by the Operator or by the Operator's contractors in performing the Operator's obligations or in any way incorporated in or related to the Project. If in any such suit, action, claim or proceedings, a temporary restraint order

or preliminary injunction is granted, the Operator shall make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the revocation or suspension of the injunction or restraint order. If, in any such suit, action, claim or proceedings, the Project Facilities or any part thereof or comprised therein, are held to constitute an infringement and their use is permanently enjoined, the Operator shall promptly make every reasonable effort to secure for the Authority a license, at no cost to the Authority, authorizing continued use of the infringing work. If the Operator is unable to secure such license within a reasonable time, the Operator shall, at its own expense, and without impairing the specifications , either replace the affected work, or part, or process thereof with non-infringing work or part or process, or modify the same so that they becomes non-infringing

26.3 NOTICE AND CONTEST OF CLAIMS

In the event that either Party receives a claim or demand from a third party in respect of which it is entitled to the benefit of an indemnity under this Article 26 (the "**Indemnified Party**") it shall notify the other Party (the "**Indemnifying Party**") within 15 (fifteen) days of receipt of the claim or demand and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim or demand, it may conduct the proceedings in the name of the Indemnified Party, subject to the Indemnified Party being secured against any costs involved, to its reasonable satisfaction

26.4 DEFENCE OF CLAIMS

26.4.1 The Indemnified Party shall have the right, but not the obligation, to contest, defend and litigate any claim, action, suit or proceeding by any third party alleged or asserted against such Party in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified hereunder, and reasonable costs and expenses thereof shall be indemnified by the Indemnifying Party. If the Indemnifying Party acknowledges in writing its obligation to indemnify the Indemnified Party in respect of loss to the full extent provided by this Article 26, the Indemnifying Party shall be entitled, at its option, to assume and control the defence of such claim, action, suit or proceeding, liabilities, payments and obligations at its expense and through the counsel of its choice; provided it gives prompt notice of its intention to do so to the Indemnified Party and reimburses the Indemnified Party for the reasonable cost and expenses incurred by the Indemnified Party prior to the assumption by the Indemnifying Party of such defence. The Indemnifying Party shall not be entitled to settle or compromise any claim, demand, action, suit or proceeding without the prior written consent of the Indemnified Party, unless the Indemnifying Party provides such security to the Indemnified Party as shall be reasonably required by the Indemnified Party to secure the loss to be indemnified hereunder to the extent so compromised or settled.

26.4.2 If the Indemnifying Party has exercised its rights under Clause 26.3, the Indemnified Party shall not be entitled to settle or compromise any claim, action, suit or proceeding without the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

26.4.3 If the Indemnifying Party exercises its rights under Clause 26.3, the Indemnified Party shall nevertheless have the right to employ its own counsel, and such counsel may participate in such action, but the fees and expenses of such counsel shall be at the expense of the Indemnified Party, when and as incurred, unless:

a. the employment of counsel by such party has been authorized in writing by the Indemnifying Party; or

b. the Indemnified Party shall have reasonably concluded that there may be a conflict of interest between the Indemnifying Party and the Indemnified Party in the conduct of the defence of such action; or

c. the Indemnifying Party shall not, in fact, have employed independent counsel reasonably satisfactory to the Indemnified Party, to assume the defence of such action and shall have been so notified by the Indemnified Party; or

d. the Indemnified Party shall have reasonably concluded and specifically notified the Indemnifying Party either:

i. that there may be specific defences available to it which are different from or additional to those available to the Indemnifying Party;

ii. that such claim, action, suit or proceeding involves or could have a material adverse effect upon it beyond the scope of this Contract:

Provided that if Sub-clauses (b), (c) or (d) of this Clause 26.4.3 shall be applicable, the counsel for the Indemnified Party shall have the right to direct the defence of such claim, demand, action, suit or proceeding on behalf of the Indemnified Party, and the reasonable fees and disbursements of such counsel shall constitute legal or other expenses hereunder.

26.5 NO CONSEQUENTIAL CLAIMS

Notwithstanding anything to the contrary contained in this Article 26, the indemnities herein provided shall not include any claim or recovery in respect of any cost, expense, loss or damage of an indirect, incidental or consequential nature, including loss of profit, except as expressly provided in this Contract.

26.6 SURVIVAL ON TERMINATION

The provision of this Article26shall survive Termination.

27 RIGHTS AND TITLE OVER THE PROJECT FACILITIES

27.1 OPERATOR'S RIGHTS

For the purpose of this Contract, the Operator shall have the right to use the Project Facilities subject to and in accordance with this Contract, and to this end, it may regulate the entry and use of the Project by Third Party (ies) in accordance with and subject to the provisions of this Contract

27.2 ACCESS RIGHTS OF THE AUTHORITY AND OTHERS

27.2.1 The Operator shall allow free access to the Project Facilities including Buses, Bus Depot, Control Centre and *Parking Space (if any)*at all times to the Authority's Representative and/ or any person authorized by the Authority, and also to the persons duly authorized by any Government Instrumentality to inspect the Project or to investigate any matter within their authority, and upon reasonable notice, the Operator shall provide to such persons reasonable assistance necessary to carry out their respective duties and functions;

27.2.2 The Operator shall, for the purpose of operation and maintenance of any public utility (such as water supply, sewerage, electricity, gas pipeline, etc.), allow free access to the Project Facilities at all times for the authorized persons and vehicles of the controlling body of such utility.

27.3 PROPERTY TAX

Any property tax on the Bus Depot, Parking Space (if any) and Bus Stops shall be payable by the Authority as owner of the same; provided, however, that any such taxes payable by the Operator under Applicable Laws for use of Project Facilities excluding Bus Depot, Parking Space (if any) and Bus Stops,shall not be reimbursed or payable by the Authority.

27.4 RESTRICTION ON SUB-LETTING

The Operator shall not sub-license or sub-let the whole or any part of the Project Facilities save and except as may be expressly set forth in this Contract; provided that nothing contained herein shall be construed or interpreted as restricting the right of the Operator to appoint sub-contractors for the performance of its maintenance related obligations hereunder of all or any part of the ProjectFacilities.

28 DISPUTE RESOLUTION

28.1 DISPUTE RESOLUTION

c. Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Contract (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 28.2;

d. The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Contract 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.

28.2 CONCILIATION

In the event of any Dispute between the Parties, either Party may call upon the other in arriving at an amicable settlement thereof. Failing which, either Party may require such Dispute to be referred to the Commissioner/ any other designated officer of the Authority and the Chairman of the Board of Directors/ any other designated officer of the Operatorfor amicable settlement, and upon such reference, the said persons shall meet no later than 7 (seven) days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 7 (seven) 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 c or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to the court of law having Jurisdiction at Thane.

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29 DISCLOSURE

29.1 DISCLOSURE OF SPECIFIED DOCUMENTS

The Operator shall make available for inspection by any person, copies of this Contract and data relating to safety of the Buses, (hereinafter collectively referred to as the "**Specified Documents**"), free of charge, during normal business hours on all working days at the Operator's project site office. The Operator shall prominently display at Bus Depot, public notices stating the availability of the Specified Documents for such inspection, and shall make copies of the same available to any person upon payment of copying charges on a "no profit no loss" basis.

30 REDRESSAL OF PUBLIC GRIEVANCES

30.1 COMPLAINTS REGISTER

30.1.1 The Operator shall during the term of this Contract, maintain public relations office at the Bus Depot where it shall keep a register open to public access at all times for recording of complaints by any person/ passenger/ user of the Bus Service. The Operator shall also maintain similar register in each Bus;

30.1.2 Such complaint register(s) shall be securely bound and each page thereof shall be duly numbered. It shall have appropriate columns including the complaint number, date, name and address of the complainant, substance of the complaint and the action taken by the Operator;

30.1.3 In addition to the above, the Operator shall display the contact number and email address of the concerned person at the public relations office, project office and at an appropriate place both inside and outside the Bus which is easily visible to the public.

30.2 REDRESSAL OF COMPLAINTS

30.1.4 The Operator shall inspect the complaint register every day and take prompt action for redressal of each complaint. The action taken shall be briefly noted in the complaint register itself under the appropriate column;

30.1.5 Within 7 (seven) days of the close of each month, the Operator shall send to the Authority, a true photocopy each of the pages of the complaint register on which any entry has been recorded during the course of such month, and upon perusal thereof, the Authority may, in its discretion, advise the Operator to take such further action as the Authority may deem appropriate for a fair and just redressal of any grievance.

31 MISCELLANEOUS

31.1 GOVERNING LAW AND JURISDICTION

This Contract shall be construed and interpreted in accordance with and governed by the laws of India, and the courts at Mira Bhayandar shall have exclusive jurisdiction over matters arising out of or relating to this Contract.

31.2 WAIVER OF IMMUNITY

Each Party unconditionally and irrevocably:

a. agrees that the execution, delivery and performance by it of this Contract constitute commercial acts done and performed for commercial purpose;

b. agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Contract or any transaction contemplated by this Contract, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Party with respect to its assets;

c. waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction;

d. consents generally in respect of the enforcement of any judgement or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgement that may be made or given in connection therewith).

31.3 DEPRECIATION AND INTEREST

31.3.1 The Authority shall not in any manner be liable in respect of any claims for depreciation to be made by the Operator under the Applicable Laws.

31.3.2 Unless otherwise specified, any interest payable under this Contract shall accrue on a daily outstanding basis and shall be compounded on the basis of quarterly rests.

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31.5 WAIVER

31.5.1 Waiver, including partial or conditional waiver, by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Contract:(a) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Contract;(b) shall not be effective unless it is in writing and executed by a duly authorized representative of the Party; and (c)shall not affect the validity or enforceability of this Contract in any manner.

31.5.2 Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Contract or any obligation thereunder nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

31.6 LIABILITY FOR REVIEW OF DOCUMENTS

Except to the extent expressly provided in this Contract: (a)no review, comment or approval by the Authority of any Project Contract or Document submitted by the Operator nor any observation or inspection of the operation or maintenance of the Project nor the failure to review, approve, comment, observe or inspect hereunder shall relieve or absolve the Operator from its obligations, duties and liabilities under this Contract, the Applicable Laws and Applicable Permits; and (b)the Authority shall not be liable to the Operator by reason of any review, comment, approval, observation or inspection referred to in Sub-clause (a) above.

31.7 EXCLUSION OF IMPLIED WARRANTIES ETC.

This Contract expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other Contract between the Parties or any representation by either Party not contained in a binding legal Contract executed by both Parties.

31.8 SURVIVAL

Termination shall:

a. not relieve the Operator or the Authority, as the case may be, of any obligations hereunder which expressly or by implication survive Termination hereof; and

b. except as otherwise provided in any provision of this Contract expressly limiting the liability of either Party, not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.

c. All obligations surviving Termination shall only survive for a period of 3 (three) years following the date of such Termination

31.9 ENTIRE CONTRACT

This Contract and the Schedules together constitute a complete and exclusive statement of the terms of the Contract 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 Contract are abrogated and withdrawn. For the avoidance of doubt, the Parties hereto agree that any obligations of the Operator arising from the RFP, as the case may be, shall be deemed to form part of this Contract and treated as such.

31.10 SEVERABILITY

If for any reason whatsoever any provision of this Contract is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for

such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to the Dispute Resolution Procedure set forth under this Contract or otherwise.

31.11 NO PARTNERSHIP

This Contract shall not be interpreted or construed to create an agency, association, joint venture or partnership between the Parties, or to impose any partnership obligation or liability upon either Party and neither Party shall have any right, power or authority to enter into any Contract or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

31.12 THIRD PARTIES

This Contract is intended solely for the benefit of the Parties and their respective successors and permitted assigns and nothing in this Contract shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a Party to this Contract.

31.13 SUCCESSORS AND ASSIGNS

This Contract shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assigns.

31.14 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 Contract shall be in writing and shall: (a)in the case of the Operator, be given by facsimile or e-mail and by letter delivered by hand to the address given and marked for attention of the person set out below or to such other person as the Operator may from time to time designate by notice to the Authority; provided that notices or other communications to be given to an address outside {*name of the city*} may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by facsimile or e-mail to the number as the Operator may from time to time designate by notice to the Authority; (b) in the case of the Authority, be given by facsimile or e-mail and by letter delivered by hand and be addressed to the CEO/_____ {*name of the authorized officer*} of the Authority with a copy delivered to the authorised Authority's Representative; provided that if the Operator does not have an office in {*name of the city*}, it may send such notice by facsimile or 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 facsimile or e-mail, it shall be deemed to have been delivered on the working day following the date of its delivery.

31.15 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 Contract shall be in writing and in English/Marathi language.

31.16 COUNTERPARTS

This Contract may be executed in two counterparts, each of which when executed and delivered shall constitute an original of this Contract.

32 DEFINITIONS

32.1 DEFINITIONS

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

Accounting Year	means the financial year commencing from the first day of April of any calendar year and ending on the thirty-first day of March of the next calendar year
Additional Bus Kilometre	means Bus Kilometres plied by Buses in aggregate beyondthe Annual Assured Bus Kilometre
Additional Kilometre Payment	shall have the meaning ascribed to it under Clause 16.1
Affected Party	shall have the meaning ascribed to it under Clause 20.1
Annual Assured Bus Kilometre	shall have the meaning ascribed to it under Clause 16.1
Annual Maintenance Contract	shall have the meaning ascribed to it under Clause 6.1.6
Applicable Law	means all laws, brought into force and effect by GOI, the State Government or Local Government including rules, regulations, guidelines, and notifications made thereunder, and judgments, decrees, injunctions, writs and orders of any court of record, applicable to this Contract and the exercise, performance and discharge of the respective rights and obligations of the Parties hereunder, as may be in force and effect during the subsistence of this Contract
Assured Bus Kilometre	shall have the meaning ascribed to it under Clause 16.1
Applicable Permits	means all clearances, permits, no-objection certifications, exemptions, authorizations, consents and approvals required to be obtained or maintained under Applicable Law, in connection with the Project during the subsistence of this Contract
Arbitration Act	means the Arbitration and Conciliation Act, 1996 and shall include modifications to or any re-enactment thereof as in force from time to time
Asset Transfer Value	means the payment payable, as per Schedule XV, by the Authority to the Operator upon Termination or Expiry of this Contract in accordance with Clause 22.3and 20.8 of this Contract. The Asset Transfer Value shall be the Insured Declared Value of the Bus.

Assured Fleet Availability	means the minimum number of Buses which the Operator is bound to operate in terms of the Fleet Deployment Plan
Authority	means the [*name of the implementing agency*]
Authority Event of Default	shall have the meaning ascribed to it under Clause 22.2
Authority's Representative	means such person or persons as may be authorized in writing by the Authority to act on its behalf under this Contract and shall include any person, persons or Third Party having authority to exercise any rights or perform and fulfil any obligations of the Authority under this Contract
Award	shall have meaning ascribed to it under Clause
Bank	means a bank incorporated in India and having a minimum net worth of Rs. 1000 crore (Rupees one thousand crore)
Bank Rate	means the rate of interest specified by the Reserve Bank of India from time to time in pursuance of section 49 of the Reserve Bank of India Act, 1934 or any replacement of such Bank Rate for the time being in effect
Benchmark Prime Lending Rate of SBI	means the benchmark prime lending rate revised and issued by State Bank of India bank from time to time. The lending rate on the latest effective date would be considered
Bid	means the documents in their entirety comprised in the bid submitted by the {Selected Bidder} in response to the Request for Proposals in accordance with the provisions thereof
Bid Security	means the security provided by the Operator to the Authority along with the Bid in a sum of [*insert in Rs. (in words*)] in accordance with the Request for Proposals and which is to remain in force until substituted by the Performance Security
Bus/Buses	means Bus complying with Bus Standards and Specifications as detailed in Schedule VII, handover by the Authority as per Fleet Deployment Plan for the purposes of Project
Bus Average Speed	means the average speed achieved by all the Buses on all the routes over the Payment Period. To calculate the Bus Average Speed, Bus Kilometres shall be divided by the total time taken to complete all the trips over the Payment Period.
Bus Depot or Depot	means the developed space/area as per Schedule II which is equipped with facilities, plant and equipment, tools, fixtures, provision for all utilities, etc. for parking, repair, maintenance, fuelling, washing, cleaning etc. of the Buses, including workshop sheds, office building, guard rooms for security,

	other facilities for bus crew, depot management/ administrative staff. The list of plant and equipment to be handed over by the Authority, and procured & maintained by the Operator at the Bus Depot has been provided in Schedule VI.
Bus Kilometre	means kilometre travelled by each Bus as per this Contract or as directed/approved by the Authority
Bus Manufacturer	means the manufacturer supplying the Buses
Bus Permit	means the permit for operating the Buses as required under the Motor Vehicles Act, 1988 or any other Applicable Law, from time to time
Bus Service	means plying of Buses within the Bus Service Area as per Fleet Deployment Plan provided in Schedule IX of the Contract
Bus Service Area	means areas/ routes for provision of Bus Service, more particularly specified by the Authority in Fleet Deployment Plan provided in Schedule IX of this Contract
Bus Stop	means designated stops as per Schedule II along the routes from where passengers board and alight the Bus
Bus Standards and Specifications	means specifications and standards for Buses to be operated under this Contract, as specified in Schedule VII
Bus Terminal	means the interchange terminal/ stop (under the control of Authority) from where the Buses start or end their trips, and/or are parked for short duration. Such terminal may provide for any other Passenger related amenities/ facilities and facilitate transfer of Passengers amongst different modes/ services etc.
Certificate of Registration	means the certificate issued by competent authority to the effect that a motor vehicle has been duly registered in accordance with the provisions of Chapter IV of Motor Vehicle Act, 1988 & Rules made thereunder.
Certificate of Fitness	means the certificate issued by competent authority as per Motor Vehicle Act, 1988
Change in Law	means the occurrence of events as specified in Article 25
Change in Ownership	means a transfer of the direct and/or indirect legal or beneficial ownership of any shares, or securities convertible into shares, that causes the aggregate holding of the {existing promoters/ selected bidder/ Consortium Members}, together with {its/their} Associates, in the issued and paid-up Equity to decline below 51% (fifty one percent) at all times during the term of the Contract and/ or where members of the Consortium whose technical and financial capacity was

	evaluated for the purposes of short-listing in response to the Request for Proposal permit their shareholding to decline below 26% (twenty six per cent) at any time during the term of the Contract;
Change of Scope	shall have the meaning ascribed to it under Article 21.
Control Centre	means computerised central monitoring unit setup within the Bus Depot or any other place, operated and supervised by the Operator for monitoring and control of the Bus Service
Commercial Operation Dates (COD)	shall for respective Lot of Buses be the date of deployment of the 1st Lot of Buses for providing Bus Service as detailed out in Article 12
Conditions Precedent	shall have the meaning specified in Article 5 of this Contract
Conductor	means a person engaged by the Authority for collecting fares from passengers, regulating their entrance into or exit from the Bus and performing such other functions as may be prescribed by and on the behalf of the Authority in terms of this Contract
Contract	means this Contract, its Recitals, the Schedules hereto and any amendments thereto made in accordance with the provisions contained herein
Contract Period	means the duration of the Project from Execution Date till the end of the transition phase
Consortium	means the group of entities that submitted the Bid for this Project
Cure Period	means the period specified in this Contract for curing any breach or default of any provision of this Contract by the Party responsible for such breach or default and shall: a. commence from the date on which a notice is delivered by one Party to the other Party asking the latter to cure the breach or default specified in such notice; b. not relieve any Party from liability to pay Damages or compensation under the provisions of this Contract; and c. not in any way be extended by any period of Suspension under this Contract; provided that if the cure of any breach by the Operator requires any reasonable action by the Operator that must be approved by the Authority hereunder, the applicable Cure Period shall be extended by the period taken by the Authority to accord their approval

Damages	shall have the meaning set forth in Sub-clause (u) of Clause 1.2.1
Dispute	shall have the meaning set forth in Clause c
Dispute Resolution Procedure	means the procedure for resolution of Disputes set forth in Article 28**.**
Depot License Agreement	means the agreement executed between the Authority and the Operator in pursuance of which the Operator shall be given a limited right to use the Bus Depot, as provided in Schedule V to this Contract
Documents or Documentation	means documentation in printed or written form, or in tapes, discs, drawings, computer programmes, writings, reports, photographs, films, cassettes, or expressed in any other written, electronic, audio or visual form
Driver	means the person who acts as a steersman of the drawn vehicle/Bus as defined in the Motor Vehicle Act, 1988
Effective Date	means the later of the date by which all the Conditions Precedent are satisfied by the Authority and the Operator and the provisions of the Contract becomes effective
Encumbrances	means any encumbrance such as mortgage, charge, pledge, lien, hypothecation, security interest or other obligations and shall also include physical encumbrances, including utilities both under and above the ground and encroachments
Emergency	means a condition or situation that is likely to endanger the security of the individuals on or about the Project including passengers thereof, or which poses an immediate threat of material damage to any of the Project Facilities
Escrow Agreement	shall have the meaning set forth in Article 17 of the Contract
Escrow Account	means an Account which the Authority shall open and maintain with a Bank in which all inflows and outflows of cash on account of capital and revenue receipts and expenditures shall be credited and debited, as the case may be, in accordance with the provisions of this Agreement, and includes the sub-accounts of such Escrow Account
Escrow Bank	shall have the meaning as ascribed thereto in the Clause 17.1of this Contract
Execution Date	means the date on which the Contract is signed by both the Parties and the same comes into effect
Expiry Date	means *03 years* from the COD

Force Majeure or Force Majeure Event	shall have the meaning ascribed to it in Clause 20.1
Fleet	shall refer to the total number of Buses to be put into operation in pursuance to this Contract
Fleet Deployment Plan	means the detailed plan as developed and finalized by the Authority, including routes, schedules, frequency, headways etc., from time to time in accordance with Clause13.4read with Schedule IX of this Contract
Fleet Procurement Schedule	means procurement of Buses in Lots either by the Authority or the Operator, as detailed in Schedule VIII
GOI	means the Government of India
Government Instrumentality	means any department, division or sub-division of the Government or the State Government and includes any commission, board, authority, agency or municipal and other local authority or statutory body including Panchayat under the control of the Government or the State Government, as the case may be, and having jurisdiction over all or any part of the Project or the performance of all or any of the services or obligations of the Operator under or pursuant to this Agreement
Good Industry Practice	shall mean the practices, methods, techniques, designs, standards, skills, diligence, efficiency, reliability and prudence which are generally and reasonably expected from a reasonably skilled and experienced operator engaged in the same type of undertaking as envisaged under this Contract and which would be expected to result in the performance of its obligations by the Operator in accordance with this Contract, Applicable Laws and Applicable Permits in reliable, safe, economical and efficient manner
Indemnified Party	means the Party entitled to the indemnify the other Party pursuant to Article 26
Insurance Cover	means the aggregate of the maximum sums insured under the insurances taken out by the Authority and/ or Operator pursuant to Article 18, and includes all insurances required to be taken out by the Authority and/or Operator under Clause 18.1 and 18.2 but not actually taken, and when used in the context of any act or event, it shall mean the aggregate of the maximum sums insured and payable or deemed to be insured and payable in relation to such act or event
Intellectual Property	means all patents, trademarks, service marks, logos, get-up, trade names, internet domain names, rights in designs, blue prints, programmes and manuals, drawings, copyright (including rights in computer software), database rights, semi-

	Conductor, topography rights, utility models, rights in know-how and other intellectual property rights, in each case whether registered or unregistered and including applications for registration, and all rights or forms of protection having equivalent or similar effect anywhere in the world
Invoice Amount	shall have the meaning set forth in Clause 16.1.6
Intelligent Transport Systems (ITS)	is the application of computer, electronics, and communication technologies and management strategies in an integrated manner to provide traveller information to increase the safety and efficiency of the transportation system.
Letter of Award (LOA)	means the letter of award dated __/__/20__issued by the Authority to the {name of the Selected Bidder}
LED Display	shall mean the light emitting diode display installed on the bus which would show the name and number of the designated Route of the respective Bus and which shall be used for the public information system
Local Government	means the Government of the city of (*insert name of city*)
Lot of Buses	means Buses procured, either by the Authority or by the Operator, as the case maybe, in lots as per the Fleet Procurement Schedule
Material Adverse Effect	means a material adverse effect of any act or event on the ability of either Party to perform any of its obligations under and in accordance with the provisions of this Contract and which act or event causes a material financial burden or loss to either Party
Non-Political Event	shall have the meaning set forth in Clause 20.2
No-Objection Certificate (NOC)	means NOC issued by the Authority as set forth in Clause 10.7
Operation Period	means the period of the Project from COD of 1st Lot of Buses to Expiry Date or Termination Date, whichever is earlier
Operation and Maintenance (O&M)	means the operation and maintenance of the Buses and the Project Facilities and includes all matters connected with or incidental to such operation and maintenance, provision of services and facilities in accordance with the provisions of this Contract
Operation and	means the minimum standards the Operator has to be

Maintenance (O&M) Standards	observe throughout the Contract Period, as specified in Schedule XIV
O&M Fee	means the fee payable by the Authority to the Operator on fortnightly basis in terms of Article16 for providing Bus Service
O&M Inspection Report	shall have the meaning set forth in Clause 15.3
Operator	shall have the meaning as ascribed thereto in the array of Parties in the Recitals above
Operator's Event of Default	shall have the meaning as ascribed there to in Clause 22.1
Parking Space	means the space if any, provided by the Authority for parking of Buses either within the Bus Depot or at some other place designated by the Authority as described in detail in Schedule II
Parties	means the parties to the Contract and "Party" means either of them, as the context may admit or require
Passenger Fare	means the fare collected by the Authority from passengers travelling on Buses, either on its own by hiring Conductors or through some Third Party engaged by it,
Payment Period	shall have the meaning set forth in Clause 16.1.6
Penalty	shall have the meaning as ascribed thereto in Clause16.5
Per Kilometre O&M Fee	shall mean the per kilometre cost quoted by the Selected Bidder in its Financial Bid for different categories of Buses, which the Operator shall charge for providing Bus Service in accordance with the provisions of this Contract. For the avoidance of doubt, the term Per Kilometre O&M Fee shall also include any revision in per Kilometre cost in terms of Clause 16.1.12
Person	shall mean any individual, corporation, partnership, joint venture, trust, unincorporated organization, government or governmental authority or agency or any other legal entity
Project	means the operation, and maintenance of Buses, maintenance of Bus Depot and/or Parking Space (if any) in accordance with the terms and conditions of this Contract
Project Agreement	means this Contract, Depot License Agreement Annual Maintenance Contract and any other contracts/ agreements that may be entered into by the Operator with any person in connection with matters relating to, arising out of or incidental to the Project, but does not include the Escrow Agreement

Performance Security	shall have the meaning set forth in Article 2
Project Facilities	means the facilities that are required for providing Bus Service and shall include the Buses, Bus Depot, and other permanent or temporary facilities developed by or made available to the Operator under any suitable arrangement, including all civil works, plant and equipment, technology, hardware and software, scrap yard, utilities, ITS/IT, communication system, Control Centre, materials and spaces provided/ procured, constructed and/ or installed in Buses or at the Bus Depot or at any other sites identified by the Authority
"Re.", "Rs." or "Rupees" or "Indian Rupees"	means the lawful currency of the Republic of India
Readiness for Commencement of Bus Service	shall have the meaning set forth in Clause 10.7
RTA/ RTO	means the relevant Regional Transport Authority/ Regional Transport Office of Mira Bhayandar (Maharashtra) as per MotorVehicle Act, 1988
Request for Proposal (RFP)	shall mean Request for Proposal document issued by the Authority, for the purposes of selecting an Operator for the Project through a competitive transparent bidding process
Right of Way	means the constructive possession of the Project Facilities, together with all way leaves, easements, unrestricted access and other rights of way, howsoever described, necessary for operation and maintenance of the Project in accordance with this Contract
Route	means the routes, as determined by the Authority, from time to time, on which the Buses would operate as part of the Bus Service and as specified in Fleet Deployment Plan in Schedule IX
Scope of the Project	shall have the meaning set forth in Clause 3.1 read with Schedule I
Selected Bidder	means the Bidder (single entity or Consortium) to whom the Authority issues the Letter of Award for undertaking the Project
State Government	means the Government of the State of (name of the State where the city falls).
Statutory Auditors	means a reputable firm of chartered accountants acting as the statutory auditors of the Operator under the provisions of the Companies Act, 1956/2013 including any statutory modification or re-enactment thereof, for the time being in

	force
Taxes & Duties	means all taxes (including road tax, property taxes), duties, fees, levies etc. payable under the Applicable Laws in connection with the Project
Termination	means the early termination of the Contract pursuant to Termination Notice or otherwise in accordance with the provisions of this Contract but shall not, unless the context otherwise requires, include expiry of the Contract on the Expiry Date
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 Contract
Termination Payment	means the amount payable by the Authority to the Operator upon Termination, in accordance with the provisions of this Contract
Third Party	means any Person, real or judicial, or entity other than the Parties to this Contract
Vandalism	shall have meaning specified in Clause 14.7of this Contract.

PART - V: SCHEDULES

SCHEDULE I – SCOPE OF PROJECT

The scope of the Contract (the "**Scope of the Project**") shall mean and include, during the Contract Duration, the following:

a. Provide Bus Service within the Bus Service Area (i.e. in the area and/ or route), as specified in this Contract;

b. Operate the Buses in compliance with frequency and schedule specified by the Authority from time to time as specified in Fleet Deployment Plan;

c. intentionally left blank

d. Provide enough Drivers to man the Buses as per Available Fleet Schedule and Fleet Deployment Plan. Additional Drivers need to be provided to meet requirement of holidays, absence of drivers or for any other reasons;

e. Operate and maintain Buses according to the Operation and Maintenance Standards as specifiedin Schedule XIV;

f. Prepare the Buses for service including internal and external cleaning, fuelling, daily repairs and technical inspection;

g. Maintain Bus Depot and Parking Space(if any), if any, handed over for the purposes of rendering Bus Service in the Bus Service Area;

h. Supply and maintain adequate consumables as required for regular upkeep of Buses;

i. Left Blank

j. Training of Drivers and other staff in all matters required under the Contract, and maintaining a staff-wise log of all training;

k. Observe the highest standard of safety for the Buses, and the passengers during the operations and maintenance including the Operator's own staff;

l. Maintain a detailed daily log of the performance of each Bus;

m. Redress passenger complaints and issues;

n. Procure all Applicable Permits, as required in conformity with Schedule III;

o. Ensure Assured Fleet Availability as per the Contract;

p. Submit to Authority, monthly reports in formats as required by the Authority;

q. Any other obligations hereinbefore provided in the contract.

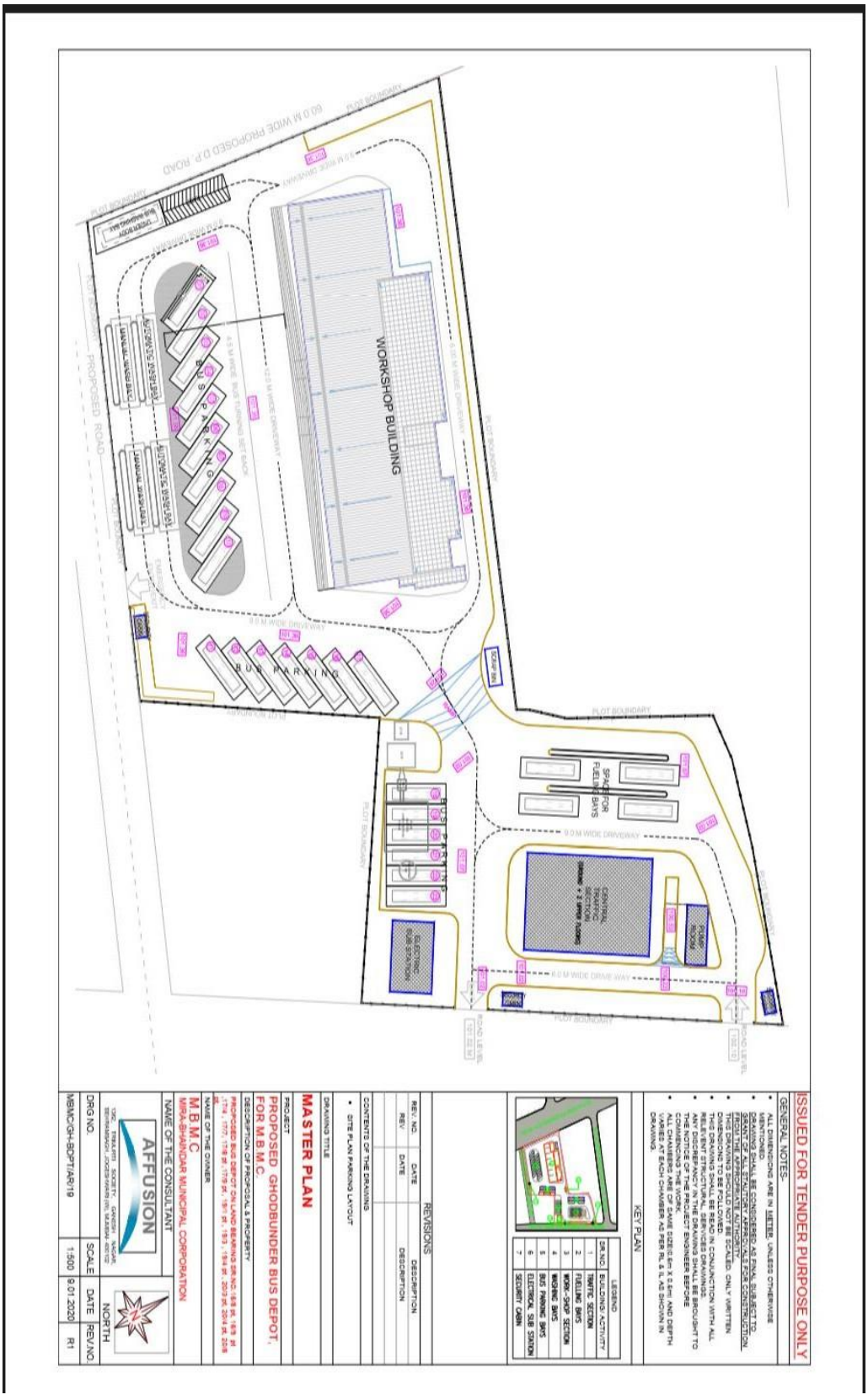
SCHEDULE II - PROJECT FACILITIES

The Authority shall provide details of the Project Facilities including location of Bus Depot, Bus Stops along the Routes, Bus Terminal and/ or Parking Spaces, which will enable the Operator to better plan and deliver the Project

1. **Bus Depot – GHODBUNDER BUS DEPOT WITH WORKSHOP AND PARKING SPACE .**

2. **BUS TERMINAL :**
    a. **Mira Road**
    b. **Bhayandar East**
    c. **Bhayandar West**
    d. **Uttan**

GHODBUNDER BUS DEPOT LAYOUT PLAN



SCHEDULE III - APPLICABLE PERMIT

1. The Authority shall obtain, as required under the Applicable Laws, the following Permits
    a. No Objection Certificate from State Transport Department or RTA or from State Transport Undertaking as applicable
    b. Bus Permits (Only Before COD)
    c. Certificate of Registration
    d. Certificate of Fitness (Only Before COD)
    e. Customs clearance certificate (if needed)
2. The Applicable Permits as required, relative to Pollution under Control Certification shall be procured by the Operator, also after Cod as required in contract period certificate of Fitness and Permits shall be procured by the operator at own cost.

SCHEDULE IV - PERFORMANCE SECURITY

UNCONDITIONAL AND IRREVOCABLE PERFORMANCE SECURITY BANK GUARANTEE

The Chief Executive Officer

_____

_____,

_____.

WHEREAS:

A. ……..(the "**Operator**") and the **THE {*AUTHORITY / Special Purpose Company for provisioning of Bus Service*},** (give description of the relevant Authority) (the "**Authority**") have entered into a Contract dated.....(the "**Contract**") whereby the Authority has granted to the Operator an on- exclusive right to operate and maintain the Buses and provide Bus Services within the specified Bus Service Area in t h e city of ……. (name of the city) and the Operator has agreed to under take the Project on the terms and conditions contained therein, subject to and in accordance with the provisions of the Contract.

B. The Contract requires the Operator to furnish a Performance Security to the Authority in as um of Rs……..(Rupees in words only) (the "**Guarantee Amount**") as security for due and faithful performance of its obligations, under and in accordance with the Contract, during the term of the Contract Period (as defined in the Contract).

C. We, …….. through our Branch at ..... (the "**Bank**") have agreed to furnish this Bank Guarantee by way of Performance Security.

NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:

1. The Bank here by unconditionally and irrevocably guarantees the due and faithful performance of the Operator's obligations during the Contract Period, under and in accordance with the Contract, and agrees and undertakes to pay to the Authority, upon its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Operator, such sum or sums up to an aggregate sum of the Guarantee Amount as the Authority shall claim, without the Authority being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.

2. A letter from the Authority, under the hand of an Officer not below the rank of the ..... (*name of the officer*), that the Operator has committed default in the due and faithful performance of all or any of its obligation sunder and in accordance with the Contract shall be conclusive, final and binding on the Bank. The Bank further agrees that the Authority shall be the sole judge as to whether the Operator is in default in due and faithful performance of its obligations during the Contract Period under the Contract and its decision that the Operator is in default shall be final, and binding on the Bank, notwithstanding any differences between the Authority and the Operator, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Operator for any reason whatsoever.

3. In order to give effect to this Guarantee, the Authority shall been titled to act as if the Bank were the principal debt or and any change in the constitution of the Operator and/ or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect he liability or obligation of the Bank under this Guarantee.

4. It shall not be necessary, and the Bank here by waives any necessity, for the Authority to proceed against the Operator before presenting to the Bank its demand under this Guarantee.

5. The Authority shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Contract or to extend the time or period for the compliance with, fulfilment and/or performance of all or any of the obligations of the Operator contained in the Contract or to postpone for any time, and from time to time, any of the rights and powers exercisable by the Authority against the Operator, and either to enforce or for bear from enforcing any of the terms and conditions contained in the Contract and/or these curities available to the Authority, and the Bank shall not be released from its liability and obligation under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the Operator or any other for bearance, indulgence, act or omission on the part of the Authority or of any other matter or thing whatsoever which underany law relating to sureties and guarantors would but for this provision have the effect of releasingthe Bank from its liability and obligation under this Guarantee and the Bank hereby waives all ofits rights under any such law.

6. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Authority in respect of or relating to the Operator for the fulfilment, compliance and/or performance of all or any of the obligations of the Operator under the Contract.

7. Notwithstanding anything contained herein before, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force until a period of 90 (ninety) days beyond the Contract Period and unless a demand or claim in writing is made by the Authority on the Bank under this Guarantee, no later than 6 (six) months from the date of expiry of this Guarantee, all rights of the Authority under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.

8. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of the Authority in writing, and declares and warrants that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.

9. Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred Branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Authority that the envelope was so posted shall be conclusive.

10. This Guarantee shall come into force with immediate effect and shall remain in force and effect for a period of one year and six months or until it is released earlier by the Authority pursuant to the provisions of the Contract.

Signed and sealed this ……. Day of…….., 20…… at ……..

SIGNED, SEALED AND DELIVERED

For and on behalf of the BANK by:

(Signature)

(Name)

(Designation)

(Code Number)

(Address)

NOTES:

i. The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee

ii. The address, telephone number and other details of the Head Office of the Bank as well as of issuing Branch should be mentioned on the covering letter of issuing Branch

SCHEDULE V –DEPOT LICENSE AGREEMENT

[AUTHORITY] [*description of there levant* authority] and having its principal office at [……..],(hereinafter referred to as "**The Authority**" which expression shall include its successors and permitted assigns);

AND

M/s [XYZ], a special purpose company registered under the Companies Act, *2013* acting through _____ having its registered office at _____(hereinafter referred to as the "**Operator**", which expression shall include its successors and permitted assigns).

The Authority and the Operator are hereinafter collectively referred to as the "**Parties**" and individually as the "**Party**".

WHEREAS:

1. The Parties have entered into a Contract dated _____(hereinafter the "**Contract**") whereby the Authority has granted to the Operator a non-exclusive right to operate and maintain the Buses, fare collection and provide Bus Services within the specified Bus Service Area in the city of …… (*name of the city*) (hereinafter the "**Project**") and the Operator has agreed to undertake the Project on the terms and conditions contained therein.
2. Pursuant to the Contract, the Authority is providing to the Operator the right to use and the right of way to the Bus Depot("**Depot")**, the details whereof are provided in Annexure 1 to this Depot License Agreement for the limited purpose of implementation of the Project.
3. The Parties are hereby entering into this Depot License Agreement to specify the terms and conditions of the use of the Depot by the Operator.

NOWTHEREFORE ITISAGREEDAS FOLLOWS:

1. All capitalized words used but not defined herein shall have the meaning specified in the Contract.
2. The Authority hereby provides on a license basis the Depot along with such facilities, equipment and machinery to the Operator as detailed out in Annexure 1to this Agreement and the Operator takes on the Depot on the terms and conditions of this License, it being recorded that the Authority warrants that the Depot will, save for the reasons beyond its reasonable control, befit for the purpose for which it is to be used by the Operator, namely to provide a reasonable shelter for the contracted Buses while not in use and to facilitate the cleaning, repair and maintenance of the contracted Buses.

   Provided, however, the Operator shall have no right, title, interest or any ownership right so verthe Bus Depot or any part thereof.
3. This Depot License Agreement shall come into operation on the date of execution hereof and shall terminate on the termination or expiry of this Depot License or the Contract for whatever

reason, whichever is the earlier ("**License Period**"). For all intents and purposes, the term of this Depot License Agreement shall be co-terminus with the Contract.

4. There shall be rental of Rs. 1.00 Lakhs per annum payable by the Operator to the Authority in respect of the License for use of the Depot, provided that the Operator discharges all of its obligations pursuant to this Depot License Agreement and the Contract.

5. The Operator shall be responsible for timely payment of cost incurred towards availing of utilities such as electricity, water, gas etc. consumed at or within the Depot at prevailing rates as determined by the concerned utility providing agency, in accordance with readings of separate sub-meters. It is hereby clarified that the Operator shall be liable to pay the cost of all the utilities on actual consumption and only in relation to such area of the Depot as has been provided under this Depot License Agreement.

6. Insurance

   a. The Operator shall not keep or do in or about the Depot anything which is liable to increase any of the risks, against which the Depot (or any part thereof) is insured for the time being, to the extent that such insurance is rendered void or voidable or the premiums of such insurance are, or become liable to be, increased.

   b. Without prejudice to any other right of action or remedy, that the Authority may have, arising out of a breach of the foregoing provision, the Authority may recover from the Operator, on demand, the full amount of any increase in insurance premiums in respect of the Depot, attributable to such breach.

   c. For the purposes of the above provisions, the Operator shall be entitled to assume that the Depot is at all material times insured against such risks, on such terms, for such amounts, and at such premiums as are for the time being usual in respect of similar spaces/ areas in similar locations.

   d. The Operator shall, in accordance with its obligations pursuant to the Contract, obtain and maintain contract works insurance and public liability insurance in relation to the Depot.

7. Cession and Subletting The

   Operator shall not been titled to:

   a. Cede all or any of its rights or delegate any of its obligations under this Depot License Agreement;

   b. sublet the Depot in whole or part; or

   c. give up possession and/or control of the Depot to any Third Party, without the Authority's prior written consent.

8. Operator's Obligations

   In addition to any of the obligations in respect of the Bus Depot specified in the Contract, the Operator shall:

   a. keep the Depot clean, tidy and commercially usable at all times;

   b. be responsible for the handling of all waste and effluent in accordance with the Applicable Law;

   c. not use the Depot or allow it to be used, in whole or part, for any purpose other than that of implementing the Project;

   d. not bring into the Depot any article which, by reason of its weight or other characteristics, is liable to cause damage to the Depot;

e. not leave refuse or allow it to accumulate in or about the Depot except in the refuse bins provided;

f. refrain from interfering with the electrical or plumbing serving the Depot, except as may be strictly necessary to enable the Operator to carry out its obligations of maintenance and repair in terms of this Agreement;

g. not permit any person to permanently dwell in the Depot;

h. provide at the Operator's own expense all electric, fluorescent and incandescent light bulbs required in the Depot from time to time;

i. provide at the Operator's own expense any such consumables, moveable equipment and/ or machinery as may be required for maintenance, cleaning and safekeeping of the Buses and Bus Depot in accordance with the Contract;

j. appoint at its own cost skilled personnel and supervisors including Depot in charge for regular upkeep, maintenance, cleaning and safekeeping of the Buses and the Depot in accordance with the Contract;

k. equip at its own expense, the Control Centre at the Depot with such equipment as specified in Schedule VI of the Contract;

l. co-operate with any other operator or Third Party using the Bus Depot or a part thereof as notified by the Authority from time to time;

m. shall ensure compliance with all Applicable Laws particularly those pertaining to safety and welfare of the labour/ technicians/ personnel deployed by the Operator at the Depot and to exercise direct control and supervision over their activities at the Depot.

9. Maintenance and Repairs

9.1 The Operator shall at its own expense and without recourse to the Authority:

a. maintain the Bus Depot in accordance with the Operation and Maintenance Standards as specified in Schedule XV of the Contract.

b. Throughout the License Period maintain in good order and condition the interior and exterior of the Depot and all parts thereof, including (without limitation of the generality of this obligation) all windows, doors, appurtenances, fixtures and fittings contained in the Depot;

c. promptly and properly repair or make good all damage occurring in the interior and exterior of the Depot from time to time during the License Period, whatever the cause of such damage, and including damage to any part of the interior of the Depot or to any window, door, appurtenance, fixture or fitting, and replace all such items (as well as any keys) which have been broken, lostor destroyed; and

d. on the termination or cancellation of this Depot License Agreement and/ or the Contract, forthwith return the Depot and all such parts thereof (including all such equipment, machinery etc. handed over by the Authority to the Operator pursuant to the execution of this Agreement for implementation of the Project) to the Authority in good order, condition and repair, normal wear and tear excepted.

9.2 The Depot, at the commencement of this Depot License Agreement, shall be deemed to be in good order and condition except to the extent that the Operator notifies the Authority in writing within [7(seven)] Business Days after having taken possession of the Depot of the need for any repairs to in the Depot or of the fact that any part of the Depot, including any lock, key, door, window, appurtenance, fixture or fitting, is damaged, missing, or out of order.

Upon receiving a notification a s contemplated in Clause 9.2 above, the Authority shall promptly cause the necessary repair or replacement to be effected to the Depot at the Authority's own

expense. Thereafter, the Operator shall be responsible for the maintenance of, and for all repairs and replacements becoming necessary from time to time in or to, the Depot and all parts thereof.

9.3 In the event the Operator fails to carry out any of its obligations under this Agreement with regard to any maintenance, repairor replacement, the Authority shall be entitled, without prejudice to any of the Authority's other rights or remedies, to effect the required item of maintenance, repair or replacement and to recover from the Operator on demand, all reasonable amounts incurred by the Authority in respect thereof.

10. Alterations, additions and improvements

a. The Operator shall not make any alterations or additions to the Depot without the Authority's prior written approval.

b. If the Operator does alter or add to the Depot in anyway, whether in breach of sub-clause (a) or not, the Operator shall, if so required in writing by the Authority, restore the Depot on the termination or cancellation of this Agreement to the same condition as it was prior to such alteration or addition having been made, normal wear and tear excepted. Unless this Agreement is terminated or cancelled by the Authority as a result of a breach hereof by the Authority, the Authority's requirements aforementioned shall be communicated to the Operator not less than [20(twenty)] Business Days prior to the termination or cancellation. For the sake of clarity, the Parties agree that this sub-clause (b) shall not be construed as excluding any other or further remedy which the Authority may have in consequence of a breach by the Operator of sub-clause (a).

c. Save for any alteration or addition which is removed from the Depot as required by the Authority in terms of sub-section (b), all alterations or additions made to the Depot shall, on termination or cancellation of this Depot License Agreement, become the property of the Authority and may not be removed from the Depot at any time. Subject to any prior written agreement to the contrary between the Parties, the Operator shall not, whatever the circumstances, have any claim against the Authority for compensation for any alterations or additions to the Depot.

11. Exclusion of Liability

a. The Operator shall have no claim against the Authority for any loss or damage suffered by the Operator by reason directly or indirectly of:

i. Any negligent act or omission of the Authority or of any agent or servant of, or contractor of, the Authority, including (without limitation the generality of the foregoing) any negligent act or omission of any cleaner, maintenance person, handyman, artisan, labourer, workman, watchman or guard, excluding gross negligence and/ or wilful default;

ii. Any failure or suspension of, or any interruption in, the supply of water, electricity, air-conditioning, heating, or any other amenity or service to the Depot (including, without limiting the generality of the foregoing, any cleaning service), whatever the cause;

iii. any breakdown of, or interruption or delay in the operation of, any machinery, plant, equipment, installation, or system situated in or on, or serving, the Depot, and including (but without limiting the generality of the foregoing) any geyser, boiler, burglar alarm or security installation or system etc., again regardless of cause;

iv. any interruption of, or interference with, the enjoyment or beneficial occupation of the Depot or any parts of the common Depot caused by any building operations or other works to or in the Depot, whether by the Authority or by any body else; or

v. any other event or circumstance beyond the Authority's reasonable control occurring, or failing to occur, upon, in, or about the Depot, whether or not the Authority could otherwise have been held liable for such occurrence or failure, and the Operator indemnifies the

Authority and holds it harmless against any and all liability to any employee or agent of the Operator, its guests and other invitees, and all other persons who may occupy or been titled to occupy the Depot or any parts thereof through or under the Operator.

b. The Authority shall not, however, be excused from specific performance of any of the Authority's obligations under this Agreement, whether express or implied, and particularly (but not only) the Authority's obligations to afford the Operator occupation and enjoyment of the Depot as contemplated by this Agreement.

12. Authority's Right of Entry and Carrying out of Works

The Authority may at all reasonable times, without thereby giving rise to any claim or right of action on the part of the Operator or to any other occupier of the Depot:

a. enter the Depot in order to inspect it, to carry out any necessary repairs, replacements or other works, or to perform any other lawful function in the bona fide interests of the Authority;

b. carry out elsewhere on the Depot (or any part thereof) any necessary repairs, replacements or other works, provided that the Authority shall ensure that this right is exercised with due regard for, and a minimum of interference with, the beneficial enjoyment of the Depot by the Operator; or

c. provide for such consumables, moveable/ immovable equipment and/ or machinery and assets which are the responsibility of the Authority in terms of the Contract.

13. Damage to or destruction of Depot

a. If the Depot is destroyed or damaged to such an extent that it can no longer be beneficially occupied, this Depot License Agreement shall, unless the Parties agree otherwise in writing, terminate, provided such damage is not due to any act of omission or commission of the Operator.

b. If the Depot is damaged but can still be beneficially occupied, this Depot License Agreement shall remain in force and the Authority shall repair the damage without undue delay.

14. Special Remedy for Breach

a. Should the Operator be in breach of any of the terms or conditions of this Depot License Agreement or the Contract, in any way whatsoever, and fails to remedy such breach within [7 (seven)] business days after receiving a written demand that it be remedied, or such longer period as may reasonably be required in the circumstances and agreed upon in writing by the Parties, the Authority shall be entitled to levy such damages as stipulated in the Contract, without prejudice to any alternative or additional right of action or remedy available to the Authority under the circumstances, including the right to terminate the Contract and this Depot License Agreement in accordance with the provisions stipulated under the Contract executed between the Parties.

b. In the event of the Authority having terminated this Depot License Agreement and the Contract justifiably but the Operator remaining in occupation of the Depot, with or without disputing the termination, the Operator shall be obliged to pay, all amounts which would have been due and payable by the Operator but for the termination, for so long as the Operator continues to occupy the Depot or any part thereof.

15. Right to Negotiate Renewal

If the Contract is renewed and/ or extended beyond the Contract Period, the Parties agree to negotiate in good faith for renewal of this Depot License Agreement on such terms and conditions as may be agreed between the Parties in writing prior to the expiration of this Agreement.

IN WITNESS WHEREOF the Parties have executed and delivered this Agreement by their duly authorised representative on the date first above written:

SIGNED ON BEHALF OF THE AUTHORITY

_____(Signature)

_____(Name)

_____(Designation)

SIGNED ON BEHALF OF OPERATOR by the hand of its authorized representative

_____(Signature)

_____(Name)

_____(Designation)

Annexure 1to Depot License Agreement

Details of Depot to be handed over to the Operator at the time of execution of this Agreement

Date of Handover	
Address of Depot	
Area of Depot	
Plant and Machinery	
Utilities	
Security	

SCHEDULE VI - BUS DEPOT PLANT AND EQUIPMENT

Sr. No.	Equipment	Investment by and ownership of equipment / facilities	Operations and Maintenance of equipment and facilities
1	Nitrogen Inflator	Authority	Operator
2	Brake Efficiency Meter	Authority	Operator
3	Generator Set	Authority	Operator
4	Automatic Bus Wash System	Authority	Operator
5	Skid Mounted Effluent Treatment Plant	Authority	Operator
6	Vacuum Cleaner for A.C. Buses:	Authority	Operator
7	Brake unit testing machine	Authority	Operator
8	Lathe Machine	Authority	Operator
9	Fully Built Breakdown Relief Van	Authority	Operator
10	Fully Built Recovery Van (Truck)	Authority	Operator
11	Fork Lift for Material Handling	Authority	Operator
12	Digital Lube Oil Dispensing machine	Authority	Operator
13	Smoke Meter	Authority	Operator
14	Tire dismantling and assembly fixture	Authority	Operator
15	Automatic Tire Inflator machine:	Authority	Operator
16	Computerized wheel alignment machine	Authority	Operator
17	Computerized Wheel Balancing Machine	Authority	Operator
18	Air Compressors	Authority	Operator
19	Battery Operated Brush Truck	Authority	Operator
20	Floor Scrubbing Machine	Authority	Operator
21	Fuel Injector Tester	Authority	Operator
22	Brake and clutch liner riveting machine	Authority	Operator
23	Self-starter and Alternator testing machine	Authority	Operator

Note: All other equipments required for the O&M shall be purchased and maintained by Operator at its own cost.

SCHEDULE VII –BUS SPECIFICATIONS

1. The Authority shall comply with the Bus Specifications (including specifications for ITS) set forth in Annex-I of this Schedule-VII for procurement of Buses
2. Latest bus specifications, currently {Urban Bus Specifications –II issued by Ministry of Urban Development, GOI in April 2013}, should be followed unless changes are specified in Annex – I to this schedule by the Authority.

SCHEDULE VIII - AVAILABLE FLEET SCHEDULE

Sr. No.	Lot Number	Type of Bus	Number of Buses	Off road buses
1	**1**	900 mm diesel midi non AC buses (TATA BS III)	10	01
2		400 mm diesel Premium segment AC buses (Volvo)	05	05
3		900 mm diesel Standard non AC buses (TATA BS III)	59	15
		Total	**74**	**21**

Note : Some buses in the fleet are currently out of service due to maintenance and repair work. After the repairs are completed, these buses will be made available for operation.

SCHEDULE IX - FLEET DEPLOYMENT PLAN

The Fleet Deployment Plan should include list of Routes, frequencies, headway, number of Buses to be deployed on each Route.

S. N.	Route NO.	Destination		No. Of Buses	Route Span	Span Of Operations	Headway			
							Weekdays		Holidays	
		From	To				Peak (MTS)	Off Peak (MTS)	Peak (MTS)	Off Peak (MTS)
1	1	Bhayandar st.(W)	Chowk	**5**	14.4	22 Hrs	20	20	20	20
2	2	Bhayandar st.(W)	Uttan Naka	**5**	10.5	20 Hrs	20	20	20	20
3	4	Bhayandar st.(W)	Pagoda	**2**	17.2	16 Hrs	60	60	40	40
4	6	Uttan Naka	Manori Tar	**3**	11.8	18 Hrs	25	25	20	20
5	10	Bhayandar st.(W)	Thane (E)/ Kopari	**7**	30.7	16 Hrs	20	20	30	30
6	AC 10	Bhayandar st.(W)	Thane (E)/ Kopari	**2**	30.7	12 Hrs	150	150	180	180
7	12	Bhayandar St. (E)	K.D. Empire	**3**	4.1	16 Hrs	20	20	-	-
8	14	Bhayandar st.(E)	National Park via Borivali Stn (E)	**10**	6.6	16 Hrs	15	15	20	20
9	16	Mira Road St.(E)	Tiwari College	**4**	3.5	16 Hrs	10	10	15	15
10	17	Mira Road Stn (E)	Vinay Nagar	**3**	4.1	19 Hrs	20	20	20	20
11	18	Western Park	Jogeshwari (W)	**1**	20.1	16 Hrs	180	180	-	-
12	21	Mira Road Station [E]	K.D. Empire	**3**	3.5	21 Hrs	15	15	20	20
13	22	Mira Road Station [E]	Modern Company	**2**	7.1	16 Hrs	20	20	20	20
14	24	Mira Road Station [E]	Western Park	**7**	5.7	22 Hrs	10	10	15	15
15	29	Mira Road Stn	Thane (E)/ Kopari	**7**	27.0	16 Hrs	20	20	47	47
16	AC 29	Mira Road Stn	Thane (E)/ Kopari	**2**	27.0	13 Hrs	60	60	-	-

S. N.	Route NO.	Destination		No. Of Buses	Route Span	Span Of Operations	Headway			
							Weekdays		Holidays	
		From	To				Peak (MTS)	Off Peak (MTS)	Peak (MTS)	Off Peak (MTS)
		TOTAL BUSES		66						

Note :
1. The Authority shall provide the data utilised to prepare this Schedule with the Operator.

SCHEDULE X - SERVICE QUALITY AND PENALTY PARAMETERS

1. PENALTIES

1.1. MBMC shall verify compliance of all parameters, requirements, obligations and responsibilities enforceable against the Operator by virtue of the provisions of the Bus Operators Agreement. The Operator shall allow MBMC representatives, personnel and contractors of MBMC, complete access to the Operator's facilities (including equipment, material, and personnel) and Buses to enable MBMC to inspect, audit and monitor the performance of the Operator. If the Operator is in default of the provisions of the Service Standards and/or Schedule of Operation, then MBMC shall impose the applicable penalties as stipulated in Schedule 10 till such time as the default has been cured to the satisfaction of MBMC. If the Operator does not rectify the default within the stipulated cure period, or if the default is of a nature that is not capable of rectification, or if repeated penalties are imposed for the same/default recurring non-compliance, the same shall be treated as an Event of Default/Material Breach and MBMC shall have the right to terminate the Bus Operator Agreement in accordance with the terms hereof.

1.2. In the event the Bus is damaged beyond economic repair, the Bus shall be permanently removed from the fleet. MBMC or its nominee shall have no obligation to provide a replacement Bus to the Operator. Where such damage is attributable to the negligence, default, act or omission of the Operator, its employees, staff, workmen, drivers or sub-contractors (if any), the Operator shall be liable for all consequential losses, damages and costs as determined by MBMC or its nominee.

1.3. The procedure for payment and collection of penalties shall be as follows:

(i) MBMC will prepare and will send to the Operator a written notice imposing the penalties, as and when the circumstances so arise, together with an explanation of the facts identified that have led to the imposition of the penalties.

(ii) MBMC shall immediately recover all penalties imposed from the Operator and shall issue a receipt to the Operator in this regard, in the manner provided in this Agreement.

(iii) In the event that the Operator has any objection, it will report directly to mechanisms of dispute resolution of the Bus Operators Agreement. Provided, however, that the Operator agrees that the recourse of dispute resolution mechanism or any other grievance mechanism will not prevent, MBMC from immediately adjusting the penalty against payments due to the Operator by MBMC

, but it will be understood that if the imposition of penalty by MBMC is defeated, it will refund to the Operator, the principal amount plus the amount of interest at the rate of SBI PLR on the same, which will be accrued from the moment that the fact or circumstance that caused the penalty has occurred until the date of effective payment.

(iv) In any event, the imposition and adjustment of such penalties from amounts payable to the Operator will not relieve the Operator of its obligation of full compliance with the responsibilities and liabilities that arise from the Bus Operators Agreement.

(v) In any case the penalties imposed will not exceed 10% of billing amount for that month. No penalties apart for the penalties as mentioned in the Schedule will be imposed by MBMC on the operator

STANDARDS OF SERVICE FOR BUS OPERATIONS

(vi) Minimum service quality levels (average per month per quality parameter) in respect of the Bus Service shall be maintained as under

SN	Quality Parameter	Formula	Specified Service Quality Level
1	Fleet utilization	No. of buses operated*100/ No. of buses scheduled total fleet	90%(excluding Sundays and Holidays)
2	Bus utilization	Kms operated by all buses / Total no. of buses operated	Minimum 180 kms
4	Trip Efficiency	No. of trips operated*100/ No. of Trips Scheduled	98% or better
5	Reliability of buses	Total no. of breakdowns*10000/ Total Kms operated	Less than 4
6	Safety of operations	No. of accidents*100000/ Total Kms operated	Preferably Nil
7	Punctuality (adherence to the Time Schedule)	No. of trips on time at start*100/ Total no. of trips operated	98 % or better
9	User Satisfaction	No. of complaints*1000/ total trips operated	Less than 2

(vii) PENALTIES

(i) PENALTIES

Sr. No.	Description	Fine per violation per bus per day (in Rs.)
1	**Bus related defaults / deficiencies**	
a)	Discoloration, alteration of the bus colour scheme, logo, peeling off of paint, non painting of any repaired work inside /outside of bus	500
b)	Unclean, dirty bus outside or inside at the start of the trip	500
c)	Driving with a Defective Number Plate	200
e)	Bus operating with broken seats missing, window glasses,	200
f)	Operator fails to carry out schedule preventive maintenance as per Bus Manufacturer maintenance schedule	2000
g)	fire extinguisher,first aid box,other mandatory safety devices are found non-functional or unavailable in the bus	1000
2	**Bus driver related defaults / deficiencies**	
a)	Bus operation with defective LED destination boards / or bus operation without destination boards , CCTV camera	500
b)	Non-operating pneumatic doors, operating buses with open doors, hanging passengers/conductors etc	300
c)	The driver is not carrying a proper driving license	500
d)	Driver is not wearing the uniform	500
e)	Driver found under the influence of alcohol	2000
g)	Passenger complaints of stop skipping, rash driving, starting the bus before boarding and alighting is completed	500
h)	Signal Jumping	500
i)	Non deployment of drivers resulting into not-out of buses	3000
3	**Bus Operators and or bus operation related deficiencies / defaults**	
a)	Deviating from route/trips/schedules/time table issued by MBMC or its authorized representative time to time	500
b)	Breakdown response time : failure to replace bus within 2 hrs.	1000
c)	Not taking corrective action on repeated occurrence of vehicle (including Breakdowns) and or driver related deficiencies (occurrence of a deficiencies more than 3 times in a week shall be termed as repetitive)	500
d)	Misbehaviour with passengers (proved after preliminary investigations)	500
e)	bus becomes non-operational during service due to shortage of diesel	1000
f)	Busses operating without fitness/insurance/permits/PUC	1000
g)	Any damage to the allotted civil structure and fixed infrastructure inside the depot (Maintenance facilities) and	Get it repaired by the operator/ As per actual

Sr. No.	Description	Fine per violation per bus per day (in Rs.)
	outside the depot (railing, street lights, bus stops, terminals, parking places etc during the operation)	cost of replacement
h)	any garbage, waste, scrap, or unhygienic condition is found within the allotted Depot premises during inspection/visit	5000 each instance
i)	Reports of any misconducts by the bus operators staff in depot (all shifts)	1000 for each instance
j)	the Operator fails to submit, bus/bus operation related records, or statutory compliance details within the stipulated time	1000
k)	Failure to submit the Transition Management Plan within the stipulated timeline	1000 for each day of delay
l)	Failure to deploy Starters, non-cooperation with the ticket collection agency.	2000
4	**Bus Operations related defaults or deficiencies**	
a)	In case of 1st fatal accident (Proved due to negligence of driver during preliminary investigations)	15,000
b)	In case of 2nd fatal accident and there off((Proved due to negligence of driver during preliminary investigations)	30,000

In case of non-compliance of Minimum service quality levels (average per month per quality parameter decided in a foresaid clause (vi) by the operator) the following penalties will be imposed by Authority

Sr.No.	Quality Parameter	Fine (in Rs.)
1	Fleet Utilisation	1000 Per Bus/Per day
2	Bus Utilisation	5000 Per day
3	Trip Efficiency	1000 Per reduce percentage
4	Reliability of Buses	500 Per additional Break down
5	Punctuality (adherence to the Time Schedule)	100 Per reduce percentage
6	User Satisfaction	500 Per additional compliant

SCHEDULE XI- FEE NOTIFICATION

Route No.	Bus registration number	Kilometres Plied	PKOMF applicable (as per category of Bus)	Bus-wise O&M Fee
Route 1	XYZ			
	ABC			
Route 2				
Route 3				
..				
..				
O&M Fee				
Damages				
Total				

SCHEDULE XII - ESCROW AGREEMENT

THIS ESCROW AGREEMENT is entered into on this the ……..dayof .....20….

AMONGST

1. The **[AUTHORITY]/** [**Special Purpose Company for Operation of Urban Bus Services**] (give description of the relevant Authority) and having its principal office at [.....], (hereinafter referred to as the "**Authority**" which expression shall include its successors and permitted assigns);

2. …….name and particulars of the Escrow Bank and having its registered office at..... (hereinafter referred to as the "**Escrow Bank**" which expression shall, unless repugnant to the context or meaning thereof, include its successors and substitutes); and

3. **XYZ, a special purpose company** registered under {*the Companies Act, 2013*} acting through _____having its registered office at _____(hereinafter referred to as the "**Operator**", which expression shall include its successors and permitted assigns).

WHEREAS:

(A) The Authority [has the power/function] to ensure the provision of public bus transport services within [*the area under its jurisdiction].*

(B) The Operator was selected by the Authority under a competitive bidding process and is established, *inter-alia* with the objectives of providing Bus Services in specified area/ routes in the city of …… (Mira Bhayandar including inter alia the operation and maintenance of Buses, fare collection, Bus Depot and/ or Parking Space (if any).

(C) The Authority and the Operator have entered into an Operation Contract dated _____ (hereinafterreferredto as "**Contract**"), whereby the Authority has granted to the Operator a non- exclusive right to operate and maintain the Buses and provide Bus Services within the specified Bus Service Area and the Operator has agreed to under takethe Projectonthe terms and conditions contained therein. A copy of the aforesaid Contract isannexed hereto and marked as Annex-A to form part of this Agreement.

(D) Under the terms of the Operation Contract, it has been stipulated that an escrow account shall be created into which the Authority shall deposit all the revenues generated and all the income accruing from the operation and maintenance of the Buses and provision of Bus Service within the Bus Service Area including but not limited to the Passenger Fare collected by the Authority (itself or through a third party) in the Escrow Account.

(E) This Agreement sets forth the detailed mandates, terms and conditions and operating procedures for such escrow account.

NOW THEREFORE, in consideration of the foregoing and the respective covenants and agreements set forth in this Agreement, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

1 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 assigned to them:

"**Agreement**" means this Escrow Agreement and any amendment thereto madeinaccordancewith theprovisionscontained herein;

"**Contract**" means the Operation Contract referred to in Recital(C) above and annexed here

to as Annex-A, and shall include all of its Recitals and Schedules and any amendments made thereto in accordance with the provisions contained in this behalf therein;

"**Cure Period**" means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Authority, and shall commence from the date on which a notice is delivered by the Operator, to the Authority asking the latter to cure the breach or default specified in such notice;

"**Escrow Account**" means an escrow account established in terms of and under this Agreement, and shall include the Sub-Accounts;

"**Escrow Default**" shall have the meaning ascribed there to inClause 6.1;

"**Parties**" means the parties to this Agreement collectively and "Party shall mean any of the Parties to this Agreement individually;

"**Payment Date**" means, in relation to any payment specified in Clause 4.1, the date(s) specified for such payment; and

"**Sub-Accounts**" means the respective Sub-Accounts of the Escrow Account, into which the monies specified in Clause 4.1 would be credited every month and paid out if due, and if not due in a month then appropriated proportionately in such month and retained in the respective Sub Accounts and paid out there from on the Payment Date(s).

1.2 Interpretation

1.2.1 The words and expressions beginning with capital letters and defined in this Agreement shall have the meaning ascribed thereto herein, and the words and expressions used in this Agreement and not defined herein but defined in the Contract shall, unless repugnant to the context, have the meaning ascribed thereto in the Contract.

1.2.2 References to Clauses are, unless stated otherwise, references to Clauses of this Agreement.

1.2.3 The rules of interpretation stated in Clauses 1.2,1.3 and 1.4 of the

Contract shall apply, *mutatis mutandis*, to this Agreement.

2 ESCROW ACCOUNT

2.1 Escrow Bank to act as trustee

2.1.1 The Authority hereby appoints the Escrow Bank to act as trustee for the Operator and the Authority in connection here with and authorises the Escrow Bank to exercise such rights, powers, authorities and discretion as a respecifically delegated to the Escrow Bank by the terms here of together with all such rights, powers, authorities and discretion as are reasonably incidental here to, and the Escrow Bank accepts such appointment pursuant to theterms hereof.

2.1.2 The Authority here by declares that all rights, title and interest in and to the Escrow Account shall be vested in the Escrow Bank and held in trust for the Authority and the Operator, and applied in accordance with the terms of this Agreement. No person other than the Authority and the Operator shall have any rights here under as the beneficiaries of, or as third party beneficiaries under this Agreement.

2.2 Acceptance of Escrow Bank

The Escrow Bank hereby agrees to act as such and to accept all payments and other amounts to be delivered to and held by the Escrow Bank pursuant to the provisions oft his Agreement. The Escrow Bank shall hold and safeguard the Escrow Account during the term of this Agreement and shall treat the amount in the Escrow Account as monies deposited by the Authority or the Operator with the Escrow Bank. In performing its functions and duties under this Agreement, the Escrow Bank shall act in trust for the benefit of, and as

agent for, the Authority and the Operator or their nominees, successors or assigns, in accordance with the provisions of this Agreement.

2.3 Establishment and operation of Escrow Account

2.3.1 Within {insert number of days} days from the date of this Agreement, the Authority shall open and establish the Escrow Account with the .....(name of Branch) Branch of the Escrow Bank. The Escrow Account shall be denominated in Rupees.

2.3.2 The Escrow Bank shall maintain the Escrow Account in accordance with the terms of this Agreement and its usual practices and applicable regulations, and pay the maximum rate of interest payable to similar customers on the balance in the said account from time to time.

2.3.3 The Escrow Bank and the Authority shall, after consultation with the Operator agree on the detailed mandates, terms and conditions, and operating procedures for the Escrow Account, but in the event of any conflict or inconsistency between this Agreement and such mandates, terms and conditions, or procedures , this Agreement shall prevail.

2.4 Escrow Bank's fee

The Escrow Bank shall be entitled to receive its fee and expenses in an amount, and at such times, as may be agreed between the Escrow Bank and the Authority. Such fee and expenses shall be appropriated from the Escrow Account in accordance with Clause 4.1.

2.5 Rights of the parties

The rights of the Authority and the Operator in the monies held in the Escrow Account are set forth in their entirety in this Agreement and the Authority and the Operator shall have no other rights against or to the monies in the Escrow Account.

3 DEPOSITS INTO ESCROW ACCOUNT

3.1 Deposits by the Authority

3.1.1 The Authority agrees and undertakes that it shall deposit into and/or credit the Escrow Accountwith:

a. all the revenues generated and all the income accruing from the Project including but not limited to the Passenger Fare, any deposits by the Authority from its own resources in order to maintain an amount equivalent to {*2 (two)}* month's estimated Actual O&M Fee in the Escrow Account;

b. all amounts collected by way of penalizing the passengers commuting without ticket;

c. all amounts by the Operator towards reimbursement of cost of insurance premiums

d. all payments by the Authority including insurance claims, if any, received;

e. dues towards Termination Payments payable to the Operator; and

f. any other revenues or capital receipts from or in respect of the Project

3.1.2 The Authority may at anytime make deposits of its other funds into the Escrow Account, provided that the provisions of this Agreement shall apply to such deposits.

3.2 Deposits by the Operator

The Operator agrees and undertakes that as and when due and payable its hall deposit into and/or credit the Escrow Account with:

a. Left Blank.

b. Damages payable by the Operator to the Authority;

3.3 Interest on deposits

The Escrow Bank agrees and undertakes that all interest accruing on the balances of the Escrow Account shall be credited to the Escrow Account; provided that the Escrow Bank shall be entitled to appropriate there from the fee and expenses due to it from the Authority in relation to the Escrow Account and credit the balance remaining tothe Escrow Account.

4 WITHDRAWALS FROM ESCROW ACCOUNT

4.1 Withdrawals during Contract Period

4.1.1 At the beginning of every month, or at such intervals as the Authority may by written instructions determine, the Escrow Bank shall withdraw amounts from the Escrow Account and appropriate them in the following order by depositing such amounts in the relevant Sub-Accounts for making due payments, and if such payments are not due in any month, then retain such monies in such Sub-Accounts and pay out therefrom on the Payment Date(s):

a. All payments towards taxes and other statutory levies, as applicable to the Authority in respect of the Project;

b. All payments to the Operator towards O&M Fee;

c. All payments to the Operator towards Damages;

d. Any other payment as due and payable to the Operator by the Authority;

e. Intentionally left blank

f. payment to Operator towards insurance claims, if any received and payable

g. Costs and expenses incurred by the Authority in accordance with the provisions of this Contract, including but not limited to payment of employee salary, administrative expenses, etc.; and

h. Balance funds to flow to the Authority, subject to the maintenance of balance of amount equivalent to {*2 (two) month's*} estimated payment of O&M Fee to the Operator.

4.2 Withdrawals upon Termination

Upon Termination of the Contract, all amounts standing to the credit of the Escrow Account shall, notwithstanding anything in this Agreement, shall be appropriated in the following order:

a. Payment towards taxes and other statutory levies, as applicable to the Authority in respect of the Project;

b. Payments to the Operator towards outstanding O&M Fee;

c. All payments towards Damages as due and payable by it to the Operator;

d. Costs and expenses incurred by the Authority in accordance with the provisions of the Contract, including payment of staff salary, administrative expenses, etc.;

e. Intentionally left blank

f. payment to Operator towards insurance claims, if any received and payable;

g. dues towards Termination Payment to the Operator or any other payment required to be made under this Contract; and

h. Balance, if any, to flow to the Authority.

4.3 Application of insufficient funds

Funds in the Escrow Account shall be applied in the serial order of priority setforth in Clauses 4.1.If the funds available are not sufficient to meet all the requirements, the Escrow Bank shall apply such funds in the serial order of priority until exhaustion thereof.

4.4 Application of insurance proceeds

Notwithstanding anything in this Agreement, the proceeds from all insurance claims, except life and injury, shall be deposited into and/or credited to the Escrow Account and utilized for any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation of the Project, and the balance remaining, if any, shall remain deposited in the Escrow Account.

5 OBLIGATIONS OFTHE ESCROW BANK

5.1 Segregation of funds

Monies and other property received by the Escrow Bank under this Agreement shall, until used or applied in accordance with this Agreement, be held by the Escrow Bank in trust for the purposes for which they were received, and shall be segregated from other funds and property of the Escrow Bank.

5.2 Notification of balances

7(seven) business days prior to each Payment Date (and for this purpose the Escrow Bank shall been titled to rely on an affirmation by the Authority as to the relevant Payment Dates), the Escrow Bank shall notify the Authority of the balances and any anticipated shortfall in the Escrow Account and Sub-Accounts as at the close of business on the immediately preceding business day. In the event of any such shortfall, the Authority shall meet the same by crediting adequate sums to the Escrow Account from its own financial sources.

5.3 Communications and notices

In discharge of its duties and obligations hereunder, the Escrow Bank:

a. may, in the absence of bad faith or gross negligence on its part, rely as to any matters of fact which might reasonably be expected to be within the knowledge of the Authority upon a certificate signed by or on behalf of the Authority;

b. may, in the absence of bad faith or gross negligence on its part, rely upon the authenticity of any communication or document believed by it to be authentic;

c. shall, within [five (5)] Business Days after receipt, deliver a copy to the Authority acting through Commissioner, Mira Bhayandar Municipal Corporation of any notice or document received by the Escrow Bank (in its capacity as the Escrow Bank) from the Operator or any other person hereunder or in connection herewith;

d. shall, within [five (5)] Business Days after receipt, deliver a copy to the Operator of any notice or document received by the Escrow Bank (in its capacity as the Escrow Bank) from the Authority or any entity in connection herewith.

5.4 No setoff

The Escrow Bank agrees not to claim or exercise any right of setoff, banker's lien or other rightor remedy with respect to amounts standing to the credit of the Escrow Account. For the avoidance of doubt, it is hereby acknowledged and agreed by the Escrow Bank that the monies and properties held by the Escrow Bank in the Escrow Account shall not be considered as part of the assets of the Escrow Bank and being trust property, shall in the caseof bankruptcy or liquidation of the Escrow Bank, be wholly excluded from the assets of the Escrow Bank in such bankruptcy or liquidation.

5.5 Regulatory approvals

The Escrow Bank shall use its best efforts to procure, and thereafter maintain and comply with, all regulatory approvals required for it to establish and operate the Escrow Account. The Escrow Bank represents and warrants that it is not aware of any reason why such regulatory

approvals will not ordinarily be granted to the Escrow Bank.

6 ESCROW DEFAULT

6.1 Escrow Default

6.1.1 Following events shall constitute an event of default by the Authority (an "Escrow Default") unless such event of default has occurred as a result of Force Majeure or any act or omission of the Operator:

a. the Authority commits breach of this Agreement by failing to deposit any receipts into the Escrow Account as provided herein and fails to cure such breach by depositing the same into the Escrow Account within a Cure Period of 5 (five) business days;

b. the Authority causes the Escrow Bank to transfer funds to any account of the Authority in breach of the terms of this Agreement and fails to cure such breach by depositing the relevant funds into the Escrow Account or any Sub-Account in which such transfer should have been made, within a Cure Period of 5 (five) business days; or

c. the Authority commits or causes any other breach of the provisions of this Agreement and fails to cure the same within a Cure Period of 5 (five) business days.

6.1.2 Upon occurrence of an Escrow Default, the consequences thereof shall be dealt with under and in accordance with the provisions of the Contract.

7 TERMINATION OF ESCROW AGREEMENT

7.1 Duration of the Escrow Agreement

This Agreement shall unless terminated earlier by the mutual consent of the Parties or otherwise in accordance with the provisions of this Clause by written notice from the Authority and the Operator to the Escrow Bank, remain in full force and effect for the duration of the Contract.

7.2 Substitution of Escrow Bank

The Authority may after consultation with the Operator, by not less than 45 (forty five) days prior notice to the Escrow Bank, the Authority, terminate this Agreement and appoint a new Escrow Bank, provided that arrangements are made for transfer of amounts deposited in the Escrow Account to a new Escrow Account established with the successor Escrow Bank. The termination of this Agreement shall take effect only upon coming into force of an Escrow Agreement with the substitute Escrow Bank.

7.3 Closure of Escrow Account

The Escrow Bank shall, at the request of the Authority made on or after the payment by the Authority of all outstanding amounts under the Contract including the payments specified in Clause 4.2, and upon confirmation of receipt of such payments, close the Escrow Account and Sub-Accounts and pay any amount standing to the credit thereof to the Authority. Upon closure of the Escrow Account hereunder, the Escrow Agreement shall be deemed to be terminated.

8 SUPPLEMENTARY ESCROW AGREEMENT

8.1 Supplementary escrow agreement

The Authority shall be entitled to enter into a supplementary escrow agreement with the Escrow Bank providing, inter alia, for detailed procedures and documentation for withdrawals from Sub-Accounts pursuant to Clause 4.1.1 and for matters not covered under this Agreement such as the restrictions on withdrawals by the Authority in the event of breach of this Agreement or upon occurrence of an Escrow Default, procedures relating to operation of the Escrow Account and withdrawal there from, reporting requirements and any matters incident

Althere to ;provided that such supplementary escrow agreement shall not contain any provision which is inconsistent with this Agreement and in the event of any conflict or inconsistency between provisions of this Agreement and such supplementary escrow agreement, the provisions of this Agreement shall prevail.

9 INDEMNITY

9.1 General indemnity

9.1.1 The Authority will indemnify, defend and hold the Operator and Escrow Bank, harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of any breach by the Authority of any of its obligations under this Agreement or on account of failure of the Authority to comply with Applicable Laws and Applicable Permits.

9.1.2 The Operator will indemnify, defend and hold the Authority harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising outof failure of the Operator to fulfil any of its obligations under this Agreement materially and adversely affecting the performance of the Authority's obligations under the Contract.

9.1.3 The Escrow Bank will indemnify, defend and hold the Authority harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising outof failure of the Escrow Bank to fulfil its obligations under this Agreement materially and adversely affecting the performance of the Authority's obligations under the Contract other than any loss, damage ,cost and expense, arising out of acts done in discharge of their lawful functions by the Escrow Bank, its officers, servants and agents.

9.2 Notice and contest of claims

In the event that any Party hereto receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under Clause 9.1 or in respect of which it is entitled to reimbursement (the "**Indemnified Party**"),it shall notify the other Party responsible for indemnifying such claim hereunder (the "**Indemnifying Party**") within 15(fifteen) days of receipt of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. In the eventthat the Indemnifying Party wishes to contest or dispute the claim, it may conduct the proceedings in the name of the Indemnified Party and shall bear all costs involved in contesting the same. The Indemnified Party shall provide all cooperation and assistance in contesting any claim and shall sign all such writings and documents as the Indemnifying Partymay reasonably require.

10 DISPUTE RESOLUTION

10.1 Dispute resolution

10.1.1 Any dispute, difference or claim arising out of or in connection with this Agreement, which is not resolved amicably, shall be decided finally by reference to arbitration to a Board of Arbitrators comprising one nominee of each Party to the dispute, and where the number of such nominees is an even number, the nominees shall elect another person to such Board. 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.

10.1.2The Arbitrators shall issue are as one award and such award shall be final and binding on the Parties. The venue of arbitration shall be____ (name of the city) and the language of arbitration shall be English.

11 MISCELLANEOUS PROVISIONS

11.1 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the Courts at_____shall have jurisdiction overall matters arising out of or relating to this Agreement.

11.2 Waiver of sovereign immunity

The Authority unconditionally and irrevocably:

a. agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;

b. agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Authority with respect to its assets;

c. waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and

d. consents generally in respect of the enforcement of any judgement or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgement that may be made or given in connection therewith).

11.3 Priority of agreements

In the event of any conflict between the Contract and this Agreement, the provisions contained in the Contract shall prevail over this Agreement.

11.4 Alteration of terms

All additions, amendments, modifications and variations to this Agreement shall be effectual and binding only if in writing and signed by the duly authorised representatives of the Parties.

11.5 Waiver

11.5.1 Waiver by any Party of a default by another Party in the observance and performance of any provision of or obligations under this Agreement:

a. shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;

b. shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and

c. shall not affect the validity or enforceability of this Agreement in any manner.

11.5.2 Neither the failure by any Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation there under nor time or other indulgence granted by any Party to another Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

11.6 No third party beneficiaries

This Agreement is solely for the benefit of the Parties and no other person or entity shall have any rights here under.

11.7 Survival

11.7.1 Termination of this Agreement:

a. shall not relieve the Parties of any obligations hereunder which expressly or by implication survive termination hereof; and

b. except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of, or caused by, acts or omissions of such Party prior to the effectiveness of such termination or arising out of such termination.

11.7.2 All obligations surviving the cancellation, expiration or termination of this Agreement shall only survive for a period of 3 (three) years following the date of such termination or expiry of this Agreement.

11.8 Severability

If for any reason whatever any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such in valid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to dispute resolution under Clause10.1 of this Agreement or otherwise.

11.9 Successors and assigns

This Agreement shall be binding on and shall inure to the benefit of the Parties and the irrespective successors and permitted assigns.

11.10 Notices

All notices or other communications to be given or made under this Agreement shall be in writing and shall either be delivered personally or sent by courier or registered post with an additional copy to be sent by facsimile ore-mail. The addresses for service of each Party, its facsimile number or- mail, are setout under its name on the signing pages hereto. A notice shall be effective upon actual receipt there of, save that where it is received after 5.30 (five thirty) p.m. on a business day, or on a day that is not a business day, the notice shall be deemed to be received on the first business day following the date of actual receipt. Without prejudice to the foregoing, a Party giving or making a notice or communication by facsimile or- mail shall promptly deliver a copy thereof personally, or send it by courier or registered post to the addressee of such notice or communication. It is hereby agreed and acknowledged that any Party may by notice change the address to which such notices and communications to it are to be delivered or mailed. Such change shall be effective when all the Parties have noticeof it.

11.11 Language

All notices, certificates, correspondence and proceedings under or in connection with this Agreement shall be in English.

11.12 Authorized representatives

Each of the Parties shall, by notice in writing, designate their respective authorized representatives through whom only all communications shall be made. A Party hereto shall be entitled to remove and/or substitute or make fresh appointment of such authorized representative by similar notice.

11.13 Original Document

This Agreement may be executed in four counterparts, each of which when executed and delivered shall constitute an original of this Agreement

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

SIGNED,SEALED AND DELIVERED

For and on be half of

ESCROW BANK by:

(Signature)

(Designation)
(Address)

(Fax No.)

SIGNED, SEALED AND DELIVERED

For and on be half of

AUTHORITY by:

(Signature) (Name)
(Name)
(Designation)
(Address)

(Fax No.)

SIGNED,SEALED AND

DELIVERED

For and on behalf of Operator:

In the presence of:

1.

2.

Annex – A

[Enclose a copy of the signed Contract]

SCHEDULE XIII - VESTING CERTIFICATE

VESTING CERTIFICATE

1. The……..(the **"Authority"**) refers to the Contract dated*** (the **"Contract"**) entered into between the Authority and M/s……..(the **"Operator"**) for ..... (hereinafter called the **'Project'**).
2. The Authority hereby acknowledges compliance and fulfilment by the Operator of the handback requirements set forth in Article 23 of the Contract on the basis that upon issue of this Vesting Certificate, the Authority shall be deemed to have acquired, and all title and interest of the Operator in or about the Project shall be deemed to have vested unto the Authority, free from any encumbrances, charges and liens whatsoever.
3. Notwithstanding anything to the contrary contained hereinabove, it shall be a condition of this Vesting Certificate that nothing contained herein shall be construed or interpreted as waiving the obligation of the Operator to rectify and remedy any defect or deficiency in any of the Hand back requirements and/or relieving the Operator in any manner of the same.

Signed this***day of***,20**at……

AGREED, ACCEPTED AND SIGNED	SIGNED,SEALED AND DELIVERED
For and on behalf of	For and on behalf of
OPERATOR by:	Authority by:
(Signature)	(Signature)
(Name)	(Name)
(Designation)	(Designation)
(Address)	(Address)
In the presence of:	
1.	2.

SCHEDULE XIV - OPERATIONS AND MAINTENANCE STANDARDS

1. Bus repair and maintenance generally calls for following activities amongst others at varying intervals / periodicity / kms operated by each bus, requirements varying with bus make, model, etc.:

    a. Daily washing and cleaning of buses

    b. Periodic inspections and rectifications as required.

    c. Preventive maintenance as prescribed by Bus Manufacturer in form of maintenance schedules at certain time intervals / kms operation - such maintenance generally varies with period / kms operation by various sub-systems of a bus. As an example periodicity of some such maintenance schedules and main activities therein are illustrated as under:

        (a) Daily maintenance – fuel, oils / lubricants, coolant, air pressure, air inflation, loose fasteners, fitments etc. – check, top up, tighten, as required

        (b) Monthly / bi-monthly – 9000 /18000 kms operation –All activities of earlier schedules and engine oil / engine filter change, checking for exhaust emission, tyre condition necessary for corrective / preventive actions, engine tuning, etc.

        (c) Quarterly – 30000-36000 kms operation – All activities of earlier schedules and brake system maintenance including but not limited to inspection, servicing, brake lining change / replacement, servicing of other brake system items, greasing etc.; vehicle electrical, lighting, alignment, etc.

        (d) Six monthly – 50,000- 60000 kms – All activities of above schedules, and activities related to steering, axles, transmission, tyres, drive line, etc.

        (e) Yearly – 90,000 – 100,000 kms – All above activities and full checking / inspection of bus chassis, bus bodies and their fitments, and taking necessary corrective / preventive actions

        (f) Bi–annual / annual –Certification of road worthiness of buses – Initial periodicity being after two years for up to certain age then annually.

        (g) Replacement of in-use bus aggregates at about Mean Time Between Failures (MTBF) to prevent failures and consequent costs and inconvenience

    d. Running repairs upon Driver complaints / report etc.

    e. Break down repairs on-site of Bus failures

    f. Towing of failed Bus to a depot workshop and repairing the bus failures

    g. Accidental vehicles' towing and or repairs

    h. Preparation of buses for periodic roadworthiness certification which includes all types of denting / painting of bus bodies / bus body items and operational functionality of chassis items and the bus as a whole.

i. Bus body and related items repairs / replacements etc. on the basis of periodic inspections / crew reports / general presentation aspects / operational problems reported by commuters / any other stake holders, etc.

j. Major repairs /calibrations of bus aggregates such as engines, gear box, rear axle etc.

k. Replacement of failed aggregates with new / serviceable ones,,

l. Removal, dismantling, repairing, assembling and re-fitment of tyres and rims to buses

m. Repair, replacement of electrical, electronic, ITS, lighting, etc. items, subsystems etc.

n. Removal, replacement of items failing due to operational wear and tear, such as brake and clutch lining, etc.

o. Repair / replacement of seats, upholstery; cleaning, dusting and washing upholstery;

p. Denting / painting of buses as per requirement,

2. Fuelling and fuel system management
3. Reconditioning of Bus aggregates such as engines, transmission, axles, steering system, fuel injection system items, electrical, etc.
4. Retrieval of spare parts during / for above processes,
5. Repair and re-treading of tyres / repair of tubes,
6. Major accidental repair of buses including chassis, bus body and related items
7. Acquisition, storage, inventory management, distribution, scrapping and disposal of spares / items / materials / vehicles etc.
8. Any other activity related to operation and maintenance of buses.
9. **Infrastructure and other requirements for repair and maintenance functions of Bus**

a. Bus depot duly equipped with requisite plant and equipment, machinery, tools, jigs and fixtures, etc.

b. A few other facilities as under:

(a) Washing facilities complete with washing machine, water storage and treatment facilities, etc.

(b) Fuelling facilities,

(c) Service pits / ramps etc.

(d) Painting facilities,

(e) Welding – electric arc and oxy-acetylene gas based.

(f) Tyre repair facilities

(g) Air compressor and air inflation facilities,

(h) Utilities, administrative, accounts, stores, and other related facilities

(i) Breakdown van / recovery / towing vehicle etc.

c. Control Centre facilities duly equipped with microprocessors, communications and other related facilities,

d. Trained staff for various trades and shifts of work

e. Documents, schedules, manuals etc. for maintenance activities; specifications of spares, etc.

SCHEDULE XV – LEFT BLANK

SCHEDULE XVI - FORMATS FOR CHANGE OF SCOPE

Change of Scope Notice Authority to complete and submit to Operator in advance of preparation of a Response to Change of Scope Notice	
Project name	
Change of Scope Notice Number	
Reason for proposed Change of Scope	
Description of proposed Change of Scope in sufficient detail to enable the Operator to conduct a detailed impact analysis and provide the Response to Change of Scope Notice in accordance with Clause 21.3.4	
Indicative cost of procurement of Buses	
Proposed Change of Scope implementation date	
Notice issue date	

Response to Change of Scope Operator to complete and submit to Authority in response Change of Scope Notice	
Project name	
Change of Scope Notice Number	
Impact of the proposed Change of Scope on the Bus Service, including any impacts on passenger numbers	
Is relief from compliance with any Operator obligations under this Contract requested during the implementation of the proposed Change of Scope? (if yes, provide details)	
Specify any additional Change of Scope required to implement the proposed Change of Scope specified in the Change of Scope Notice	
The cost of procurement of Bus, with supporting documents	
Operator plan to implement Change of Scope	
Regulatory approvals needed	
Proposed Change of Scope implementation date	
Response issue date	

Change of Scope Order Authority to issue to Operator for implementing Change of Scope	
Project name	
Change of Scope Notice Number	
Reason for proposed Change of Scope	
Is relief from compliance with any Operator obligations under this Agreement given during the implementation of the proposed Change of Scope? (if yes, provide details)	
Specify any additional Change of Scope required to implement thisChange of Scope Order	
Cost of procurement of Bus	
Change of Scope implementation date	
Order issue date	

SCHEDULE XVII - SAFETY MANAGEMENT

1. General Safety Requirements

1.1 The Operator shall be responsible for all safety matters related to the performance of the Project and shall manage on behalf of the Authority all safety requirements related to the Bus Service in accordance with all Applicable Laws.

1.2 The Operator shall bear full responsibility for the safety of the Bus Services throughout the Contract Period in accordance with the Contract.

1.3 Without prejudice to the Operator's obligation to ensure the safety of the Bus Service, the Operator shall:

(a) comply with Applicable Laws;

(b) provide all appropriate measures in the providing Bus Service and maintenance of the Project Facilities to ensure, so far as reasonably practicable, the safety of all passengers, contractors, staff and the general public;

(c) consult with Authority and adopt the requirements of the emergency services;

(d) take particular care to ensure safety for all passengers at accesses and exits, while waiting, boarding or alighting and when moving along the Buses; and

(e) have due regard for the safety of third parties, in particular pedestrians and other road users, in the operation and maintenance of Project Facilities.

2. Safety Planning

1.1 The Operator shall participate in any safety and emergency planning forum together with relevant third parties, which shall include, as a minimum, the Authority and the emergency services. This forum will consider and agree the safety matters and safety risks presented by the Project, consult relevant internal and external stakeholders and examine these risks in a thorough manner and plan the appropriate contingencies.

2 Safety Management

2.1 The Operator shall develop safety procedures for the Project and shall implement the safety procedures throughout the Contract Period.

3 Applicable Laws

3.1 The Operator shall, after prior consultation with the Authority, implement all alterations to the Bus Service which are required by any Applicable Laws which comes into force after the Execution Date relating to safety.

3.2 At the Operator’s cost, the Operator shall comply and shall procure that Sub-Contractors shall comply with the requirements of all relevant Authorities

4 Response to Emergencies

4.1 The Operator shall react safely and quickly to emergencies in all aspects of the Project.

4.2 The Operator shall co-operate with relevant Fire Services, Police, and any other Authorities wherever necessary.

4.3 The Operator shall develop an Emergency Management Plan that sets out its pre-determined actions to providing a response to a major crisis or emergency occurring at Depot, and en-Route Buses (“Emergency Management Plan”).

4.4 In developing the Emergency Management Plan, the Operator shall consult with all relevant Authorities, emergency services and local authorities.

4.5 All personnel designated to carry out specific responsibilities under the Emergency Management Plan are expected to know and understand the policies and procedures outlined in the Plan. The response to any major crisis or disturbance shall always be conducted within the framework of the Plan.

4.6 The Operator shall ensure that all staff are given clear instructions in line with the Emergency Management Plan, including training to deliver public address announcements in a way that avoids causing alarm and that instils confidence in passengers that the matter is under control.

5 Reporting of Incidents

5.1 The Operator shall comply with all Applicable Laws relating to the reporting of accidents, incidents, fatalities, injuries, and dangerous occurrences. The Operator shall liaise with the Authority in relation to the reporting of any incident and the future measures to be taken to prevent the recurrence thereof.

SCHEDULE XVIII - ENVIRONMENT MANAGEMENT

1. Responsibility for environmental management

1.1 The Operator shall designate a member of staff with responsibility for environmental management who shall:

(a) be a competent person with relevant environmental training and experience;

(b) take overall responsibility for environmental issues pertaining to the Contract;

(c) liaise with the Authority on matters pertaining to the environment;

(d) attend environmental meetings with the Authority when required;

(e) prepare all environmental reports;

(f) co-ordinate and/or carry out environmental monitoring and inspections; and

(g) communicate environmental requirements to all personnel.

2. Environmental complaints

2.1 The Operator shall develop and implement a complaints procedure for reporting, recording and closing out environmental complaints from the public, including complaints relating to noise and vibration.

2.2 The environmental complaints procedure shall be communicated to all relevant personnel on a regular basis.

2.3 The Operator shall record all complaints of an environmental nature related to the Project.

2.4 All complaints of an environmental nature shall be resolved as soon as is reasonably practicable.

2.5 Key environmental complaints shall be reported to the Authority on a quarterly basis.

3. Environmental incidents

3.1 An environmental incident may include, but is not limited to the following:

- any spillage which cannot be rapidly contained and controlled, For example oil spills;
- inappropriate disposal of waste

3.2 In the event of an environmental incident, the Operator shall:

- carry out an investigation to identify the nature and cause of the incident and any emission arising;
- isolate the source of any such emission;
- evaluate the environmental pollution/ contamination, if any, caused by the incident;
- identify and execute measures to minimize the emissions and the effects thereof;
- notify relevant authorities;
- notify the Authority as soon as practicable.

3.3 The Operator shall identify and put in place measures to avoid the reoccurrence of the incident.

4. Noise and Vibration

4.1 The Operator shall at all times minimize noise and vibration related to Project Facilities.

4.2 The Operator shall ensure that monitoring is carried out at locations where complaints pertaining to noise and/or vibration have arisen. The Operator shall undertake any additional noise and vibration monitoring as required by the Authority.

5. Water Pollution

5.1 The Operator shall ensure that the Project does not adversely impact on water quality.

5.2 The Operator shall ensure that water supply and drainage and effluent discharge arrangements, including disposal of surface water, comply with the requirements of the relevant local authority and any other legal requirement.

5.3 Any sampling, analyses, measurements, examinations, maintenance and calibrations as required shall be undertaken by trained and competent staff. All analysis shall be undertaken by an accredited laboratory.

6. Waste disposal

6.1 The Operator shall take whatever measures it deems necessary to comply with Applicable Laws to minimize waste, including in its management of contractors.

6.2 The Operator shall actively discourage illegal dumping at depot sites

SCHEDULE XIX – O&M FEE

The Authority to insert Annex I of Appendix X from the RFP as submitted by the Operator.

SCHEDULE XX – LEFT BLANK

SCHEDULE XXI – AMOUNT OF PERFORMANCE SECURITY

Years from COD of 1st Lot of Buses	Amount
1	100% of Performance Security at Execution Date
2	100% of Performance Security at Execution Date
3	83% of Performance Security at Execution Date