CHANDIGARH TRANSPORT UNDERTAKING

CHANDIGARH

"HIRING OF 40 NOS MIDI (9.0 MTRS) AIR CONDITIONING (WITHOUT HEATING SYSTEM) FULLY BUILT PURE ELECTRIC BUSES INCLUDING BUS CHARGING STATIONS ON KILOMETER BASIS FOR A PERIOD OF 10 YEARS."

CHANDIGARH TRANSPORT UNDERTAKING
Plot No. 701, Industrial Area, Phase-1, Chandigarh
Tel No: 0172-2679002 E-mail: directorctuchd@gmail.com

CONTENTS OF REQUEST FOR PROPOSAL (RFP) DOCUMENT

PART-A
INSTRUCTIONS TO THE BIDDERS

The RFP document comprises the sections as listed below and would additionally include any Addenda issued before the due date of submission of the RFP. Any reference to the RFP document includes all the contents unless specifically mentioned otherwise.

S. No.	Particulars	Page No.
1	Section - 1 Disclaimer	1
2	E-tender Notice	2
3	Section-II Notice Inviting Tender	2
4	Section-III Definitions & Abbreviations	3-4
5	Section-IV Instructions to Bidders (ITB)	5-13
6	Section-VI Schedule of Requirements (SOR)	14
8	Section-VII Bid Form, Annexures and other formats Annexure – 1 Performa of Deviations Annexure– 2 Performa of Deviations from Technical Specifications Annexure – 3 Performa of Submission of Bid Annexure – 4 Format of Financial Bid Annexure – 5 Affidavit Performa Annexure – 6 Final Acceptance Certificate Annexure- 7 Letter of Bid Acceptance Annexure – 8 Affidavit Performa for non-blacklisting Annexure- 9 Check List	 15 16 17-18 19 20 21 22-23 24 25

PART-B

MODEL CONCESSION AGREEMENT

CONTENTS

Part I Preliminary 7-9
ARTICLE 1 DEFINITIONS AND INTERPRETATION 10
1.1 Definitions 10
1.2 Interpretation 10-11
1.3 Measurements and arithmetic conventions 12
1.4 Priority of agreements, clauses and schedules 12-13
Part II Scope of the Agreement 14
ARTICLE 2 SCOPE OF THE AGREEMENT 15
2.1 Scope of the Agreement 15
ARTICLE 3 AWARD OF CONTRACT 16
3.1 The Contract 16
ARTICLE 4 CONDITIONS PRECEDENT 17
4.1 Conditions Precedent 17-18
4.2 Damages for delay by the Authority 18
4.3 Damages for delay by the Operator 18
4.4 Deemed Termination upon delay 18
ARTICLE 5 OBLIGATIONS OF THE OPERATOR 19
5.1 Obligations of the Operator 19-20
5.2 Obligations relating to Project Agreements..... 20-21
5.3 Obligations relating to Change in Ownership 21-22
5.4 Obligations relating to employment of foreign nationals 22
5.5 Obligations relating to employment of personnel 22-24
5.6 Advertisement and Branding of Buses 24
5.7 Obligations regarding risk of loss or damage 24
5.8 Obligations relating to information 24
5.9 Obligations relating to aesthetic quality 25
5.10 Obligations relating to noise control 25
5.11 Facilities for physically challenged and elderly persons 25
5.12 Obligations relating to Charging Infrastructure..... 25
5.13 Registration of the Project under Clean Development Mechanism (CDM) 25
ARTICLE 6 OBLIGATIONS OF THE AUTHORITY..... 26
6.1 Obligations of the Authority 26
ARTICLE 7 REPRESENTATIONS AND WARRANTIES 27
7.1 Representations and warranties of the Operator 27-28
7.2 Representations and warranties of the Authority 28-29
7.3 Disclosure 29
ARTICLE 8 DISCLAIMER 30
8.1 Disclaimer 30
Part III Development and Operations 31
ARTICLE 9 PERFORMANCE SECURITY..... 32
9.1 Performance Security 32
9.2 Appropriation of Performance Security 32
9.3 Release of Performance Security 32
ARTICLE 10 LAND FOR DEPOTS 33
10.1 Site for the Maintenance Depots 33
10.2 Protection of Site from encroachments 33
10.3 Special/temporary Right of Way 33
10.4 Access to the Authority 33

ARTICLE 11 UTILITIES, ASSOCIATED ROADS AND TREES 34
Deleted
ARTICLE 12 CONSTRUCTION OF THE MAINTENANCE DEPOTS 34
Deleted
ARTICLE 13 PROCUREMENT OF BUSES 36
13.1 Standards and Specifications 36
13.2 Ownership of Buses 36
13.3 Procurement Schedule 36
13.4 Prototype 36
13.5 Tests at Manufacturer's Plant 36-37
13.6 Supply of Prototype 37
13.7 Acceptance of Prototypes 37
13.8 Procurement of Buses 37
13.9 Delay in Procurement 38
13.10 Readiness for Commencement of Service 38
13.11 Damage due to accident 38-39
ARTICLE 14 ENTRY INTO COMMERCIAL SERVICE 40
14.1 Inspection by the Authority 40
14.2 Safety Inspection 40
14.3 Commercial Operation Date (COD) for Respective Lot of Buses 40-41
14.4 Damages for delay 41
ARTICLE 15 CHANGE OF SCOPE 42
15.1 Change of Scope 42
15.2 Procedure for Change of Scope 42
15.3 Payment for Change of Scope 43
15.4 Restrictions on certain works 43
ARTICLE 16 OPERATION OF BUSES 44
16.1 Operations of Buses 44
16.2 Maintenance Depot 44
16.3 Operation Manual 44
16.4 Routes and Schedules 44-45
16.5 Deployment Plan 45-46
16.6 Incidents En-Route 46
16.7 Excuse from Performance of Obligations 46
16.8 Advertising on Buses and Maintenance Depots 46-47
16.9 User Fare..... 47
ARTICLE 17 MAINTENANCE OF BUSES 48
17.1 Maintenance Obligations 48
17.2 Maintenance Manual 48
17.3 Spares and Consumables 48-49
17.4 Maintenance Requirements 49
17.5 Damages for breach of Maintenance Obligations 49
17.6 De-commissioning due to Emergency 49
17.7 Authority's right to take remedial measures 49
17.8 Overriding powers of the Authority 50
17.9 Restoration of loss or damage to the Buses 50
17.10 Modifications to the Buses 50-51
17.11 Operation Assistance 51
17.12 Excuse from performance of obligations 51-52
17.13 Warranties for defects and deficiencies 52
17.14 Maintenance Depots 52-53
17.15 Maintenance facilities 53

ARTICLE 18 SAFETY REQUIREMENTS 54
18.1 Safety Requirements 54
18.2 Guiding principles 54
18.3 Obligations of the Operator 54
18.4 Safety measures during construction 54
18.5 Annual Safety Report 55
ARTICLE 19 MONITORING OF OPERATION AND MAINTENANCE 56
19.1 Monthly status reports 56
19.2 Reports of unusual occurrence 56
19.3 Inspection..... 56
19.4 Tests 56
19.5 Remedial measures 57
19.6 Responsibility of the Operator 57
19.7 Real Time Data Access 57
ARTICLE 20 KEY PERFORMANCE INDICATORS 58
20.1 Key Performance Indicators 58
20.2 Reliability 58
20.3 Operation of Buses 58
20. 4 Punctuality 59
20.5 Frequency 59
20.6 Safety of Operations 59
20.7 Certification 59
20.8 Monthly Report..... 60
20.9 Passenger Charter 60
20.10 Damages for failure to achieve key performance indicators 60
20.11 Incentive for exceeding to achieve key performance indicators 60
Part IV Financial Covenants 61
ARTICLE 21 FINANCIAL CLOSE 62
Deleted
ARTICLE 22 FEE..... 63
22.1 Fee 63
22.2 Basis of Payment 63
22.3 Payment of Fee 63-64
22.4 Annual Assured Kilometer 64
22.5 Revision of Fee 64-65
ARTICLE 23 TRAINING AND DEPUTATION OF GOVERNMENT EMPLOYEES 66
Deleted
ARTICLE 24 TRANSFER OF MAINTENANCE DEPOTS 67
24.1 Transfer of Maintenance Depots 67
24.2 Provision of Spares upon Termination 67
ARTICLE 25 INSURANCE 68
25.1 Insurance during Agreement Period 68
25.2 Insurance Cover 68
25.3 Notice to the Authority 68
25.4 Evidence of Insurance Cover 68
25.5 Remedy for failure to insure 69
25.6 Waiver of subrogation 69
25.7 Operator's waiver 69
25.8 Application of insurance proceeds 69
25.9 Compliance with conditions of insurance policies 69
ARTICLE 26 ACCOUNTS AND AUDIT 70
26.1 Audited accounts 70

26.2 Appointment of auditors 70
26.3 Certification of claims by Statutory Auditors..... 71
26.4 Set-off 71
26.5 Dispute resolution 71
ARTICLE 27 ESCROW ACCOUNT 72
27.1 Escrow Account 72
27.2 Deposit in Escrow Account 72
27.3 Withdrawal upon Termination 72
ARTICLE 28 TRAFFIC REGULATION AND SECURITY 73
Deleted
Part V Force Majeure and Termination 74
ARTICLE 29 FORCE MAJEURE 75
29.1 Force Majeure 75
29.2 Non-Political Event 75
29.3 Indirect Political Event 76
29.4 Political Event..... 76-77
29.5 Duty to report Force Majeure Event 77
29.6 Effect of Force Majeure Event on the Contract 78
29.7 Allocation of costs arising out of Force Majeure 78
29.8 Termination Notice for Force Majeure Event 78-79
29.9 Termination Payment for Force Majeure Event 79
29.10 Dispute resolution 79
29.11 Excuse from performance of obligations 79-80
ARTICLE 30 COMPENSATION FOR BREACH OF AGREEMENT..... 81
30.1 Compensation for default by the Operator 81
30.2 Compensation for default by the Authority 81
30.3 Extension of Contract Period 81
30.4 Compensation to be in addition 81
30.5 Mitigation of costs and damage 81
ARTICLE 31 SUSPENSION OF OPERATOR'S RIGHTS 82
31.1 Suspension upon Operator Default 82
31.2 Authority to act on behalf of Operator 82
31.3 Revocation of Suspension 82
31.4 Termination 83
ARTICLE 32 TERMINATION 84
32.1 Termination for Operator Default 84-86
32.2 Termination for Authority Default 86
32.3 Termination Payment 87
32.4 Certain limitations on Termination Payment..... 88
32.5 Other rights and obligations of the Authority 88
32.6 Survival of rights 89
ARTICLE 33 DIVESTMENT OF RIGHTS AND INTEREST 90
33.1 Divestment requirements upon expiry of the Agreement Period 90
33.2 Inspection and cure 90
33.3 Cooperation and assistance on transfer of Maintenance Depots 91
33.4 Divestment requirements upon termination 91-92
33.5 Vesting Certificate 92
33.6 Divestment costs etc. 92
ARTICLE 34 DEFECTS LIABILITY AFTER TERMINATION 93
34.1 Liability for defects after Termination 93
34.2 Retention in Escrow Account 93

Part VI Other Provisions 94
ARTICLE 35 ASSIGNMENT AND CHARGES..... 95
35.1 Restrictions on assignment and charges 95
35.2 Permitted assignment and charges 95
35.3 Substitution Agreement 95
35.4 Assignment by the Government 95
ARTICLE 36 CHANGE IN LAW 96
Deleted
ARTICLE 37 LIABILITY AND INDEMNITY 97
37.1 General indemnity 97
37.2 Indemnity by the Operator 97-98
37.3 Notice and contest of claims 98
37.4 Defence of claims 98-99
37.5 No consequential claims 99
37.6 Limitation of Liability 99-100
37.7 Survival on Termination 100
ARTICLE 38 RIGHTS AND TITLE OVER SITES 101
38.1 Operator's rights 101
38.2 Access rights of the Authority and others 101
38.3 Property taxes 101
38.4 Restriction on sub-letting..... 101
ARTICLE 39 DISPUTE RESOLUTION 102
39.1 Dispute resolution 102
39.2 Conciliation 102
39.3 Arbitration 102-103
39.4 Adjudication by a tribunal 103
ARTICLE 40 DISCLOSURE 104
40.1 Disclosure of Specified Documents 104
40.2 Disclosure of Documents relating to safety 104
40.3 Withholding disclosure of Protected Documents 104
ARTICLE 41 REDRESSAL OF COMPLAINTS 105
41.1 Complaint Register 105
41.2 Redressal of complaints 105
ARTICLE 42 MISCELLANEOUS 106
42.1 Governing law and jurisdiction 106
42.2 Waiver of immunity..... 106
42.3 Depreciation 106
42.4 Delayed payments 106-107
42.5 Waiver 107
42.6 Liability for review of Documents and Drawings 107
42.7 Exclusion of implied warranties etc. 107
42.8 Survival 107-108
42.9 Entire Agreement 108
42.10 Severability 108
42.11 No partnership 108
42.12 Third parties 108
42.13 Successors and assigns 109
42.14 Notices 109
42.15 Language 109
42.16 Counterparts..... 110
ARTICLE 43 DEFINITIONS 111-126

SCHEDULES 127
SCHEDULE-A SITE OF THE MAINTENANCE DEPOT 128-131
SCHEDULE -B SPECIFICATIONS AND STANDARDS 132-141
SCHEDULE-C APPLICABLE PERMITS..... 142
SCHEDULE-D PERFORMANCE SECURITY 143-145
SCHEDULE -E MAINTENANCE DEPOT COMPLETION SCHEDULE 146
SCHEDULE-F DESIGN AND DRAWINGS 147-148
SCHEDULE-G PROCUREMENT SCHEDULE..... 149
SCHEDULE-H TESTS 150-153
SCHEDULE-I OPERATION AND MAINTENANCE REQUIREMENTS..... 154-156
SCHEDULE-J DEPLOYMENT PLAN..... 157
SCHEDULE-K SAFETY REQUIREMENTS..... 158-159
SCHEDULE-L MAINTENANCE DEPOTS EQUIPMENT..... 160-163
SCHEDULE-M ESCROW AGREEMENT..... 164-172
SCHEDULE-N PASSENGER CHARTER..... 173-178
SCHEDULE-O STAFFING QUALIFICATIONS..... 179
SCHEDULE-P VESTING CERTIFICATE..... 180
SCHEDULE-Q DATA MONITORING SYSTEM 181-183
SCHEDULE-R PANEL OF CHARTERED ACCOUNTANTS.....184-185
SCHEDULE-S SUBSTITUTION AGREEMENT.....186
SCHEDULE-T STATEMENT OF INPUT COST 187
SCHEDULE-U SCOPE OF AGREEMENT 188-189
APPENDIX-I LIST OF BID SPECIFIC PROVISIONS 190-195

SECTION -1

DISCLAIMER

This RFP is being issued by the DIRECTOR TRANSPORT, CHANDIGARH TRANSPORT UNDERTAKING, Chandigarh for inviting e-tenders for **"HIRING OF 40 NOS MIDI (9.0 MTRS) Air Conditioning (without heating system) FULLY BUILT PURE ELECTRIC BUSES INCLUDING BUS CHARGING STATIONS ON KILOMETER BASIS FOR A PERIOD OF 10 YEARS."** (herein after called "buses") on such terms and conditions and technical specifications as set out in this RFP document and as per CMVR rules/ARAI/AIS-052 guidelines/FAME-II guidelines'.

It is hereby clarified that this RFP is not an agreement and is not an offer or invitation by CHANDIGARH TRANSPORT UNDERTAKING to any party hereunder. The purpose of this RFP is to provide the bidder(s) with information to assist in the formulation of their proposal submission. This RFP document does not purport to contain all the information bidder may require. This RFP document may not be appropriate for all the persons, and it is not possible for CHANDIGARH TRANSPORT UNDERTAKING to consider particular needs of each bidder. Each bidder should conduct its own investigation and analysis, and should check the accuracy, reliability and completeness of the information in this RFP document and obtain independent advice from appropriate sources. CHANDIGARH TRANSPORT UNDERTAKING and their advisors make no representation or warranty and shall incur no liability financial or otherwise under any law, statute, rules or regulations or otherwise as to the accuracy, reliability or completeness of the RFP document.

CHANDIGARH TRANSPORT UNDERTAKING may in their absolute discretion, but without being under any obligation to do so, update, amend or supplement information in this RFP document, as required from time to time. To claim demand incentive under FAME-II scheme, Model Concession Agreement circulated by NITI Aayog is followed while drafting RFP, however, few changes, if required, to be made in Model Concession Agreement attached in the RFP as per directions of Department of Heavy Industries, Govt. of India or Chandigarh Administration to avail the subsidy then same shall be binding on the participating bidders/successful bidder though bid/quoted prices along with revision of per KM Fee will remain same.

SECTION- II NOTICE INVITING TENDER (NIT)

CHANDIGARH TRANSPORT UNDERTAKING
(PLOT NO.701, INDUSTRIAL AREA, PHASE –I, CHANDIGARH)

E—TENDER NOTICE

E-Tenders (Online Tenders) are invited for **"HIRING OF 40 NOS MIDI (9.0 MTRS) Air Conditioning (without heating system) FULLY BUILT PURE ELECTRIC BUSES INCLUDING BUS CHARGING STATIONS ON KILOMETER BASIS FOR A PERIOD OF 10 YEARS."** on the terms and conditions and technical specifications as set out in the Tender documents which can be downloaded from the website http://etenders.chd.nic.in or http://chdctu.gov.in/ The important dates with regard to uploading the tenders are as under:-

Bid Reference	:	No. 8160/ACCTT(H)/CTU/2021
Date of commencement of downloading of bid document	: :	04.11.2021
Last date for seeking clarification if any.	:	18.11.2021 upto 05:00 PM
Pre-bid meeting	:	18.11.2021 at 11:30 AM
Last date and time for EMD and Bid processing fee in physical form and uploading of bid (Technical and Financial) in e- procurement platform http://etenders.chd.nic.in	:	25.11.2021 upto 02.00 PM
Date and time of opening of technical bids	:	The bids will be opened online by the Authorized Officers on 25.11.2021 at 15.00 Hrs
Date and time of opening of Financial Bids	:	Will be intimated to technically responsive bidders
Place of opening of bids and address for communication	:	**CHANDIGARH TRANSPORT UNDERTAKING** DIRECTOR TRANSPORT, Plot No. 701, Industrial Area Phase-1, Chandigarh
In case of any query/clarification		The bidders can approach office of DIRECTOR TRANSPORT, Chandigarh on any working day between 9.00 AM to 5.00 PM (till the date of pre-bid meeting) in case of any clarification/query regarding e-tender (Phone No. 70157-65795) or mail at directorctuchd@gmail.com

No tender except EMD and Bid processing fee shall be accepted in physical form.

DIRECTOR TRANSPORT, CHANDIGARH TRANSPORT UNDERTAKING Chandigarh shall have every right to cancel/withdraw/amend the advertisement or extend the due date at his sole discretion or accept or reject any tender without assigning any reason.

Sd/-
Director Transport,
CTU, Chandigarh.

SECTION III; DEFINITIONS & ABBREVIATIONS

In this RFP, the following words (s), unless repugnant to the context or meaning there of, shall have the meaning (s) assigned to them herein below:

3.1 **"Aims and Objectives"** To motivate the public to prefer use of public transport as a means of travelling over personal transport by modernizing the fleet & operations and improve the quality and outlook of the buses, environmentally friendly buses so that they are comfortable, aesthetic, attractive as would be befitting a modern vibrant city.

3.2 **"Agreement"** means the document signed between the DIRECTOR TRANSPORT, Union Territory, Chandigarh and the successful bidder, that incorporates any final corrections or modification to the bid, and is the legal document binding on both the parties to the agreement, with all terms and conditions of the contract attached in Part-B as Model Concession Agreement and further any Amendments made by CTU at any point of time before agreement.

3.3 **"Bid"** means the proposals submitted by the Bidder(s) in response to this RFP in accordance with the provisions, thereof including the Technical Bid/proposal and Financial Bid/proposal along with all other documents forming part and in support thereof.

3.4 **"Bidder"** means a proprietorship firm/partnership firm/joint venture/consortium or company incorporated in India who is manufacturer of buses or is supplier of buses and has submitted the bid for the hiring of 40 nos. electric buses (including procurement, operation and maintenance of buses including bus charging stations) as per the terms, conditions, and technical specifications of the RFP document).

3.5 **"Bid Security"** shall have the meaning prescribed to it in Instructions to Bidders.

3.6 **"Bid Process"** means the process of selection of the successful bidder through Competitive bidding and includes submission of bids, scrutiny and evaluation of such bids as set forth in the RFP.

3.7 **"Contract"** means and includes **"Letter of Bid Acceptance", ' Notice Inviting Tender ', 'Instructions to Bidders', 'General Conditions of Contract', 'Schedule of Requirements', 'Technical Specifications', ' Price Schedule', 'Annexure', MCC** an agreement, if executed.

3.8 **"Contractor" means** the successful bidder with whom the contract for the hiring of buses is placed and shall be deemed to include the Contractor's successors (approved by the CTU), representatives, heirs, executors and administrators, as the case may be, unless executed by the terms of the agreement/contract.

3.9 **"Deadline for Submission of Bids"** shall mean the last date and time for receipt of Bids as set-forth in the RFP or such other date/time as may be decided by Chandigarh Transport Undertaking, Chandigarh in its sole discretion and notified to the bidders by dissemination of requisite information in this behalf on the Website http://etenders.chd.nic.in and/or in writing either by email or by facsimile or by registered post or through advertisement in the newspaper

3.10 **"Delivery of Buses"** shall be deemed to take place only if the buses are delivered in accordance with the terms of the contract/agreement after approval by the Inspecting Officer/Committee setup by the CTU.

3.11 **"DIRECTOR TRANSPORT"** means the Chief Executive Officer, CHANDIGARH TRANSPORT UNDERTAKING, Union Territory, Chandigarh and its authorized successors representatives and assignees at all times.

3.12 **"Effective date"** of the agreement shall mean the date on which the 'Letter of Bid Acceptance (LOBA) shall be dispatched by the CTU.

3.13 **"CTU"** means the CHANDIGARH TRANSPORT UNDERTAKING, Chandigarh as is relevant in the context.

3.14 **"Inspecting Officer**" means the person(s), firm(s) or organization nominated by the CTU for the purpose of inspection of buses or works under the agreement and includes its / their authorized representative(s).

3.15 **"Inspection means"** final inspection of buses which will be carried out at Chandigarh or at any other places as desired by the CTU before plying of buses en-route.

3.16 **"Letter of Bid Acceptance"** means the letter or memorandum communicating to the successful bidder the acceptance of its bid and includes an advance acceptance of its bid.

3.17 **"CTU"** means Chandigarh Transport Undertaking, Chandigarh or its authorized representatives

3.18 **"Period"** shall mean the entire term of the agreement or Contract.

3.19 **"RFP"and** / or **RFP Document"** means this RFP document comprises the sections namely Disclaimer, Notice Inviting Tender (NIT), Definitions and Abbreviations, Instructions to Bidders (ITB), General Conditions of Contract (GCC), Schedule of Requirements (SOR), Technical Specifications, (TS), Price Schedule (PS), Model Concession Agreement (MCA) by NITI Aayog, GoI (amended) and Bid Forms, Annexure and other formats and any applicable schedules thereto added/modified before the freezing of the RFP.

3.20 **"Site"** means such place as may be specified at which any work is to be executed by the Contractor under the agreement or any other place approved by the CTU for the purpose.

3.21 The terms **"Successful Bidder" , "Acceptable L1 Bidder" "Operator"** , and / or **"Vendor"** shall mean the Bidder who qualifies the Technical bid/proposal stage and the Financial bid/Proposal stage of this **RFP** and to whom a Letter of Bid Acceptance is consequently issued by "**DIRECTOR TRANSPORT", Chandigarh.**

3.22 **"Works"** means all the works specified or set forth and required in and by the said 'Technical Specifications', 'General Conditions of Contract', and 'Schedule of Requirements', Model Concession Agreement amended by CTU (Part-B), 'Bid Forms, Annexure and other Formats' annexed or to be implied there from or incidental thereto, or to be hereafter specified or required in such explanatory instruction and drawings (being in conformity with the said original Specification (s), Drawing (s) and 'Schedule of Requirements) and also in such additional instructions and drawings not being in conformity as aforesaid, as shall from time to time, during the progress of the work hereby Contracted for, be supplied by the CTU.

3.23 "MCC" refers to Model Concession Agreement amended by CTU and attached at Part-B of this RFP document.

3.24 Any other term(s), not defined herein above but defined elsewhere in this RFP shall have the meanings(s) prescribed to such terms(s) therein and shall be deemed to have been included in this section.

SECTION IV: INSTRUCTIONS TO BIDDERS (ITB)

4.1 GENERAL

4.1.1 CTU (hereinafter referred to also as the CTU), invites Online tender in Two Bid System for hiring of buses as per "Schedule of Requirement" and "Technical specifications" of the bus conforming, from a proprietorship firm/partnership firm/joint venture/consortium or company incorporated in India who is manufacturer of buses or is supplier of buses and has submitted the bid for the hiring of 40 nos. electric buses including bus charging stations fulfilling the requirement as laid down in this RFP document.

4.1.2 Complete bid in the prescribed format should be submitted online on or before the time and date fixed for submission of bid. The Price Bid in physical form will not be entertained.

4.1.3 Bidders can bid only for type of bus mentioned in the Schedule of Requirement(s).

4.1.4 Traders, Agents, Brokers and middlemen are not eligible for participation in the bid in any way.

4.2 ELIGIBILITY CRITERIA

4.2.1 Technical Qualification (Documentary proof to be attached):-

i) The bidder (in case of supplier) should have maintenance agreement / understanding with the vehicle manufacturer covering for the agreement period with CTU.

(ii) The bidder should be manufacturer of buses or in case of supplier, bidder should have supplied or owned at least 20 Electric/Diesel/CNG buses in past 5 years w.e.f. 31.03.2020.

iii) The bidder should have Type approval from ARAI/CIRT/ICAT Certification of the **Base Model**. Further, Type Approval Certificate for the model offered should be provided before inspection at the time of Prototype Inspection.

4.2.2 Financial Qualification:-

i) The bidder should have a minimum average annual turnover of Rs 25.00 Crores (Twenty Five Crores only) for last 3 years duly certified by the Chartered Accountant, for the financial years of 2017-18, 2018-2019 and 2019-20. The bidder should submit Income Tax returns and Audited Balance Sheets duly signed for the relevant three financial years.

ii) The net worth of Bidder should be more than Rs. 16 (Sixteen) Crores for the financial year 2019-2020, to be certified by the Chartered Accountant in practice or Company Secretary in practice based on audited financial statement.

4.2.3 Black Listing and Non-Performance:-

i) The bidder should have not been blacklisted from Central/UT/State Government/Organization/Boards/Corporation for corrupt or fraudulent or non-delivery or non- performance in last 3 years from date of calling/publishing of e-tender and in case of any dispute with any STU/corporation/Organization; the same should be attached along with technical bid. An Undertaking as per Annexure-8 should be submitted in this regard.

ii) There should not be any criminal proceeding pending against the bidder or any of its director's anywhere in India and there are no dues/outstanding of any of the Central/UT/State Government/Organization/Boards/Corporation and statement in this regard has to be given on an undertaking as per Annexure -8 of this RFP document.

4.2.4 Consortium

1. In case of consortium, there should not be more than three members including lead member.
2. There should be lead member who should have equal or more than 51% (Fifty One percent) share capital of consortium, and who will be authorized by other member of consortium to sign a bid and agreement etc. on behalf of consortium. Other members of the consortium must have more than 5% (Five) share capital of consortium.
3. The lock-in period of consortium should be minimum 05 (Five) years. The consortium should be statutory body registered under Companies Act or Partnership Act once declared successful in bidding.
4. In case of a Joint Venture (JV)/Consortium, at least 40% (forty) of the turnover and net-worth criteria shall be met by the lead partner and each remaining partner shall meet at least 5%(Five) of the turnover and net-worth criteria.
   None of the member of a given JV/Consortium can be a member of another JV/Consortium submitting the same bid otherwise all the bids comprising the same member shall stand disqualified.

4.2.5 In addition to the above, the Bidder, if required by the CTU, shall promptly furnish further information regarding his capacity / capability, and he should extend all possible cooperation to the representatives of the CTU for assessing his capacity / capability during the actual visit to his works /office.

4.2.6 The technical experience and financial capabilities of any other Group Company, parent/holding company or subsidiary company of any Bidder not part of JV or Consortium shall not be considered for evaluation.

NOTE:- Supporting documents w.r.t. all of the above shall have to be provided with Technical bid documents.

4.3 COST OF DOCUMENT

The RFP documents can be downloaded from the official website: chdctu.gov.in or http://etenders.chd.nic.in. The bidder has to submit demand draft of Rs 5,000/- in favour of **DIRECTOR TRANSPORT payable at Chandigarh** as bid processing fee (Non-Refundable) in physical form on or before the last date and time of closing of bid as mentioned under clause no 4.6 (Important Dates).

4.4 COST OF BIDDING

The bidder shall bear all costs associated with the preparation and submission of bid and the CTU will in no case be responsible or liable for these costs, regardless of the conduct or outcome of the bidding process.

4.5 PRE-BID CONFERENCE

4.5.1 A pre–bid conference will be held at First Floor, Conference Hall, ISBT-43, Chandigarh. with the prospective bidders at the stipulated date and time as given under clause no 4.6, for the purpose of holding technical & financial/ commercial discussions and providing clarifications by the CTU. The queries, if any, from the Bidders in respect of RFP document should reach the CTU before the stipulated date and time as given under clause no 4.6**.** In the pre- bid conference, clarifications pertaining to technical, financial commercial and other issues regarding these buses including designs, parameters / standards, charging Infrastructure and specifications that may be required by the prospective Bidders will be provided.

4.5.2 Any verbal suggestion / proposal of variations / deviations / additions in the RFP - document made during the pre -bid conference should also be given in writing to the CTU before the stipulated date and time as given under clause no 4.6 to keep the same in record and reference without which CTU will not be liable to entertain the same.

4.5.3 The CTU may clarify or even revise on variations/deviations, alternative proposals, which ensure equal or higher quality / performance to the Technical specifications during pre-bid conference. The decision of the CTU in this regard shall be final.

4.5.4 After incorporating the amendments acceptable to the CTU, the addendum to the RFP – Document will be uploaded on website www.chdctu.gov.in or https://etenders.chd.nic.in.

4.5.5 Non-attendance at the pre-bid conference will not be a cause for disqualification of a bidder. However, the terms and conditions of the addendum(s) will be legally binding on all the bidders irrespective of their attendance at the pre-bid conference.

4.6 IMPORTANT DATES

Date of commencement of downloading of bid document	:	04.11.2021
Last date for seeking clarification if any.	:	18.11.2021 upto 05:00 PM
Date of Pre-bid meeting	:	18.11.2021 at 11:30 AM
Last date and time for bid submission/uploading of bid in e-procurement platform http://etenders.chd.nic.in and receipt of EMD and Bid processing Fee in Physical Form	:	25.11.2021 upto 02.00 PM
Date and time of opening of technical bids (TECHNICAL BID)	:	The bids will be opened online by the Authorized Officers on 25.11.2021 at 15.00 Hrs
Date and time of opening of Financial Bids	:	Will be intimated to technically responsive bidders

4.7 EXAMINATION OF RFP BY BIDDER

The bidder is required to examine carefully all the contents/pros & cons of the RFP document including instructions, conditions, forms, terms, specifications, draft contract agreement and take them fully into account before submitting the bid. Failure to comply with the requirement(s) of RFP document will be at the bidder's own risk & responsibility.

4.8 LANGUAGE OF BID:

The bid prepared by the Bidder, as well as all correspondences and documents relating to the bid, exchanged by the Bidder and the CTU shall be written in English.

4.9 COMPLIANCE WITH TECHNICAL SPECIFICATIONS:-

4.9.1 The buses required against this bid shall conform to the Technical Specifications of the RFP Document. Bidder has to clarify in the each parameter of the specifications about its product, whether the offered model / product is meeting out the requisite specifications or not. If not meeting out the requisite specifications, the bidder has to indicate their specification of that parameter.

4.9.2 The Bidder shall be required to comply with all the latest provisions of the Central Motor Vehicle Act 1988 (MVA), the Central Motor Vehicle Rules 1989 (CMVR), the Chandigarh Motor Vehicle Rules, 1990, AIS-003(Gradeability),AIS-038 (Function safety requirements), AIS-039 (Electrical Energy Consumption), AIS-040 (Range Test), AIS-041(Net power and Max 30 min Power Test),AIS-048(Safety requirements of Traction batteries),AIS-004 and AIS 049(EMC), AIS-052 Specifications(bus body), AIS-140(ITS), Tests mentioned in MCC and along with any and all amendments therein, notification/orders made by Ministry of Road and Transport and Highways, Department of Heavy Industries and other statutory and legal requirements as applicable on the date of delivery.

4.10 VARIATIONS/ DEVIATIONS

4.10.1 The Bidder shall have to indicate the deviation, if any, from the 'Instructions to Bidders,' General Conditions of Contract' and 'Schedule of requirements' of the Bid Document in the prescribed Performa **(Annexure- 1).**

4.10.2 The Bidder shall also have to indicate the deviation, if any, from the Technical Specifications of the RFP document **(Annexure- 2).**

4.10.3 The bids / offers not meeting out the prescribed specification, terms and conditions of RFP documents are liable for rejection except where specifications are of better standards or do not materially affect the performance of the contract. The decision of the CTU in this regard, shall be final and binding.

4.11 DOCUMENTS ESTABLISHING BIDDERS ELIGIBILITY AND QUALIFICATIONS

4.11.1 The bidders shall along with the bid provide satisfactory evidence acceptable to the CTU as given below in addition to that defined under Technical qualification Criteria**:**

a. Copy of Certificate of Incorporation of the firm/company/JV/Consortium.

b. Documentary support in support of Para 4.2.1(i),(ii) and (iii) above.

c. Audited Annual Reports to be attached for the annual turnover as per Eligibility criteria under para 4.2.2(i) above for the years 2017-18, 2018-19 and 2019-2020.

d. The bidder has to attach CA certified copy in support para 4.2.2(ii) above.

e. The bidder must have valid GST registration number/other registrations; the documentary proof is required for the same.

f. Affidavit duly Notarized that the firm has not been black listed as per prescribed format. (**Annexure-'8')**

g. Documentary proof in support of para 4.2.4 above.

h. Power of Attorney/Authorization in favor of person signing the document.

i. Copies of PAN Card.

j. The bidder shall also enclose a copy of this RFP document along with draft contract agreement duly signed as a token of acceptance of the terms and conditions of the tender and agreement.

k. Any other information bidder wishes to furnish along with compliance sheet of Technical Specifications.

4.11.2 In addition to the above, the Bidder, if required by the CTU, shall promptly furnish further Information regarding his capacity/capability, and he would extend all cooperation to the representatives of the CTU for assessing his capacity /capability by actual visit to his works/office**.**

4.12 DOCUMENTS / ITEMS COMPRISING THE BID

4.12.1 The proposal shall be submitted by the Bidder online in two Bids viz. Technical Bid and Financial Bid.

(i) Technical bid shall be uploaded in as per terms & conditions of RFP, Bid Security / EMD and all other documents as well as technical and commercial information required in accordance with the RFP document.

(ii) Financial Bid shall consist of only Price Schedule and be uploaded only in the prescribed e-formats on e-portal http://etenders.chd.nic.in. (**Annexure – '4')**

4.13 BID SECURITY / EARNEST MONEY DEPOSIT (EMD)

4.13.1 The Bidder shall deposit Bid security (hereinafter also referred to as Earnest Money Deposit" (EMD) of Rs. 30.00 (Rupees Thirty lakhs only), w.r.t. bid for hiring of 40 Nos. pure electric buses as part of his Bid. The bid security shall be sealed in an sealed envelope **super scribed "Earnest Money Deposit for Bid due on (as per date mentioned under clause 4.6) for Hiring of 40 nos pure electric buses and to be deposited physically before the**

due date and time of submission of bid. The Earnest Money Deposit (EMD) should have validity period of at least 180 days from the date of opening of technical bid in the form of "Account payee Demand Draft'' or Bank Guarantee drawn in favour of DIRECTOR TRANSPORT, Chandigarh payable/en- cashable at Chandigarh of any nationalized / Scheduled / Commercial Bank, operating in India.

4.13.2 Any Bid not received physically with valid Bid Security / EMD in the acceptable form on or before the closing date of bid mentioned in the e-Tender Notice will be liable to be rejected by the CTU considering it as non- responsive.

4.13.3 No interest will be payable by the CTU on the bid security.

4.13.4 The Bid Security is liable to be forfeited if the Bidder withdraws amends, impairs, or derogates from the bid in any respect within the period of validity of its bid. The decision of CTU in this respect shall be final and binding.

4.14 DISCHARGE OF BID SECURITY OF UNSUCCESSFUL BIDDERS(S)

4.14.1 The Bid Security of unsuccessful Bidders will be discharged / returned as promptly as possible after the expiry of Bid validity period and / or within 30 days from the date of signing the agreement with the successful bidder, whichever is later.

4.15 DISCHARGE OF BID SECURITY OF SUCCESSFUL BIDDER(S)

4.15.1 The bid security of the Successful Bidder(s) shall be discharged only after the Successful Bidder(s) furnishes the Contract Performance Security as required.

4.15.2 If the successful Bidder(s) fails to furnish the Contract Performance Security within the requisite period as specified in the 'General Conditions of Contract', then the Bid Security shall be liable to be forfeited by the CTU, in addition to any other actions as per terms and conditions stipulated in the RFP Document.

4.16 PRICE BASIS

4.16.1 Financial bid/proposal should be uploaded online only.

4.16.2 The price as per column no 4 of BoQ should be quoted on hiring rate on per KM basis which shall include purchase cost of buses, cost of operation, electricity, drivers, management of fleet, charging infrastructure, replacement of battery, maintenance of vehicle, taxes applicable on the bus i.e annual road tax or fee for registration/ fitness of bus year to year basis, insurance (except any other taxes applicable on the operation of bus such as SRT/Passenger Tax, Toll charges, Bus parking charges in respective bus stand) etc required to operate the buses for contract period. The price as hiring rate i.e. Rs per K.M. should be quoted by taking into consideration financial subsidy to be passed on the successful bidder through CTU by Department of Heavy Industries under FAME-II as mentioned under Clause 4.32 and in the prescribed format as per **Annexure-4.**

4.16.3 The Bidders must conform to the delivery period as specified in General Conditions of Contract and Schedule of Requirements.

4.17 BID VALIDITY

4.17.1 The bid shall remain valid and open for acceptance for a period of 180 days from the date of opening of technical bid.

4.17.2 In exceptional circumstances prior to expiry of the original bid validity period, the CTU may request the Bidder for extension in the period of validity. A Bidder may refuse the request without becoming liable for forfeiture of EMD. However this bid may be rejected by the CTU on such refusal. Moreover, the bidder agreeing to the request will not be permitted to modify his Bid.

4.18 PERFORMANCE SECURITY

4.18.1 The Contractor/Bidder shall furnish Performance security en-cashable at Chandigarh in the shape of a Bank Guarantee in the Performa prescribed in the RFP document within 30 days from the date of dispatch of the **'Letter of Bid Acceptance',** for a n amount equivalent to Rs. 80,00,000 (Rs Eighty Lacs only) in Indian Rupees valid till the expiry of contract period and extra 90 days(i.e. delivery period plus 10 years and 90 days).

4.18.2 In case of delay in submission of performance security the CTU shall, without prejudice to other remedies under the contract, levy/deduct penalty as per penalty clauses out of the EMD for delay of each week or part thereof up to 45 days. In case of non-submission of the performance security within 45 days, the entire amount of EMD may stand forfeited and Letter of Bid Acceptance stand cancelled.

4.18.3 In case of delay in delivery of buses the validity of the performance security will be increased accordingly to accommodate delay period or extension period as the case may be.

4.18.4 The CTU shall be entitled and it shall be lawful on its part to forfeit the amount of the Performance security in whole or in part in the event of any default, failure or neglect on the part of the Contractor/Bidder in the fulfillment or performance in any manner whatsoever of the contract under reference or any other contract with the CTU or any part thereof to the satisfaction of the CTU.

4.19 FORMAT AND SIGNING OF BID

4.19.1 Each page of the bid/bids must be numbered at the right hand top corner and an authorized person should sign and put company's seal on each page of the bid documents.

4.19.2 The bid/bids shall contain no interlineations, or overwriting except as necessary to correct errors made by the Bidder, in which case, such corrections shall be initialed by the person or persons signing the bid.

4.20 TWO BID SYSTEM

4.20.1 Bidders shall have to submit bid online only.

(i) Technical bid shall consist of the Performa of submission of Bid with EMD, Bid processing fee, Performance Statement, technical details and all other documents as well as the technical and commercial information required in accordance with the RFP document. The documents to be provided in Technical bid are listed out under Clause 4.11 (A to K) of ITB, for reference.

(ii) Financial Bid shall contain only the price schedule of combined hiring rate of the buses on per K.M. basis in the prescribed format, as per (**Annexure – '4')** of the RFP document.

4.21 MODIFICATION AND WITHDRAWAL OF BIDS

The Bidder has the discretion to modify or withdraw his bid after submission but before the last date and time fixed for submission of the bids.

4.22 BID OPENING

The committee constituted by the CTU will open Technical Bids uploaded on e-procurement platform at the stipulated place, date and time as given under clause no 4.6 in the presence of the bidders or representatives who may wish to be present. The Bidders' representatives who are present shall produce authorization letter and shall sign a register evidencing their attendance. In the event of the specified date of bid opening being declared holiday for the CTU, the bids shall be opened at the same time and location on the next working day.

4.23 CLARIFICATION OF BIDS

To assist in the examination, evaluation and comparison of Bids, the CTU may, if necessary, ask the Bidders individually for clarification of their bids including break-up of prices.

4.24 DETERMINATION OF RESPONSIVENESS:-

4.24.1 The CTU will determine whether each bid is responsive to the requirements of the bid documents.

4.24.2 A responsive bid is one which conforms to all the terms & conditions and specifications of the Bid Documents without any material deviation or reservation. The bidder shall have to clearly specify the deviation, if any in the formats given at **Annexures- '1 & 2'.** "Deviation" may include exceptions, exclusions, qualifications, conditions, stated assumptions and alternative proposals not solicited. A material deviation or reservation is one which affects in any way the scope, quality, performance or administration of the contract by the Bidder, or which limits in any way, inconsistent with the Bid Documents the purchase rights or the Bidder's obligations under the contract, and the rectification of which would affect unfairly the competitive position of other Bidders presenting responsive Bids at reasonable prices.

4.24.3 If a Bid is not responsive to the requirements of the Bid Documents it will be liable to be rejected by the CTU. The decision of the CTU in this respect will be final and binding on the bidder.

4.25 EVALUATION AND COMPARISON OF BIDS

4.25.1 The CTU will evaluate and compare only those Bids determined to be responsive to the requirements of the Bid Document.

4.25.2 The evaluation will be made at rates quoted on hiring rate per K.M. as per Col. 4 of BoQ

4.26 AWARD OF CONTRACT: AWARD CRITERIA

The Contract will be awarded to the bidder in whose hiring rates per K.M. will be lowest as per Financial Bid/BoQ.

4.27 CTU RIGHT TO ACCEPT ANY BID AND TO REJECT ANY OR ALL BIDS

The CTU reserves the right to accept or reject any Bid, and to annul the Bid Process and reject all Bids without assigning any reason.

4.28 NOTIFICATION OF AWARD

Prior to the expiry of the period of Bid validity, the CTU will notify the successful Bidder through Mail /E-mail to confirm in writing by Registered/Speed Post as well Online that his Bid has been accepted. This letter (hereinafter and in the General Conditions of Contract called 'Letter of Bid Acceptance') shall have in detail the sum which the CTU will pay to the Contractor. (Format of the Letter of Bid Acceptance- **ANNEXURE –'7'**)

4.29 SIGNING AND ACCEPTANCE OF 'LETTER OF BID ACCEPTANCE'

S. No.	Description	Time Period
1	Upon receipt of the **'Letter of Bid Acceptance'**, the successful Bidder shall return two copies of the Letter of Bid Acceptance duly signed and stamped by his authorized signatory.	Within 15 days from the date of receipt of Letter of Bid Acceptance.
2	Submit performance security	Thirty days from the dispatch of ' letter of Bid Acceptance' but before signing of contract

3	Date of commencement of contract	Date of signing of contract i.e. within 15 days from the date of acceptance of bid or 30 days from the date of receipt of LOBA.
4	An undertaking in the form of Affidavit on Non-judicial Stamp Paper of appropriate value Notarized conformity with the requirement (Annexure-'5')	At the time of signing of Contract
5	Submission of Manpower and Operational Plan for the project	Before signing of Contract

4.30 CORRUPT PRACTICES

Bidders are expected not to indulge in any corrupt and fraudulent practice. They are expected to observe the highest standard to ethics during the procurement and execution of the Contract. In case of any violation, the Bidder will render himself liable to be blacklisted.

4.31 TAXES & LEVIES-

4.31.1 The successful bidder will pay all taxes which are levied on the bus i.e. Annual road tax or fee for registration/fitness of bus year to year buses from STA Chandigarh, insurance except any other taxes applicable on the operation of bus i.e. Permit Fee, Bus parking Fee, passenger tax, Toll Tax, which would be payable by CTU.

4.31.2 As per income Tax rules, the CTU will deduct TDS, from the payment to be made to the Successful bidder.

4.31.3 GST on hiring charges, if applicable & paid by the successful bidder/operator will be reimbursed by the CTU on production of proof of payment after input tax credit or as per bill reflected in Form 2A on GST Portal.

4.32 Subsidy

The Financial subsidy, received by the CTU as per FAME –II scheme, shall be passed on to the operator/successful bidder as and when received from Department of Heavy Industries. This will be as per notification of Department of Heavy Industries. However, it will be successful bidder's responsibility to qualify the criteria as per FAME-II Guidelines. Further, the subsidy will be released to the successful bidder as and when received from the DHI subject to the submission of Subsidy Bank Guarantee for the equivalent amount with a validity of 05 years as per mandate of Department of Heavy Industries. The bidder has to bear the entire initial cost of Electric Bus and the subsidy will be subsequently transferred to the bidder.

The entire amount will be released to STU for further payment to the selected bidder as the upfront capital cost for buses as per the following installments:-

Instalment No.	**Activity being completed**	**Percentage of Incentive to be released by DHI**
1	After issue of Supply order and signing of agreement CTU with selected bidder as mobilization advance.	20%
2	Delivery of Buses	40%
3	After 6 months of the successful operation of buses	40%

The subsidy shall be applicable as follows:-

Maximum demand Incentive available from DHI under FAME-II scheme as given below:-

1. Midi Bus (length> 8m to 10m) : 45 Lakhs

4.33 **Disposal of Material**

Batteries and spare parts should be disposed off strictly as per Environment and Pollution Control Board regulations in force from time to time.

SECTION VI: SCHEDULE OF REQUIREMENTS (SOR)

Item No.	Description of Work	Minimum Annual Assured K.M. per Bus	Period of Supply of Buses	CTU	Earnest Money Deposit (EMD)
1.	**"HIRING OF 40 NOS MIDI (9.0 MTRS) Air Conditioning (without heating system) FULLY BUILT PURE ELECTRIC BUSES INCLUDING APPROPRIATE AND ADEQUATE BUS CHARGING STATIONS ON KILOMETER BASIS FOR A PERIOD OF 10 YEARS."**	**64,195 KM (Sixty Four Thousand One Hundred Ninety Five Annually)**	As mentioned in Part-B	DIRECTOR TRANSPORT, Chandigarh	Indian Rupees Thirty lakhs.

NOTES:-

1. Bid shall be submitted online in two bids system (except EMD and Bid processing fee to be submitted physically on or before last date and time for uploading of tender) and Bid shall be complete in all respects.
2. Attention of the bidders is invited to the Instructions to Bidders regarding deposit of earnest money/bid security and bid processing fee. Any bid not accompanied with earnest money and bid processing fee in one of the approved modes shall be out rightly rejected.
3. Bidders shall quote the price as per RFP document and by considering into FAME-II subsidy.
4. The bidders shall quote on the basis of "Instructions To Bidders", "General Conditions of Contract" and "Schedule of Requirements" given in the RFP document. The deviation in the commercial terms, if any, should be clearly brought out in the deviation statement.
5. The bidders shall quote as per the technical specifications complete in all respect. The deviations in the technical specifications, if any should be clearly brought out in the deviation statement.
6. In case, the last date of bid submission/opening falls on a gazetted holiday or the said date is subsequently declared a holiday after the date of publication of RFP/tender document, the last date for opening of the bids shall be the next working day at the appointed time.
7. Bids from traders, agents, brokers and middlemen will not be accepted.

SECTION VII BID FORM, ANNEXURES AND OTHER FORMATS

ANNEXURE- 1

PROFORMA FOR STATEMENT OF DEVIATIONS

(FROM TERMS & CONDITIONS STIPULATED IN INSTRUCTIONS TO BIDDERS, GENERAL, CONDITIONS OF CONTRACT & SCHEDULE OF REQUIREMENT)

Bid No._____ Date of Opening: _____

The following are the particulars of deviations from the Terms & Conditions stipulated in instructions to Bidders, General Conditions of Contract & Schedule of Requirements of the RFP Document.

CLAUSE DEVIATION REMARKS (including justification)

We accept all the Clauses of Instructions to Bidders, General Conditions of Contract & Schedule of Requirements of the RFP Document except the above mentioned Deviations.

_____

(Signatures and Seal of the Bidder)

NOTE: Where there is No Deviation, the statement should be returned duly signed with an endorsement indicating "**No Deviations".**

ANNEXURE – 2

PROFORMA FOR STATEMENT OF DEVIATIONS (FROM TECHNICAL SPECIFICATIONS)

Bid No._____ Date of Opening: _____

The following are the particulars of deviations from the requirements of the Technical Specifications.

CLAUSE DEVIATION REMARKS (inclusive justification)

We accept all the Clauses of Technical Specifications of the RFP Document except the above mentioned Deviations.

Signatures and Seal of the Bidder

NOTE: Where there is No Deviation, the statement should be returned duly signed with an endorsement indicating "**No Deviations".**

ANNEXURE – 3

PROFORMA OF SUBMISSION OF BID

Bidders are required to fill up all the blank spaces in this Bid Performa and its enclosures.

Bid No._____ Date of Opening: _____

To

_____

1. Having examined the 'Instructions to Bidders' 'General Conditions of Contract', 'Technical Specifications', 'Schedule of Requirements' and the Proformas /Annexures for the above Bid, we the undersigned offer to supply buses for **"HIRING OF 40 NOS MIDI (9.0 MTRS) Air Conditioning (without heating system) FULLY BUILT PURE ELECTRIC BUSES INCLUDING BUS CHARGING STATIONS ON KILOMETER BASIS FOR A PERIOD OF 10 YEARS."** and guarantee the whole of the said Scope of Work in conformity with the said Conditions of Contract and Technical Specifications for the sum mentioned in Financial Bid submitted separately. The details of the items/services for which we have submitted our Technical Bid and for which we have quoted the rates in our Financial Bid are as per terms and conditions laid down in this RFP.
2. We undertake, if our Bid is accepted, we shall commence the supply of Buses as per delivery schedule offered by us to complete the Supply, Testing and Commissioning of the Buses as per the Delivery Schedules and to guarantee satisfactory operation of the buses/fulfill our obligations for the period as per RFP Document.
3. If our Bid is accepted we will furnish a Bank Guarantee for Performance as Security for the due performance of the Contract.
4. We have independently considered the amount shown in 'General Conditions of Contract' as pre-estimated liquidated damages, penalty clauses and damages and agree that they represent a fair estimate of the damages likely to be suffered by you in the event of the work not being completed in time.
5. We agree to abide by this Bid for a minimum period of 180 days from the date of technical bid opening and it shall be remain binding upon us and may be accepted at any time before the expiration of that period or any extended period mutually agreed to.
6. We agree to Clause of 'General Conditions of Contract' regarding increase or decrease in number of buses ordered.
7. This bid, together with any further clarification/confirmation given by us and your written acceptance thereof, shall constitute a binding contract between us.
8. If our Bid is accepted, we understand that we are to be held solely responsible for the due performance of the Contract.
9. All enclosures and relevant documents forming a part of the proposal are complete and attached herewith duly verified by officials authorized to do the same.

Dated_____day of_____2019

Signature & Name:__in the capacity of ____duly authorized to sign Tenders for and on behalf of

Address

Witness **Signature of Bidder**

Name _____

Address_____

ANNEXURE 4

FORMAT OF FINANCIAL BID

Tender Inviting Authority				
Name of the work: **"HIRING OF 40 NOS MIDI (9.0 MTRS) Air Conditioning (without heating system) FULLY BUILT PURE ELECTRIC BUSES INCLUDING BUS CHARGING STATIONS ON KILOMETER BASIS FOR A PERIOD OF 10 YEARS."**				
Contract No:-				
Name of the bidder:				
DETAIL OF PRICE BID				
Sr. No (1)	**Description (2)**	**Unit (3)**	**Rates to quoted by the bidder per K.M. basis (4)**	
	"HIRING OF 40 NOS MIDI (9.0 MTRS) Air Conditioning (without heating system) FULLY BUILT PURE ELECTRIC BUSES INCLUDING APPROPRIATE AND ADEQUATE BUS CHARGING STATIONS ON KILOMETER BASIS FOR A PERIOD OF 10 YEARS."	**Per K.M.**		

It is hereby certified that we have understood the instructions to the bidders, terms & conditions given in the RFP documents and have thoroughly examined the specifications given in the documents. We are fully aware of the requirement of buses in accordance with the terms & conditions of the RFP. We agree to abide by all the terms & conditions of the tender if the contract is awarded to us.

We hereby offer to supply and operate the buses according to this RFP/e-Tender document & supply and operate 40 nos. electrical buses at the price quoted & agreed and to hold this offer open for acceptance for a period of 180 days from the date of opening of Technical Bid of tender.

Signature of the Bidder

ANNEXURE -5

AFFIDAVIT PROFORMA

I_____S/o_____R/o_____do hereby solemnly affirm and declare as under:-

- That deponent has entered an agreement between___and M/s _____ for supply of _____ vide Letter of Bid Acceptance No._____dt. _____

- That the deponent has not given any commission to any officer/official of the CTU government or any other agencies against with the hiring process or indulged in any other corrupt or fraudulent practice in securing the Contract.

DEPONENT

Verification:

Verified that the contents of this affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed therein.

Verified at_____on this_____day of_____2020.

(Must be attested by Magistrate 1st class / Notarised) DEPONENT

ANNEXURE -6

Final Acceptance Certificate

Ref. No. _____ Dated _____
Model of Bus
Manufacturer: _____
Chassis No. _____
Type of Bus:-_____
Place of Final Inspection _____
Date of Receipt _____

_____

The above said fully built bus have been finally accepted subject to the recoveries (to be intimated By the Costing Section) to be made from M/s __ against the following defect/deficiencies Carried out jointly with M/s _____ Which have not been removed/attended and the same were observed during the final inspection

Sr. No.	Defect/Deficiencies	Requirement as per Contract	Amount of Recovery	

Inspected by _____

SIGNED, SEALED AND DELIVERD behalf of CTU

(i) Witness ……..

(ii) Witness ……..

Singed on behalf of Contractor/ On Bidder

(i) Witness …… .

(ii) Witness ……..

ANNEXURE -7

Letter of Bid Acceptance
[To be issued by the CTU]

To: _____

_____

_____

Date: _____

Kind Attention: _____

Subject: LETTER OF BID ACCEPTANCE FOR "HIRING OF 40 NOS MIDI (9.0 MTRS) AIR CONDITIONING (WITHOUT HEATING SYSTEM) FULLY BUILT PURE ELECTRIC BUSES INCLUDING BUS CHARGING STATIONS ON KILOMETER BASIS FOR A PERIOD OF 10 YEARS."

Dear Sir,

This is to notify you, M/s_____that your bid dated _____submitted pursuant to Request for Proposal for Selection of a Contractor for **" HIRING OF 40 NOS MIDI (9.0 MTRS) AIR CONDITIONING (without heating system) FULLY BUILT PURE ELECTRIC BUSES INCLUDING BUS CHARGING STATIONS ON KILOMETER BASIS FOR A PERIOD OF 10 YEARS.**"(**"Contract"**) _____dated___,the following price of offered in your Price Bid from amongst the bids submitted and is hereby accepted by the DIRECTOR TRANSPORT, UT, Chandigarh: [details of the hiring rates along with details of the type of Bus it is applicable for] Pursuant to the provisions of the RFP, you are hereby required to undertake the following:

1. Countersign this Letter of Award at the place indicated below to indicate your acknowledgment of the award of the contract by the DIRECTOR TRANSPORT, UT, Chandigarh to you and return it to the office of DIRECTOR TRANSPORT, UT, Chandigarh within a period of [
   ] days from the date of this letter;

2. Submit a performance security by way of bank guarantee in favour of ''_____'' for an amount of Rs. [_____] Rupees_____only) in the format specified in Annexure_____annexed to the Contract, at the time of execution of the Contract on the date specified below.

3. You are required to send your duly authorized representative (with the proof of due authorization in the form of power of attorney or a Board Resolution) to execute the Contract (which shall be executed without any deviation from the Contract at [_____] am/pm] on [___] at the office of DIRECTOR TRANSPORT, UT Chandigarh.

   DIRECTOR TRANSPORT, UT, Chandigarh looks forward to working with you on this important Project.

Sd/-
DIRECTOR TRANSPORT,
Union Territory,
Chandigarh.

Acknowledged and Accepted by _____

Name of the Authorized Person (person authorized under the Bid process and who has a Power of Attorney as required under the RFP)

Designation of the Authorized Person

Seal of the Company

Date:-

Annexure - 8

UNDERTAKING/AFFIDAVIT BY THE BIDDER ON STAMP PAPER OF Rs. 15/- DULY ATTESTED FROM THE EXECUTIVE MAGISTRATE 1st CLASS/NOTARY PUBLIC

I, Sh._____S/o Sh. _____

working as_____of the bidding firm, namely

M/s_____ hereby solemnly

affirm and declare:

1. I, the undersigned, is duly authorized to apply for this tender and give the undertaking and affidavit.

2. I, the undersigned, have read and understood the detailed terms and conditions of the tender documents as well as Tender Notice and undertake to abide by them.

3. I hereby undertake and declare that my bidding manufacturing company/Consortium has not been blacklisted/ prosecuted by the Central/UT/State Government/Undertaking/Board/Corporation/ Authority/Court of Law.

4. I hereby undertake and declare that no criminal proceeding is pending against the undersigned/bidding manufacturing company anywhere in India and there are no dues/outstanding of any of the Central / U.T / State / Government / Organization / Boards / Corporation against the tenderer/deponent/firm/company at the time of applying this tender.

Deponent
(Signature of the authorized person)

Annexure-9

CHANDIGARH TRANSPORT UNDERTAKING CHANDIGARH
IMPORTANT INSTRUCTIONS

1. All the instructions contained in the Tender documents are important and required to be complied with.
2. In addition to uploading of scanned copies of all the requisite documents online as per Tender documents, the Bidder is also required to submit EMD and bid processing fee physically on or before the closing date of bid mentioned in the e-Tender Notice.
3. The Earnest Money Deposit of Rs.30.00 Lacs (Rupees Thirty lakh only) in the shape of Account Payee Demand Draft or Bank Guarantee from any of the Scheduled/Commercial banks, drawn in favour of the "**DIRECTOR TRANSPORT, Chandigarh"** payable at Chandigarh. Earnest Money in any other form is not acceptable and the bid shall be liable to be treated as invalid.
4. Price Bid should be quoted in the **Electronic Formats only** i.e. the Financial Bid.
5. The bid processing fee of Rs.5000 /- (Rupees Five Thousand only) in the shape of Account Payee Demand Draft from any of the Scheduled/Commercial banks, drawn in favour of the "**DIRECTOR TRANSPORT, Chandigarh"** payable at Chandigarh. Bid processing fee in any other form is not acceptable and the bid shall be liable to be treated as invalid.

CHECK LIST DULY FILLED IN TO BE ATTACHED WITH THE TENDER

Sr. No	Particulars	Reference page
1.	Name of the bidding manufacturer/firm and location of its office with complete address and Telephone/Email/Fax Nos. and complete details of the contact person.	
2.	Certificate of incorporation/registration of the bidder/consortium	
3.	Bid processing Fee (Non-Refundable) of Rs 5000/- by way of Account Payee Demand Draft in favour of **DIRECTOR TRANSPORT CTU,** payable at Chandigarh.	
4.	Attested copy of valid PAN/TAN and GST Nos. issued by the Competent Authority in respect of the bidder.	
5.	EMD of Rs 30,00,000/-(Rs Thirty Lacs only) by way of Account Payee Demand Draft or Bank Guarantee in favour of **DIRECTOR TRANSPORT, Chandigarh** payable at Chandigarh. (Annexure 5)	
6.	Signed copies of the e- Tender documents/RFP confirming bidder accepting all the terms and conditions of the tender.	
7.	An affidavit on the Non-judicial stamp paper, duly attested by the Executive Magistrate or Notary Public, regarding non-black listing/non-prosecution of tenderer/bidding firm. (Annexure 12)	
8.	Copy of ARAI/ICAT/CIRT certificates of base model	
9.	Supply of buses details or OEM certificate.	
10.	Documentary proof in respect of Consortium/JV/Partnership	
11.	Any deviation from the Instructions to Bidders, GCC and SoR (Annexure 1).	
12.	Any deviation from the Technical specifications (Annexure2,13)	
13.	Statement to be certified by the Chartered Accountant in practice regarding minimum average annual turnover of Rs. 25 crores for preceding 3 financial years i.e. 2017-18,2018-2019 and 2019-20 and supported with audited Balance Sheets and Income Tax returns for the relevant financial years.	
14.	Net worth of more than Rs. 16 crores to be certified by the Chartered Accountant in practice or Company Secretary in practice for the financial year 2019-20.	
15.	Attested copy of valid Income Tax Clearance Certificate for last three years issued by the competent authority in r/o bidder.	
16.	Any other relevant information as defined in RFP.	

Place:_ Signature of Tenderer_____
Dated:- Full Name of the Tenderer_____
Address_____

PART-B

Public Private Partnership in Operation and Maintenance of Electric Buses in Cities (OPEX Model)

MODEL CONCESSION AGREEMENT

CHANDIGARH TRANSPORT UNDERTAKING
Chandigarh

PART-B

MODEL CONCESSION AGREEMENT

CONTENTS

Part I Preliminary 7-9
ARTICLE 1 DEFINITIONS AND INTERPRETATION 10
1.1 Definitions 10
1.2 Interpretation 10-11
1.3 Measurements and arithmetic conventions 12
1.4 Priority of agreements, clauses and schedules 12-13
Part II Scope of the Agreement 14
ARTICLE 2 SCOPE OF THE AGREEMENT 15
2.1 Scope of the Agreement 15
ARTICLE 3 AWARD OF CONTRACT 16
3.1 The Contract 16
ARTICLE 4 CONDITIONS PRECEDENT 17
4.1 Conditions Precedent 17-18
4.2 Damages for delay by the Authority 18
4.3 Damages for delay by the Operator 18
4.4 Deemed Termination upon delay 18
ARTICLE 5 OBLIGATIONS OF THE OPERATOR 19
5.1 Obligations of the Operator 19-20
5.2 Obligations relating to Project Agreements..... 20-21
5.3 Obligations relating to Change in Ownership 21-22
5.4 Obligations relating to employment of foreign nationals 22
5.5 Obligations relating to employment of personnel 22-24
5.6 Advertisement and Branding of Buses 24
5.7 Obligations regarding risk of loss or damage 24
5.8 Obligations relating to information 24
5.9 Obligations relating to aesthetic quality 25
5.10 Obligations relating to noise control 25
5.11 Facilities for physically challenged and elderly persons 25
5.12 Obligations relating to Charging Infrastructure..... 25
5.13 Registration of the Project under Clean Development Mechanism (CDM) 25
ARTICLE 6 OBLIGATIONS OF THE AUTHORITY..... 26
6.1 Obligations of the Authority 26
ARTICLE 7 REPRESENTATIONS AND WARRANTIES 27
7.1 Representations and warranties of the Operator 27-28
7.2 Representations and warranties of the Authority 28-29
7.3 Disclosure 29
ARTICLE 8 DISCLAIMER 30
8.1 Disclaimer 30
Part III Development and Operations 31
ARTICLE 9 PERFORMANCE SECURITY..... 32
9.1 Performance Security 32
9.2 Appropriation of Performance Security 32
9.3 Release of Performance Security 32
ARTICLE 10 LAND FOR DEPOTS 33
10.1 Site for the Maintenance Depots 33
10.2 Protection of Site from encroachments 33
10.3 Special/temporary Right of Way 33

10.4 Access to the Authority 33
ARTICLE 11 UTILITIES, ASSOCIATED ROADS AND TREES 34
Deleted
ARTICLE 12 CONSTRUCTION OF THE MAINTENANCE DEPOTS 34
Deleted
ARTICLE 13 PROCUREMENT OF BUSES 36
13.1 Standards and Specifications 36
13.2 Ownership of Buses 36
13.3 Procurement Schedule 36
13.4 Prototype 36
13.5 Tests at Manufacturer's Plant 36-37
13.6 Supply of Prototype 37
13.7 Acceptance of Prototypes 37
13.8 Procurement of Buses 37
13.9 Delay in Procurement 38
13.10 Readiness for Commencement of Service 38
13.11 Damage due to accident 38-39
ARTICLE 14 ENTRY INTO COMMERCIAL SERVICE 40
14.1 Inspection by the Authority 40
14.2 Safety Inspection 40
14.3 Commercial Operation Date (COD) for Respective Lot of Buses 40-41
14.4 Damages for delay 41
ARTICLE 15 CHANGE OF SCOPE 42
15.1 Change of Scope 42
15.2 Procedure for Change of Scope 42
15.3 Payment for Change of Scope 43
15.4 Restrictions on certain works 43
ARTICLE 16 OPERATION OF BUSES 44
16.1 Operations of Buses 44
16.2 Maintenance Depot 44
16.3 Operation Manual 44
16.4 Routes and Schedules 44-45
16.5 Deployment Plan 45-46
16.6 Incidents En-Route 46
16.7 Excuse from Performance of Obligations 46
16.8 Advertising on Buses and Maintenance Depots 46-47
16.9 User Fare..... 47
ARTICLE 17 MAINTENANCE OF BUSES 48
17.1 Maintenance Obligations 48
17.2 Maintenance Manual 48
17.3 Spares and Consumables 48-49
17.4 Maintenance Requirements 49
17.5 Damages for breach of Maintenance Obligations 49
17.6 De-commissioning due to Emergency 49
17.7 Authority's right to take remedial measures 49
17.8 Overriding powers of the Authority 50
17.9 Restoration of loss or damage to the Buses 50
17.10 Modifications to the Buses 50-51
17.11 Operation Assistance 51
17.12 Excuse from performance of obligations 51-52
17.13 Warranties for defects and deficiencies 52

17.14 Maintenance Depots 52-53
17.15 Maintenance facilities 53
ARTICLE 18 SAFETY REQUIREMENTS 54
18.1 Safety Requirements 54
18.2 Guiding principles 54
18.3 Obligations of the Operator 54
18.4 Safety measures during construction 54
18.5 Annual Safety Report 55
ARTICLE 19 MONITORING OF OPERATION AND MAINTENANCE 56
19.1 Monthly status reports 56
19.2 Reports of unusual occurrence 56
19.3 Inspection..... 56
19.4 Tests 56
19.5 Remedial measures 57
19.6 Responsibility of the Operator 57
19.7 Real Time Data Access 57
ARTICLE 20 KEY PERFORMANCE INDICATORS 58
20.1 Key Performance Indicators 58
20.2 Reliability 58
20.3 Operation of Buses 58
20. 4 Punctuality 59
20.5 Frequency 59
20.6 Safety of Operations 59
20.7 Certification 59
20.8 Monthly Report..... 60
20.9 Passenger Charter 60
20.10 Damages for failure to achieve key performance indicators 60
20.11 Incentive for exceeding to achieve key performance indicators 60
Part IV Financial Covenants 61
ARTICLE 21 FINANCIAL CLOSE 62
Deleted
ARTICLE 22 FEE..... 63
22.1 Fee 63
22.2 Basis of Payment 63
22.3 Payment of Fee 63-64
22.4 Annual Assured Kilometer 64
22.5 Revision of Fee 64-65
ARTICLE 23 TRAINING AND DEPUTATION OF GOVERNMENT EMPLOYEES 66
Deleted
ARTICLE 24 TRANSFER OF MAINTENANCE DEPOTS 67
24.1 Transfer of Maintenance Depots 67
24.2 Provision of Spares upon Termination 67
ARTICLE 25 INSURANCE 68
25.1 Insurance during Agreement Period 68
25.2 Insurance Cover 68
25.3 Notice to the Authority 68
25.4 Evidence of Insurance Cover 68
25.5 Remedy for failure to insure 69
25.6 Waiver of subrogation 69
25.7 Operator's waiver 69
25.8 Application of insurance proceeds 69

25.9 Compliance with conditions of insurance policies 69
ARTICLE 26 ACCOUNTS AND AUDIT 70
26.1 Audited accounts 70
26.2 Appointment of auditors 70
26.3 Certification of claims by Statutory Auditors..... 71
26.4 Set-off 71
26.5 Dispute resolution 71
ARTICLE 27 ESCROW ACCOUNT 72
27.1 Escrow Account 72
27.2 Deposit in Escrow Account 72
27.3 Withdrawal upon Termination 72
ARTICLE 28 TRAFFIC REGULATION AND SECURITY 73
Deleted
Part V Force Majeure and Termination 74
ARTICLE 29 FORCE MAJEURE 75
29.1 Force Majeure 75
29.2 Non-Political Event 75
29.3 Indirect Political Event 76
29.4 Political Event..... 76-77
29.5 Duty to report Force Majeure Event 77
29.6 Effect of Force Majeure Event on the Contract 78
29.7 Allocation of costs arising out of Force Majeure 78
29.8 Termination Notice for Force Majeure Event 78-79
29.9 Termination Payment for Force Majeure Event 79
29.10 Dispute resolution 79
29.11 Excuse from performance of obligations 79-80
ARTICLE 30 COMPENSATION FOR BREACH OF AGREEMENT..... 81
30.1 Compensation for default by the Operator 81
30.2 Compensation for default by the Authority 81
30.3 Extension of Contract Period 81
30.4 Compensation to be in addition 81
30.5 Mitigation of costs and damage 81
ARTICLE 31 SUSPENSION OF OPERATOR'S RIGHTS 82
31.1 Suspension upon Operator Default 82
31.2 Authority to act on behalf of Operator 82
31.3 Revocation of Suspension 82
31.4 Termination 83
ARTICLE 32 TERMINATION 84
32.1 Termination for Operator Default 84-86
32.2 Termination for Authority Default 86
32.3 Termination Payment 87
32.4 Certain limitations on Termination Payment..... 88
32.5 Other rights and obligations of the Authority 88
32.6 Survival of rights 89
ARTICLE 33 DIVESTMENT OF RIGHTS AND INTEREST 90
33.1 Divestment requirements upon expiry of the Agreement Period 90
33.2 Inspection and cure 90
33.3 Cooperation and assistance on transfer of Maintenance Depots 91
33.4 Divestment requirements upon termination 91-92
33.5 Vesting Certificate 92
33.6 Divestment costs etc. 92

ARTICLE 34 DEFECTS LIABILITY AFTER TERMINATION 93
34.1 Liability for defects after Termination 93
34.2 Retention in Escrow Account 93
Part VI Other Provisions 94
ARTICLE 35 ASSIGNMENT AND CHARGES..... 95
35.1 Restrictions on assignment and charges 95
35.2 Permitted assignment and charges 95
35.3 Substitution Agreement 95
35.4 Assignment by the Government 95
ARTICLE 36 CHANGE IN LAW 96
Deleted
ARTICLE 37 LIABILITY AND INDEMNITY 97
37.1 General indemnity 97
37.2 Indemnity by the Operator 97-98
37.3 Notice and contest of claims 98
37.4 Defence of claims 98-99
37.5 No consequential claims 99
37.6 Limitation of Liability 99-100
37.7 Survival on Termination 100
ARTICLE 38 RIGHTS AND TITLE OVER SITES 101
38.1 Operator's rights 101
38.2 Access rights of the Authority and others 101
38.3 Property taxes 101
38.4 Restriction on sub-letting..... 101
ARTICLE 39 DISPUTE RESOLUTION 102
39.1 Dispute resolution 102
39.2 Conciliation 102
39.3 Arbitration 102-103
39.4 Adjudication by a tribunal 103
ARTICLE 40 DISCLOSURE 104
40.1 Disclosure of Specified Documents 104
40.2 Disclosure of Documents relating to safety 104
40.3 Withholding disclosure of Protected Documents 104
ARTICLE 41 REDRESSAL OF COMPLAINTS 105
41.1 Complaint Register 105
41.2 Redressal of complaints 105
ARTICLE 42 MISCELLANEOUS 106
42.1 Governing law and jurisdiction 106
42.2 Waiver of immunity..... 106
42.3 Depreciation 106
42.4 Delayed payments 106-107
42.5 Waiver 107
42.6 Liability for review of Documents and Drawings 107
42.7 Exclusion of implied warranties etc. 107
42.8 Survival 107-108
42.9 Entire Agreement 108
42.10 Severability 108
42.11 No partnership 108
42.12 Third parties 108
42.13 Successors and assigns 109
42.14 Notices 109

42.15 Language 109
42.16 Counterparts..... 110
ARTICLE 43 DEFINITIONS 111-126
SCHEDULES 127
SCHEDULE-A SITE OF THE MAINTENANCE DEPOT 128-131
SCHEDULE -B SPECIFICATIONS AND STANDARDS 132-141
SCHEDULE-C APPLICABLE PERMITS..... 142
SCHEDULE-D PERFORMANCE SECURITY 143-145
SCHEDULE -E MAINTENANCE DEPOT COMPLETION SCHEDULE 146
SCHEDULE-F DESIGN AND DRAWINGS 147-148
SCHEDULE-G PROCUREMENT SCHEDULE..... 149
SCHEDULE-H TESTS 150-153
SCHEDULE-I OPERATION AND MAINTENANCE REQUIREMENTS..... 154-156
SCHEDULE-J DEPLOYMENT PLAN..... 157
SCHEDULE-K SAFETY REQUIREMENTS..... 158-159
SCHEDULE-L MAINTENANCE DEPOTS EQUIPMENT..... 160-163
SCHEDULE-M ESCROW AGREEMENT..... 164-172
SCHEDULE-N PASSENGER CHARTER..... 173-178
SCHEDULE-O STAFFING QUALIFICATIONS..... 179
SCHEDULE-P VESTING CERTIFICATE..... 180
SCHEDULE-Q DATA MONITORING SYSTEM 181-183
SCHEDULE-R PANEL OF CHARTERED ACCOUNTANTS.....184-185
SCHEDULE-S SUBSTITUTION AGREEMENT.....186
SCHEDULE-T STATEMENT OF INPUT COST 187
SCHEDULE-U SCOPE OF AGREEMENT 188-189
APPENDIX-I LIST OF BID SPECIFIC PROVISIONS 190-195

Part I
Preliminary

SUPPLY-CUM-OPERATION AND MAINTENANCE AGREEMENT

THIS AGREEMENT is entered into on this {the ……day of.....20…..}

BETWEEN

1 **THE Director Transport**, U.T. Chandigarh and having its offices at Plot No. 701, Industrial Area, Phase-I, Chandigarh (hereinafter referred to as the "**Authority**" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) of One Part;

AND

2 {****** Limited, a company incorporated under the provisions of the Companies Act, 2013 and having its registered office at ....., (hereinafter referred to as the "**Operator**" which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns and substitutes) of the Other Part.

WHEREAS:

(A) The Authority had resolved to procure electric Buses through a supply-cum-maintenance contract which will *inter alia* include setting up of maintenance depots in accordance with the terms and conditions to be set forth in the supply - cum - maintenance agreement (the "**Agreement**").

(B) The Authority had accordingly invited proposals by its request for qualification No. ***** (the "**Request for Qualification**" or "**RFQ**") for short listing of bidders and had shortlisted certain bidders including, *inter alia*, the {the selected bidder/ consortium comprising …… and ……. (collectively the "**Consortium**") with ……. as the Lead Member}.

(C) The Authority had prescribed the technical and commercial terms and conditions, and invited bids (the "**Request for Proposals**" or "**RFP**") from the bidders shortlisted pursuant to the RFQ for undertaking the Project.

(D) After evaluation of the bids received, the Authority had accepted the bid of the {selected bidder/ Consortium} (the "**Selected Bidder**") and issued its Letter of Award No. …….. dated ……. (hereinafter called the "**LOA**") to the Selected Bidder requiring, *inter alia*, the execution of this Agreement within 30 (thirty) days of the date of issue thereof.

(E) {The Selected Bidder has since promoted and incorporated the ……. as a limited liability 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 Agreement pursuant to the LOA for undertaking the Project.}

(F) {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 Agreement 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.}

(G) The Authority has {agreed to the said request of the Selected Bidder and the Operator, and the Parties have accordingly} agreed to enter into this Agreement with the Operator for Supply-cum-Operation and Maintenance of Buses on Build, Own, Operate and Transfer (the "**BOOT**") basis, subject to and on the terms and conditions set forth hereinafter.

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

ARTICLE 1
DEFINITIONS AND INTERPRETATION

1.1 Definitions

The words and expressions beginning with capital letters and defined in this Agreement (including those in Article 43) 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 Interpretation

1.2.1 In this Agreement, 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 the State, 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, CTU, 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 Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;

(e) the words "**include**" and "**including**" are to be construed without limitation 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) deleted.

(g) references to "**development**" include, unless the context otherwise requires, construction, renovation, refurbishing, augmentation, upgradation and other activities incidental thereto, and "**develop**" shall be construed accordingly;

(h) any reference to any period of time shall mean a reference to that according to Indian Standard Time;

(i) any reference to "**hour**" shall mean a period of 60 (sixty) minutes commencing either on the hour or on the half hour of the clock, which by way of illustration means 5.00 (five), 6.00 (six), 7.00 (seven) and so on being hours on the hour of the clock and 5.30 (five thirty), 6.30 (six thirty), 7.30 (seven thirty) and so on being hours on the half hour of the clock;

(j) any reference to day shall mean a reference to a calendar day;

(k) reference to a "**business day**" shall be construed as reference to a day (other than a Sunday and public holiday) on which banks in Delhi are generally open for business;

(l) any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;

(m) any reference to "**quarter**" shall mean a reference to the period of 3 (three) months commencing from April 1, July 1, October 1, and January 1, as the case may be;

(n) references to any date, period or Project Milestone shall mean and include such date, period or Project Milestone as may be extended pursuant to this Agreement;

(o) 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 Agreement is not a business day, then the period shall run until the end of the next business day;

(p) the words importing singular shall include plural and vice versa;

(q) references to any gender shall include the other and the neutral gender;

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

(s) "**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;

(t) references to the "**insolvency**", or "**reorganisation**" 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, reorganisation, dissolution, arrangement, protection or relief of debtors;

(u) save and except as otherwise provided in this Agreement, any reference, at any time, to any agreement, deed, instrument, licence or document of any description shall be construed as reference to that agreement, deed, instrument, licence or other document as amended, varied, supplemented, modified or suspended at the time of such reference; provided that this Sub-clause u shall not operate so as to increase liabilities or obligations of the Authority hereunder or pursuant hereto in any manner whatsoever;

(v) any agreement, consent, approval, authorisation, notice, communication, information or report required under or pursuant to this Agreement from or by any Party shall be valid and effective only if it is in writing under the hand of a duly authorised representative of such Party in this behalf and not otherwise;

(w) the Schedules and Recitals to this Agreement form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;

(x) references to Recitals, Articles, Clauses, Sub-clauses, Provisos or Schedules in this Agreement shall, except where the context otherwise requires, mean references to

Recitals, Articles, Clauses, Sub-clauses, Provisos and Schedules of or to this Agreement; reference to an Annex shall, subject to anything to the contrary specified therein, be construed as a reference to an Annex to the Schedule in which such reference occurs; and reference to a Paragraph shall, subject to anything to the contrary specified therein, be construed as a reference to a Paragraph of the Schedule or Annex, as the case may be, in which such reference appears;

(y) the damages payable by either Party to the other of them, as set forth in this Agreement, 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

(z) 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 Agreement, any Documentation required to be provided or furnished by the Operator to the Authority shall be provided free of cost and in three copies, and if the Authority is required to return any such Documentation with their comments and/or approval, they shall be entitled to retain 2 (two) copies thereof.

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

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

1.3 Measurements and arithmetic conventions

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 agreements, clauses and schedules

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

(a) this Agreement; and

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

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

(a) between two or more Clauses of this Agreement, 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 Agreement 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;

(d) between the written description on the Drawings and the Specifications and Standards, the latter shall prevail;

(e) between the dimension scaled from the Drawing and its specific written dimension, the latter shall prevail; and

(f) between any value written in numerals and that in words, the latter shall prevail.

Part II
Scope of the Agreement

ARTICLE 2
SCOPE OF THE AGREEMENT

2.1 Scope of the Agreement

The scope of the Agreement (the "**Scope of the Agreement**") shall mean and include as mentioned in Schedule T and mentioned hereunder, during the Contract Period:

(a) Supply of 40 nos Midi (9.0 mtr) Air Conditioned Buses conforming to the Specifications and Standards set forth in Schedule-B (the "**Buses**") and in accordance with the provisions of this Agreement; These buses shall be of New Model 2020-21(Chassis & Body – further chassis should not be older than the 6 months from the date of delivery of fully built bus).

(b) Operation and Maintenance of Buses in accordance with the provisions of this Agreement; and ensure at its own cost and expense and keep available at all times, any and all equipment, spares, machines and/or materials that are required (excluding any equipment, consumables, etc. to be specifically provided by the CTU in the terms of Schedule-L) for the uninterrupted and continuous operation, management and maintenance of the Bus Service and the implementation of this Contract.

(c) vide appropriate and adequate number of Depot Charging Stations (Depot Chargers) and/or Opportunity Charging Stations at ISBT-17, 43 and PGI along with Charging Infrastructure from Transformer to Charging Stations. Opportunity Charging up to 45 mins will only be allowed. Opportunity Charging will be optional only and in addition to depot charging. Opportunity Charging will be allowed at above said three locations only. The space for installation of opportunity chargers will be provided by authority.

(d) The Operator has to ensure fleet availability as 95% during each day at the start of the shift of each lot of contracted buses on a shift basis rounded off to the nearest whole number("**Assured Fleet Availability**").

(e) Setting up and Operation and Maintenance of Maintenance Depots handed over to the operator on As is where is basis the Depot Sites specified in Schedule-A, in accordance with the provisions of this Agreement.

(f) Setting up and Operation and Maintenance of Space allocated to the operator at ISBT 17/43 & PGI for Installation of Opportunity Charging Stations if required.

(g) The Operator shall have to provide licensed software of ITS equipments onboard to integrate with command control centre of CTU as per requirement of CTU. Further, Operator will provide the APIs and protocol documents (as required) to the CTU or third party engaged by CTU (S.I.) along with operation and maintenance of OBITS equipments including data communication with respect to OBITS only.

(h) All maintenance expenditure including consumables (except water charges) expenditure on account of Tyres, replacement of batteries, bus charging stations, spare parts, Suspension, AC system etc. and running, major and minor repairs of the contracted buses during the period of the contract shall be the responsibility of the Operator.

ARTICLE 3
AWARD OF CONTRACT

3.1 The Contract

3.1.1 Subject to and in accordance with the provisions of this Agreement, Applicable Laws and the Applicable Permits, the Authority hereby awards to the Operator the right to procure, supply, Operate and Maintain the Buses (the "**Contract**") for a period of 10 (Ten) years from the Appointed Date (the "**Contract Period**"), and the Operator hereby accepts the Contract and agrees to implement the same subject to and in accordance with the terms and conditions set forth herein.

3.1.2 Subject to and in accordance with the provisions of this Agreement, the Contract hereby granted shall oblige or entitle (as the case may be) the Operator to:

(a) Procure and Supply Buses in accordance with the provisions of this Agreement;

(b) Operate and Maintain the Buses in accordance with the provisions of this Agreement;

(c) Right of Way, access and licence in respect of Depot Sites for performing its Maintenance Obligations;

(d) Perform and fulfil all of the Operator's obligations under and in accordance with this Agreement;

(e) save as otherwise provided in this Agreement, bear and pay all costs, expenses and charges in connection with or incidental to the performance of the obligations of the Operator under this Agreement; and

(f) neither assign, transfer or sublet or create any lien or Encumbrance on this Agreement nor transfer, sub-lease, sub-licence or part possession of the Maintenance Depots.

ARTICLE 4
CONDITIONS PRECEDENT

4.1 Conditions Precedent

4.1.1 Save and except as provided in Articles 4, 7, 8, 9, 10, 21, 29, 30, 35, 37, 39 and 42, or unless the context otherwise requires, the respective rights and obligations of the Parties under this Agreement shall be subject to the satisfaction in full of the conditions precedent specified in this Clause 4.1 (the "**Conditions Precedent**"). Provided, however, that a Party may grant waiver from satisfaction of any Condition Precedent by the other Party in accordance with the provisions of Clauses 4.1.2 or 4.1.3, as the case may be, and to the extent of such waiver, that Condition Precedent shall be deemed to be fulfilled for the purposes of this Clause 4.1.1

4.1.2 The Operator may, upon providing the Performance Security to the Authority in accordance with Article 9, at any time after 15 (fifteen) days from the date of this Agreement or on an earlier day acceptable to the Authority, by notice require the Authority to satisfy the Condition Precedent set forth in this Clause 4.1.2 within a period of 90 (ninety) days of the notice, and the Condition Precedent required to be satisfied by the Authority prior to the Appointed Date shall be deemed to have been fulfilled when the Authority shall have:

(a) procured for the Operator the Right of Way to the Depot Site in accordance with the provisions of Clause 10.3.1;
(b) procured all Applicable Permits required to be procured by the Authority as specified in Schedule- C

4.1.3 The Conditions Precedent required to be satisfied by the Operator within a period of 60 (Sixty) days from the date of this Agreement shall be deemed to have been fulfilled when the Operator shall have:

(a) provided Performance Security to the Authority pursuant to Article 9;

(b) executed and procured execution of the Escrow Agreement;

(c) delivered to the Authority {from the Consortium Members, their respective} confirmation, in original, of the correctness of their representations and warranties set forth in Sub-clauses (k), (l) and (m) of Clause 7.1;

(d) procured all the Applicable Permits specified in Schedule-C unconditionally or if subject to conditions, then all such conditions required to be fulfilled by the date specified therein shall have been satisfied in full and such Applicable Permits are in full force and effect;

(f) executed the Financing Agreements and delivered to the Authority 3 (three) true copies thereof, duly attested by a Director of the Operator;

(g) delivered to the Authority 3 (three) true copies of the Financial Package and the Financial Model, duly attested by a Director of the Operator, along with 3 (three) soft copies of the Financial Model in MS Excel version or any substitute thereof, which is acceptable to the Senior Lenders; and

(h) delivered to the Authority a legal opinion from the legal counsel of the Operator with respect to the authority of the Operator to enter into this Agreement and the enforceability of the provisions thereof;

Provided that upon request in writing by the Operator, the Authority may, in its discretion, waive any of the Conditions Precedent set forth in this Clause 4.1.3. For the avoidance of doubt, the Authority may, in its sole discretion, grant any waiver hereunder with such conditions as it may deem fit.

4.1.4 Each Party shall make all reasonable endeavours to satisfy the Conditions Precedent within the time stipulated and shall provide the other Party with such reasonable cooperation as may be required to assist that Party in satisfying the Conditions Precedent for which that Party is responsible.

4.1.5 The Parties shall notify each other in writing at least once a week on the progress made in satisfying the Conditions Precedent. Each Party shall promptly inform the other Party when any Condition Precedent for which it is responsible has been satisfied. For the avoidance of doubt, the Operator shall, upon satisfaction or waiver, as the case may be, of all the Conditions Precedent, notify the Authority of the occurrence of the Appointed Date.

4.2 Damages for delay by the Authority

In the event that (i) the Authority does not procure fulfilment or waiver of the Condition Precedent set forth in Clause 4.1.2 within the period specified in respect thereof, and (ii) the delay has not occurred as a result of breach of this Agreement by the Operator or due to Force Majeure, the Authority shall pay to the Operator Damages in an amount calculated at the rate of 0.1% (zero point one per cent) of the Performance Security for each day's delay until the fulfilment of such Conditions Precedent, subject to a maximum of 20% (twenty per cent) of the Performance Security.

4.3 Damages for delay by the Operator

In the event that (i) the Operator does not procure fulfilment or waiver of any or all of the Conditions Precedent set forth in Clause 4.1.3 within the period specified in that Clause, and (ii) the delay has not occurred as a result of breach of this Agreement by the Authority or due to Force Majeure, the Operator shall pay to the Authority Damages in an amount calculated at the rate of 0.25% (zero point two five per cent) of the Performance Security for each day's delay until the fulfilment of such Conditions Precedent, subject to a maximum amount equal to the Bid Security, and upon reaching such maximum, the Authority may, in its sole discretion and subject to the provisions of Clause 9.2, terminate the Agreement. Provided that in the event of delay by the Authority in procuring fulfilment of the Condition Precedent specified in Clause 4.1.2, no Damages shall be due or payable by the Operator under this Clause 4.3 until the date on which the Authority shall have procured fulfilment of the Conditions Precedent specified in Clause 4.1.2.

4.4 Deemed Termination upon delay

Without prejudice to the provisions of Clauses 4.2 and 4.3, and subject to the provisions of Clause 9.2, the Parties expressly agree that in the event the Appointed Date does not occur, for any reason whatsoever, before 400 (four hundred) days of the date of this Agreement or the extended period provided in accordance with this Agreement, all rights, privileges, claims and entitlements of the Operator under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Operator, and the Agreement shall be deemed to have been terminated by mutual agreement of the Parties. Provided, however, that in the event the delay in occurrence of the Appointed Date is for reasons attributable to the Operator, the Performance Security of the Operator shall be encashed and appropriated by the Authority as Damages thereof.

ARTICLE 5
OBLIGATIONS OF THE OPERATOR

5.1 Obligations of the Operator

5.1.1 The Operator shall procure the Buses as per the Procurement Schedule provided in Schedule-G hereto for providing the services in accordance with the Deployment Plan and in accordance with the terms and conditions of this Agreement.

5.1.2 The Operator shall procure at its cost and expense, all Applicable Permits from Government Instrumentalities including but not limited to the certificate of registration, certification of fitness from the relevant Regional Transport Office (RTO) having jurisdiction over the Project and shall operate and maintain the Buses in accordance with the terms and conditions of this Agreement.

5.1.3 The Operator shall comply with all Applicable Laws and Applicable Permits (including renewals as required) in the performance of its obligations under this Agreement.

5.1.5 Save and except as otherwise provided in this Agreement or Applicable Laws, as the case may be, the Operator shall, in discharge of all its obligations under this Agreement, conform with and adhere to Good Industry Practice.

5.1.6 The Operator shall, at its own cost and expense, in addition to and not in derogation of its obligations elsewhere set out in this Agreement:

(a) make, or cause to be made, necessary applications to the relevant Government Instrumentalities with such particulars and details as may be required for obtaining Applicable Permits, and obtain and keep in force and effect such Applicable Permits in conformity with Applicable Laws;

(b) procure, as required, the appropriate proprietary rights, licences, agreements and permissions for materials, methods, processes, know-how and systems used or incorporated into the Buses and Maintenance Depots;

(c) perform and fulfil its obligations under the Financing Agreements;

(d) make reasonable efforts to maintain harmony and good industrial relations among the personnel employed by it or its Contractors in connection with the performance of its obligations under this Agreement;

(e) ensure and procure that its Contractors comply with all Applicable Permits and Applicable Laws in the performance by them of any of the Operator's obligations under this Agreement;

(f) always act in a manner consistent with the provisions of this Agreement and not omit or cause or fail to do any act, deed or thing, whether intentionally or otherwise, which may in any manner be violative of any of the provisions of this Agreement;

(g) ensure that Users are treated with due courtesy and provided with ready access to services and information;

(h) support, cooperate with and facilitate the Government in the implementation and operation of the Project in accordance with the provisions of this Agreement; and

(i) take all reasonable precautions for the prevention of accidents on or around the Maintenance Depots and provide all reasonable assistance and emergency medical aid to accident victims; and

(j) hand over the Maintenance Depot/Depot Space to the Authority upon Termination of this Agreement, in accordance with the provisions thereof.

5.2 Obligations relating to Project Agreements

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

5.2.2 The Operator shall submit to the Authority the drafts of all Project Agreements or any 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 Agreement or amendment thereto, the Operator shall submit to the Authority a true copy thereof, duly attested by a Director or any person authorised by the Board of Directors 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 Agreement. 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 Agreement in any manner nor shall the Authority be liable for the same in any manner whatsoever.

5.2.3 The Operator shall not make any addition, replacement or amendments to any of the Financing Agreements without the prior written consent of the Authority if such addition, replacement or amendment has, or may have, the effect of imposing or increasing any financial liability or obligation on the Authority, and in the event that any replacement or amendment is made without such consent, the Operator shall not enforce such replacement or amendment nor permit enforcement thereof against the Authority. For the avoidance of doubt, the Authority acknowledges and agrees that it shall not unreasonably withhold its consent for restructuring or rescheduling of the debt of the Operator.

5.2.4 Notwithstanding anything to the contrary contained in this Agreement, the Operator shall not sub-lease, sub-license, assign or in any manner create an Encumbrance on the Depot Sites, without prior written approval of the Authority, which approval the Authority may, in its discretion, deny if such sub-lease, sub-licence, assignment or Encumbrance has or may have a material adverse effect on the rights and obligations of the Authority under this Agreement or Applicable Laws.

5.2.7 The Operator shall procure that each of the Project Agreements contains provisions that entitle the Authority to step into such agreement, in its sole discretion, in substitution of the Operator in the event of Termination or Suspension (the "**Covenant**"). For the avoidance of doubt, it is expressly agreed that in the event the Authority does not exercise such rights of substitution within a period not exceeding 90 (ninety) days from the Transfer Date, the Project Agreements shall be deemed to cease to be in force and effect on the Transfer Date without any liability whatsoever on the Authority and the Covenant shall expressly provide for such

eventuality. The Operator expressly agrees to include the Covenant in all its Project Agreements and undertakes that it shall, in respect of each of the Project Agreements, procure and deliver to the Authority an acknowledgment and undertaking, in a form acceptable to the Authority, from the counter party(ies) of each of the Project Agreements, where under such counter party(ies) shall acknowledge and accept the Covenant and undertake to be bound by the same and not to seek any relief or remedy whatsoever from the Authority in the event of Termination or Suspension.

5.2.8 Notwithstanding anything to the contrary contained in this Agreement, the Operator agrees and acknowledges that selection or replacement of an O&M Contractor and execution of the O&M Contract shall be subject to the 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 selection or contract without 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 or its Contractors from any liability or obligation under this Agreement.

5.3 Obligations relating to Change in Ownership

5.3.1 The Operator shall not undertake or permit any Change in Ownership, except with the prior written approval of the Authority.

5.3.2 Notwithstanding anything to the contrary contained in this Agreement, 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 25% (twenty five per cent) or more 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 Agreement. It is further agreed that in the event of any acquisition of shares or control in the Lead Member or its holding company by another overseas entity, which results in a Change in Ownership as set forth in this Clause 5.3.2, the Operator shall inform the Authority of such occurrence within 15 (fifteen) days thereof and seek consent of the Authority under and in accordance with the provisions of this Clause 5.3. In the event the Authority denies its consent to such Change in

Ownership, a Change in Ownership in breach of this Clause 5.3 shall be deemed to have occurred.

For the purposes of this Clause 5.3.2:

(i) 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, 2011 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;

(ii) 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

(iii) 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 25% (twenty five per cent) or more of the Equity of the Operator shall constitute acquisition of control, directly or indirectly, of the Board of Directors of the Operator.

5.4 Obligations relating to employment of foreign nationals

The Operator acknowledges, agrees and undertakes that employment of foreign personnel by the Operator and/or its Contractors and their sub-contractors shall be subject to grant of requisite regulatory permits and approvals including employment/residential visas and work permits, if any required, and the obligation to apply for and obtain the same shall and will always be of the Operator and, notwithstanding anything to the contrary contained in this Agreement, refusal of or inability to obtain any such permits and approvals by the Operator or any of its Contractors or sub-contractors shall not constitute Force Majeure Event, and shall not in any manner excuse the Operator from the performance and discharge of its obligations and liabilities under this Agreement.

5.5 Obligations relating to employment of personnel

5.5.1 The Operator shall ensure that the personnel engaged by it in the performance of its obligations under this Agreement are at all times properly trained for their respective functions.

5.5.2 The Operator shall, notwithstanding its obligations contained herein for employment and training of staff, undertake capacity building training and workshops for Bus maintenance, Maintenance Depots and other infrastructure operations and maintenance etc., as may be directed by the Authority and in accordance with Article 23 hereto.

5.5.3 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 as provided in Article 23 of this Agreement.

5.5.4 The Operator agrees that drivers appointed by it for the performance of services shall comply with the requirements set forth in Schedule-O.

5.5.5 Prior to engaging any driver for operating the Buses, under and in accordance with this Contract, the Operator shall ensure that each such driver receives a combination of classroom instruction and behind-the-wheel instruction as specified in Article 23, sufficient to enable each driver to operate the Bus in a safe and efficient manner in terms of this Contract.

5.5.6 The Operator shall ensure that each driver receives refresher training course from time to time during the Contract Period as specified in Clause 23.2.

5.5.7 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.

5.5.8 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 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.

5.5.9 The Operator shall ensure that all drivers, personnel and staff wear uniform as approved by the Authority. The Operator shall at its own cost and expense, provide uniforms and shall ensure that drivers and any other personnel and staff employed by it shall, at all times, wear clean uniforms while on duty or doing any act in relation to the Project.

5.5.10 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.

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

5.5.12 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 this Clause 5.5.12.

5.6 Advertisement and Branding of Buses

The Buses or any part thereof shall not be branded in any manner to advertise, display or reflect the name or identity of the Operator or its shareholders, save to the extent as provided in Clause 16.8. The Operator undertakes that it shall not, in any manner, use the name or identity of the Project shareholders to advertise or display its own identity, brand equity or business interests, including those of its shareholders, save and except as may be necessary in the normal course of business. For the avoidance of doubt, it is agreed that the Operator may, at Depot, display its own name at a spot where other public notices are displayed for the Users.

5.7 Obligations regarding risk of loss or damage

5.7.1 The Operator shall bear the risk of loss in relation to each Bus for the performance of its Operation and Maintenance obligations hereunder.

5.7.2 The Operator shall take or cause to be taken all steps necessary under Applicable Laws to protect the Authority against claims by other parties with respect thereto in accordance with the terms and provisions of this Agreement.

5.8 Obligations relating to information

5.8.1 Without prejudice to the provisions of Applicable Laws and this Agreement, upon receiving a notice from the Authority for any information that it may reasonably require or that it considers may be necessary to enable it to perform any of its functions, the Operator shall provide such information to the Authority forthwith and in the manner and form required by the Authority.

5.8.2 After receiving a notice from the Authority for reasoned comments on the accuracy and text of any information relating to the Operator’s activities under or pursuant to this Agreement which the Authority proposes to publish, the Operator shall provide such comments to the Authority in the manner and form required by the Authority.

5.9 Obligations relating to aesthetic quality

The Operator shall maintain a high standard in the appearance and aesthetic quality of the Project and achieve integration of the Buses and Maintenance Depots with the character of the surrounding landscape through both appropriate design and sensitive management of all visible elements. The Operator shall engage professional architects, town planners and consultants of repute for ensuring that the design of the Project meets the aforesaid aesthetic standards.

5.10 Obligations relating to noise control

The Operator shall take all such measures as may be necessary in accordance with Applicable Laws and Good Industry Practice to control and mitigate the noise arising from the Buses and the Maintenance Depots and its impact on Users and the neighbourhood.

5.11 Facilities for physically challenged and elderly persons

The Operator shall, in conformity with the guidelines issued from time to time by the Ministry of Social Justice and Empowerment, or a substitute thereof, make an endeavour to procure a barrier free environment for the physically or visually challenged and for elderly persons using the Buses.

5.12 Obligations relating to Charging Infrastructure

The Operator agrees that it shall provide for adequate number of Chargers along with Charging Infrastructure at the Maintenance Depots for minimum 40 Buses and shall provide adequate infrastructure for metering of consumption of electricity at each of the individual charging stations. The Operator agrees that it shall ensure that the charging stations installed at the Maintenance Depots, ISBT-17/43 & PGI are used only for the purpose of charging of Buses and no other purpose whatsoever.

5.13 Registration of the Project under Clean Development Mechanism (CDM)

The Operator shall endeavour to earn green revenues accruable from mitigation of greenhouse gases as a result of implementation of the Project. The Operator shall also undertake to prepare the project for availing green revenues and get these registered under the Clean Development Mechanism ("**CDM**") under Applicable Laws or any other such mechanism available during the Contract Period. The Operator shall also undertake to share 50% (fifty percent) of the revenues earned from CDM with the Authority.

ARTICLE 6
OBLIGATIONS OF THE AUTHORITY

6.1 Obligations of the Authority

6.1.1 The Authority shall, at its own cost and expense undertake, comply with and perform all its obligations set out in this Agreement or arising hereunder.

6.1.2 The Authority agrees to provide support to the Operator and undertakes to observe, comply with and perform, subject to and in accordance with the provisions of this Agreement and Applicable Laws, the following:

(a) provide the routes to be undertaken by the Operator as detailed in Clause 16.4 herein and in accordance with the Deployment Plan;

(b) provide land (along with any buildings, constructions or immovable assets, if any, thereon), free from Encumbrances, for setting up and operating Maintenance Depots in accordance with the provisions of this Agreement;

(c) provide, or cause to be provided, road connectivity at any location on the boundary of the Maintenance Depots;

(d) provide to the operator electric transmission lines and/or sub-station as specified in Schedule-A, at any location situated within 500 meters (five hundred meters) of the boundary of the Maintenance Depot-3 (for depot chargers) & ISBT-17, 43 & PGI (in case of Opportunity chargers). Further, Operator has to submit the detailed power requirement in advance to the Authority for making necessary arrangements.

(e) upon written request from the Operator, assist the Operator in obtaining access to all necessary infrastructure facilities and utilities, including electricity for the Maintenance Depots;

(f) upon written request from the Operator, may facilitate the Operator to provide trained employees to assist the Operator in carrying out its duties under this Agreement;

(g) upon written request from the Operator, and subject to the Operator complying with Applicable Laws, provide all reasonable support and assistance to the Operator in procuring Applicable Permits.

(h) not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Agreement;

(i) support, cooperate with and facilitate the Operator in the implementation and operation of the Project in accordance with the provisions of this Agreement; and

(j) upon written request from the Operator and subject to the provisions of Clause 5.4, provide reasonable assistance to the Operator and any expatriate personnel of the Operator or its Contractors to obtain applicable visas and work permits for the purposes of discharge by the Operator or its Contractors their obligations under this Agreement.

ARTICLE 7
REPRESENTATIONS AND WARRANTIES

7.1 Representations and warranties of the Operator

The Operator represents and warrants to the Authority that:

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

(b) it has taken all necessary corporate and other actions under Applicable Laws to authorise the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;

(c) along with its Associates, it has the financial standing and capacity to undertake the Project in accordance with the terms of this Agreement;

(d) this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Agreement 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, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement 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 Agreement is true and accurate in all respects as on the date of this Agreement;

(g) the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of its Memorandum and Articles of Association {or those of the Selected Bidder/ any member of the Consortium} or any Applicable Laws or any covenant, contract, agreement, 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 its 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 Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Agreement;

(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 Government Instrumentality which may result in any material adverse effect on its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;

(j) it has complied with Applicable Laws in all material respects and has not been subject to any fines, 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 Agreement;

(k) it shall at no time undertake or permit any Change in Ownership except in accordance with the provisions of Clause 5.3; and that the {Selected Bidder/ Consortium Members}, together with {its/their} Associates, shall hold not less than 51% (fifty one per cent) of its issued and paid up Equity on the date of this Agreement; {and that no Member of the Consortium whose technical and financial capacity was evaluated for the purposes of pre-qualification and short-listing in response to the Request for Qualification shall hold less than 26% (twenty six per cent) of the issued and paid up Equity till ***;

(l) {the Selected Bidder/ Consortium Members and its/their} Associates 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 Agreement;

(m) {the Selected Bidder/ each Consortium Member} is duly organised and validly existing under the laws of the jurisdiction of its incorporation, and has requested the Authority to enter into this Agreement with the Operator pursuant to the Letter of Award, and has agreed to and unconditionally accepted the terms and conditions set forth in this Agreement;

(n) all its rights and interests in the Maintenance Depots shall pass to and vest in the Authority on the Transfer Date free and clear of all liens, claims and Encumbrances, without any further act or deed on its part or that of the Authority, and that none of the Project Assets shall be acquired by it, subject to any agreement under which a security interest or other lien or Encumbrance is retained by any person, save and except as expressly provided in this Agreement;

(o) no representation or warranty by it 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 it or on its behalf, to any person by way of fees, commission or otherwise for securing the Agreement or entering into this Agreement or for influencing or attempting to influence any officer or employee of the Authority in connection therewith; and

(q) all information provided by the {Selected Bidder/ Consortium Members} in response to the Request for Qualification and Request for Proposals or otherwise, is to the best of its knowledge and belief, true and accurate in all material respects

7.2 Representations and warranties of the Authority

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 Agreement and to carry out the transactions contemplated herein and that it has

taken all actions necessary to execute this Agreement, exercise its rights and perform its obligations, under this Agreement;

(b) it has taken all necessary actions under Applicable Laws to authorise the execution, delivery and performance of this Agreement;

(c) it has the financial standing and capacity to perform its obligations under this Agreement;

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

(e) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on the Authority's ability to perform its obligations under this Agreement;

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

(g) it has good and valid right to the Depot Sites.

(h) 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 Agreement; and

(i) upon the Operator submitting a written request to this effect with necessary particulars, it shall enable personnel of the Operator to travel on board the Buses for the purpose of discharging the Maintenance Obligations in accordance with the provisions of this Agreement and Good Industry Practice.

7.3 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 right, remedy or obligation of either Party under this Agreement.

ARTICLE 8
DISCLAIMER

8.1 Disclaimer

8.1.1 The Operator acknowledges that prior to the execution of this Agreement, the Operator has, after a complete and careful examination, made an independent evaluation of the Request for Qualification, Request for Proposals, Scope of the Agreement, Specifications and Standards, Site, Depot Sites, existing structures, 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. Save as provided in Clause 7.2, the Authority makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy, adequacy, correctness, reliability and/or completeness of any assessment, assumption, statement or information provided by it and the Operator confirms that it shall have no claim whatsoever against the Authority in this regard.

8.1.2 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 8.1.1 above and hereby acknowledges and agrees that the Authority shall not be liable for the same in any manner whatsoever to the Operator, the {Selected Bidder/ Members of Consortium} and its Associates or any person claiming through or under any of them.

8.1.3 The Parties agree that any mistake or error in or relating to any of the matters set forth in Clause 8.1.1 above shall not vitiate this Agreement.

8.1.4 In the event that either Party becomes aware of any mistake or error relating to any of the matters set forth in Clause 8.1.1, that 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 8.1.4 shall not prejudice the disclaimer of the Authority contained in Clause 8.1.1 and shall not in any manner shift to the Authority any risks assumed by the Operator pursuant to this Agreement.

8.1.5 Except as otherwise provided in this Agreement, all risks relating to the Agreement 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
Development and Operations

ARTICLE 9
PERFORMANCE SECURITY

9.1 Performance Security

9.1.1 A).The Operator shall, for the performance of its obligations hereunder till the expiry of the Contract Period, provide to the Authority no later than 30 (thirty) days from the date of this Agreement, an irrevocable and unconditional guarantee from a Bank for a sum equivalent to Rs. 80,00,000 (Rupees Eighty Lacs) in the form set forth in Schedule-D (the "**Performance Security**"). Until such time the Performance 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 the Bid Security to the Operator.

B). In addition to 9.1.1(A) above, the operator will provide to the Authority the Bank Guarantee of an amount equivalent to the applicable Incentive Amount(to be given by Department of Heavy Industries under FAME-II, which is to be passed to the operator) for five year period.

9.1.2 Notwithstanding anything to the contrary contained in this Agreement, in the event Performance Security is not provided by the Operator within a period of 60 (one hundred and eighty) days from the date of this Agreement, the Authority may encash the Bid Security and appropriate the proceeds thereof as Damages, and thereupon all rights, privileges, claims and entitlements of the Operator under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Operator, and this Agreement shall be deemed to have been terminated by mutual agreement of the Parties.

9.2 Appropriation of Performance Security

Upon occurrence of an Operator Default or failure to meet any Condition Precedent, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate from the Performance Security the amounts due to it for and in respect of such Operator Default or for failure to meet any Condition Precedent. Upon such encashment and appropriation from the Performance Security, the Operator shall, within 15 (fifteen) 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 Agreement in accordance with Article 32. Upon such replenishment or furnishing of a fresh Performance Security, as the case may be, the Operator shall be entitled to an additional Cure Period of 60 (Sixty) days for remedying the Operator Default or for satisfying any Condition Precedent, and in the event of the Operator not curing its default within such Cure Period, the Authority shall be entitled to encash and appropriate such Performance Security as Damages, and to terminate this Agreement in accordance with Article 32.

9.3 Release of Performance Security

The Performance Security shall remain in force and effect during the Contract Period and shall returned to the Operator upon Termination of this Agreement upon Authority Default within 120 (one hundred and twenty) days of the Termination Date, 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 Agreement.

ARTICLE 10
LAND FOR DEPOTS

10.1 Site for the Maintenance Depots

The site for the Maintenance Depots shall comprise the Depot Space handed over to the operator as described in Schedule-A and in respect of which Right of Way shall be provided and granted by the Authority to the Operator on an "as is where is" basis under and in accordance with this Agreement (the "**Site**").

10.2 Protection of Site from encroachments

During the Contract Period, the Operator shall protect the Depot Site from any and all occupations, encroachments or Encumbrances, and shall not place or create nor permit any Contractor or other person claiming through or under the Operator to place or create any Encumbrance or security interest over all or any part of the Depot Site or the Project Assets, or on any rights of the Operator therein or under this Agreement, save and except as otherwise expressly set forth in this Agreement.

10.3 Special/temporary Right of Way

The Operator shall bear all costs and charges for any additional Infrastructure or additional depot equipment required by it for the purposes of the Project Execution and the performance of its obligations under this Agreement.

10.4 Access to the Authority

The licence, right of way and right to the Depot Site granted to the Operator hereunder shall always be subject to the right of access of the Authority and their employees and agents for inspection, viewing and exercise of their rights and performance of their obligations under this Agreement.

ARTICLE 11
UTILITIES, ASSOCIATED ROADS AND TREES

DELETED

ARTICLE 12
CONSTRUCTION OF THE MAINTENANCE DEPOTS

DELETED

ARTICLE 13
PROCUREMENT OF BUSES

13.1 Standards and Specifications

The Operator shall procure and deploy Buses in accordance with the specifications and standards of Buses provided in Schedule-B.

13.2 Ownership of Buses

The Operator agrees that it shall be solely responsible for procurement of Buses. Subject to the terms of this Agreement, the Parties agree that during the Contract Period, ownership of Buses shall remain with the Operator and the Operator shall cause all Buses to be registered in the name of the Operator and the Authority shall not exercise any right, title, or interest over any of the Buses, subject to the terms of this Agreement.

13.3 Procurement Schedule

The Operator shall procure Buses as per the Procurement Schedule provided in Schedule-G hereto and shall ensure readiness of Buses for commencement of services (the "**Commencement of Services**") in accordance with Article 14. The Operator further agrees that prior to procurement of Buses, it shall procure a Prototype Bus for the approval of the Authority in accordance with Clause 13.4.

13.4 Prototype

13.4.1 The Operator shall, no later than 60 (sixty) days from the Appointed Date, provide to the Authority 5 (five) copies of the Designs and Drawings of the Prototypes, as specified in Schedule-F. Provided that the Operator may, share only the details of the layout of the Prototype and not share any propriety information forming part of Designs and Drawings of the Prototype.

13.4.2 The Authority shall depute a team of experts for undertaking a review of the Designs and Drawings and for submitting a report (the "**Design Report**") to the Authority within 15 (fifteen) days from the date of receiving the Designs and Drawings. 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 Agreement. 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 Designs and Drawings by the Authority.

13.4.3 Pursuant to the Design Report or otherwise, the Operator shall carry out such modifications in the Designs as may be necessary for conforming with the Specifications and Standards.

13.4.4 The Authority expressly agrees that it shall, subject to the provisions of this Agreement and Applicable Laws, maintain the confidentiality of Designs and Drawings provided to it by the Operator and shall endeavour to protect the Intellectual Property rights of the Operator, if any, therein.

13.5 Tests at Manufacturer's Plant

13.5.1 Prior to supply of a sample Bus that conforms to the Specifications and Standards (the "**Prototype**"), the Operator shall carry out, or cause to be carried out, at its own cost and expense, all Tests in accordance with Schedule-H and such other tests that the Operator may consider necessary to demonstrate that the Prototype complies in all respects with the

Specifications and Standards. The Operator shall provide to the Authority forthwith, a copy of the Operator's report on each test containing the results of such test and the action, if any, that it proposes to take for compliance with the Specifications and Standards.

13.5.2 The Operator shall, with at least 2 (Two) weeks notice to the Authority, convey the date, schedule and type of tests that shall be conducted on the Prototype at the manufacturer's plant and the Authority shall have the right, but not the obligation, to nominate its representative to witness the tests. It is clarified that all costs incurred on account of the visit of Authority's representatives to the manufacturer's plant shall be borne by the Operator.

13.5.3 The Authority's Representative shall make a report forthwith on the tests witnessed by it and provide a copy thereof to the Parties for review. The Operator shall, prior to dispatch of the Prototype for delivery to the Authority, procure that defects and deficiencies, if any, are rectified and the Prototype conforms with the Specifications and Standards.

13.5.4 In the event of failure of any Test specified in Clause 13.5.1, the Operator shall rectify the defect and conduct repeat Tests, and the procedure specified in this Clause 13.5 shall apply *mutatis mutandis* to such repeat Tests.

13.6 Supply of Prototype

13.6.1 The Operator shall, no later than 90 (Ninty) days from the Appointed Date, procure a Prototype and demonstrate to the Authority, tests and trials to be conducted in accordance with the provisions of Clause 13.5.

13.6.2 In the event that the Operator fails to procure the Prototype within the period specified in Clause 13.6.1, the Authority may recover from the Operator an amount equal to 0.5% (zero point five per cent) of the Performance Security as Damages for each and every week, or part thereof, by which the delivery of the Prototype is delayed; provided that such Damages shall not exceed 10% (ten per cent) of the Performance Security .

13.7 Acceptance of Prototypes

13.7.1 The Authority shall, no later than 15 (fifteen) days after successful completion of the Tests, communicate its acceptance of the Prototype to the Operator.

13.7.2 Prior to accepting the delivery of Prototype, the Authority may inspect the Prototype in accordance with the provisions of Clause 13.6.

13.7.3 The Parties expressly agree that conducting Tests by the Authority shall not relieve or absolve the Operator of its obligations and liabilities under this Agreement in any manner whatsoever.

13.8 Procurement of Buses

Upon approval of the Prototype Bus in accordance with the provision of Clause 13.7, the Operator shall procure the remaining Buses in accordance with the provisions of Schedule-G and shall comply with timelines of the Procurement Schedule specified therein. The Operator agrees that the Buses shall include the same specifications and standards as the approved Prototype provided in this Article 13.

13.9 Delay in Procurement

13.9.1 In the event the Operator is unable to procure any Bus as per this Article 13, for reasons not attributable to the Authority or due to a Force Majeure Event, the Operator shall pay Damages at the rate of 0.1 % (zero point one per cent) of the Performance Security for each day of delay for each Bus (whose procurement is delayed) till the date of procurement of such Bus.

13.9.2 If the procurement of any Bus is delayed by a period exceeding 60 (sixty) days as provided in the Procurement Schedule or if the Damages payable by the Operator for such delay in procurement of Buses amounts to 10% (ten percent) of the Performance Security, notwithstanding anything provided in this Agreement, it shall be regarded as an Operator Default.

13.9.3 The Damages payable by the Operator shall become due and payable within 7 (seven) days of receipt of notice in this regard from the Authority.

13.10 Readiness for Commencement of Service

13.10.1 The Operator agrees that it shall undertake such activities as required under Applicable Law, Applicable Permits and Good Industry Practice for achieving readiness for Commencement of Services. Without limiting the generality of the foregoing, such activities shall include:

(a) Joint inspection of Buses with the Authority;

(b) Certificate of Registration;

(c) Certificate of Fitness;

(d) Payment of taxes;

(e) Insurance of Buses as specified in Article 25; and

(f) Any other readiness related activity to ensure roadworthiness of the Buses.

13.10.2 The Operator shall achieve readiness for Commencement of Service for each Lot of Buses procured by it in accordance with Article 14, no later than 15 (forty five) days from the date of procurement of such Lot of Buses, or any extended period as may be agreed upon by the Parties.

13.11 Damage due to accident

13.11.1 The Operator shall be liable for any damage to the Bus on account of accidents. The Operator agrees that it shall undertake repair and rectification of such damaged Bus such that the Bus conforms to the Specifications and Standards, to the satisfaction of the Authority.

13.11.2 The Operator agrees that the Authority shall not be responsible for any liability arising out of any civil or criminal proceedings instituted by affected parties, as a result of such accident of the Bus and the Operator agrees that it shall keep the Authority indemnified against any third-party claims arising from such accidents.

13.11.3 The Operator shall notify the relevant Government Instrumentalities and the Authority of any accidents verbally, within 2 (Two) hour of its occurrence followed by a written notice and in the event, such accident involves any fatality, the Operator shall intimate such accident verbally within 30 (thirty) minutes of the occurrence of such accident, followed by a written

notice. Where any persons involved in the accident have suffered injuries, the Operator shall co-ordinate with the relevant Government Instrumentalities to ensure timely medical help and treatment. The Authority shall provide reasonable assistance support to the Operator on best efforts basis.

13.11.4 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 shall replace such damaged Bus with a new Bus of such make and model which meets the Specifications and Standards and as acceptable to the Authority. The Operator agrees that any Bus brought as a replacement to a damaged Bus in accordance with this Clause 13.11.4 shall be used in the Service for the remaining Contract Period.

ARTICLE 14
ENTRY INTO COMMERCIAL SERVICE

14.1 Inspection by the Authority

14.1.1 The Authority may inspect each Bus or any Lot of Buses, in accordance with the provisions of this Clause 14.1, prior to putting such Bus into operation.

14.1.2 The Operator shall notify the Authority, no later than 15 (fifteen) days prior to the date of delivery of the Buses, its delivery schedule. The Authority may, in its discretion, nominate its representative to carry out an inspection on the scheduled date and time.

14.1.3 The Operator shall provide the assistance necessary for the Authority Representative to perform the inspection in accordance with the provisions of this Clause 14.1. For the avoidance of doubt, the Parties expressly agree that such inspection shall be completed within a period of one week from the time when a Bus is made available for inspection and upon expiry thereof, the Bus shall, subject to satisfactory completion of the safety inspection under Clause 14.2, be deemed to have been approved by the Authority.

14.1.4 The Authority Representative shall submit an inspection report for each Bus specifying the defects and deficiencies that shall be rectified by the Operator in conformity with the Specifications and Standards (the "**Punch List**"). The Operator shall, no later than 15 (fifteen) days, rectify each item in the Punch List and notify the Authority of the same. The Authority may, in its discretion, inspect the Bus within 15 (fifteen) days thereof and in the event that any defect or deficiency specified in the Punch List shall have remained without rectification thereof, the Operator shall pay to the Authority as Damages, an amount of 0.01% (zero point zero one per cent) of the Performance Security for each day of delay until all items of the Punch List are rectified.

14.2 Safety Inspection

14.2.1 The inspection specified in Clause 14.2, shall include a safety inspection in accordance with the provisions of Article 18. In the event that the Authority Representative concludes that the Bus does not conform with the Specifications and Standards, and is therefore not safe for entry into service, he shall convey to the Parties forthwith, a report stating in detail the reasons for his findings. The Operator shall, notwithstanding anything to the contrary contained in this Article 14, withdraw the Bus for rectification thereof and present it to the Authority for inspection after the defects or deficiencies have been rectified.

14.3 Commercial Operation Date (COD) for Respective Lot of Buses

14.3.1 The Operator shall within 30 (thirty) days from the date of delivery/handover of respective Lot of Buses comply with the following:

(a) ensure activities related to readiness for Commencement of Bus Service are completed;

(b) ensure that all requisite insurances under Applicable Law have been procured and maintained;

(c) appoint duly experienced and trained drivers holding valid driving license in accordance with Applicable Law;

(d) deposit copy of the driving license of the appointed drivers with the Authority; and

(c) procure and install the necessary movable assets such as plant and equipment, materials, consumables, etc. at the Maintenance Depot as required for the Operation and Maintenance of Buses and Maintenance Depots in addition to handed over by the CTU on As is where is basis.

14.3.2 Upon accomplishing of the activities enumerated in Clause 14.3.1 above for the First Lot of Buses, the Operator shall intimate in writing to the Authority of its readiness to achieve COD for such Lot of Buses, along with detailed proof of completing each such activity. The Authority shall, within 2 (two) days of receiving such written intimation, inspect the relevant documents and the Maintenance Depot to determine compliance by the Operator. Upon being satisfied that the Operator has duly complied with all the requirements set forth in this Agreement for achieving COD for such Lot of Buses, the Authority shall within a period no longer than 5 (five) days from such inspection, issue to the Operator a Completion Certificate (the "**Completion Certificate**") for such Lot of Buses. 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 Completion Certificate.

14.3.3 The date of issuance of Completion Certificate for a particular Lot of Buses shall be reckoned as the "**Commercial Operation Date for respective Lot of Buses**" or "**COD for respective Lot of Buses**" under this Agreement. The date when such Completion Certificate is issued for the entire Lot of Buses and the Maintenance Depots shall be the Commercial Operation Date ("**COD**") under this Agreement whereupon the Project enters into commercial service, provided, however, that the entry of Project or part thereof into commercial service shall always be subject to compliance with the provisions of Clause 18.3.

14.4 Damages for delay

If COD does not occur prior to the 30th (thirtieth) day after delivery and acceptance of buses, unless the delay is on account of reasons solely attributable to the Authority or due to Force Majeure, the Operator shall pay Damages to the Authority in a sum calculated at the rate of 0.1% (zero point one per cent) of the amount of Performance Security for delay of each day until COD is achieved. Further, capping of penalties proposed added as new clause.

ARTICLE 15
CHANGE OF SCOPE

15.1 Change of Scope

15.1.1 The Authority may, notwithstanding anything to the contrary contained in this Agreement, require the provision of upgraded technology or additional works and services in the Buses, which are not included in the Scope of the Agreement as contemplated by this Agreement (the "**Change of Scope**"). Any such Change of Scope shall be made in accordance with the provisions of this Article 15 and the costs thereof shall be expended by the Operator and reimbursed to it by the Authority in accordance with this Article 15.

15.1.2 If the Operator determines at any time that a Change of Scope is necessary for providing safer and improved Buses, including upgradation of any technology thereof, it shall by notice in writing require the Authority to consider such Change of Scope. The Authority shall, within 30 (thirty) days of receipt of such notice, either accept such Change of Scope with modifications, if any, and initiate proceedings thereof in accordance with this Article 15 or inform the Operator in writing of its reasons for not accepting such Change of Scope or for accepting such Change of Scope without any payment obligations hereunder, as the case may be.

15.2 Procedure for Change of Scope

15.2.1 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 works and services contemplated there under (the "**Change of Scope Notice**").

15.2.2 Upon receipt of a Change of Scope Notice, the Operator shall, with due diligence, provide to the Authority such information as is necessary, together with preliminary Documentation in support of:

(a) the options for implementing the proposed Change of Scope and the effect, if any, each such option would have on the costs and time thereof, including a detailed breakdown by work classifications specifying the material and labour costs calculated in accordance with Good Industry Practice.

15.2.3 Upon receipt of information set forth in Clause 15.2.2, if the Authority decides to proceed with the Change of Scope, it shall convey its preferred option to the Operator, and the Parties shall thereupon make good faith efforts to agree upon the time and costs for implementation thereof. Upon reaching an agreement, the Authority shall issue an order (the "**Change of Scope Order**") requiring the Operator to proceed with the performance thereof. In the event that the Parties are unable to agree, the Authority may, by issuing a Change of Scope Order, require the Operator to proceed with the performance thereof pending resolution of the Dispute.

15.2.4 The provisions of this Agreement, in so far as they relate to Tests, shall apply *mutatis mutandis* to any modifications in the Buses undertaken by the Operator under this Article 15.

15.3 Payment for Change of Scope

15.3.1 The Operator shall, after commencement of work, present to the Authority bills for payment in respect of the works and services in progress or completed works and services, as the case may be, supported by such Documentation as is reasonably sufficient for the Authority to determine the accuracy thereof. Within 30 (thirty) days of receipt of such bills, the Authority shall disburse to the Operator such amounts as are reasonable and after making a proportionate deduction for the advance payment made hereunder, and in the event of any Dispute, final adjustments thereto shall be made under and in accordance with the Dispute Resolution Procedure.

15.3.2 Notwithstanding anything to the contrary contained in Clause 15.3.1, all costs arising out of any Change of Scope Order shall be borne by the Operator, subject to an aggregate ceiling of 0.25% (zero point two five per cent) of the Total Project Cost. Any costs in excess of the ceiling shall be reimbursed by the Authority in accordance with Clause 15.3.1.

15.4 Restrictions on certain works

15.4.1 Notwithstanding anything to the contrary contained in this Article 15, the cumulative costs relating to all the Change of Scope Orders for provision of works and services shall not exceed 5% (five percent) of the total project cost during the Contract Period.

ARTICLE 16
OPERATION OF BUSES

16.1 Operations of Buses

16.1.1 The Operator shall Operate Buses in accordance with the provisions of this Agreement and shall comply with the operation standards as provided in Schedule-I of this Agreement.

16.1.2 In the event the Operator fails to ensure the security of the Buses and there is any theft of or damage to any component of the Bus including but not limited to any component, spare parts, hardware, software, instruments etc., the Operator shall reinstall or replace, as the case may be, such Bus component, spare, parts, hardware, software, instrument(s) etc. of the same or equivalent quality and specification, after giving prior written notice to the Authority.

16.1.3 The Operator shall ensure that the Buses are in accordance with the Specifications and Standards, provide adequate staff including drivers, and equipped with fully functional mounted devices as specified in this Agreement.

16.2 Maintenance Depot

16.2.1 The Operator shall use the Maintenance Depots, only for the purposes specified in this Agreement.

16.2.2 The Operator shall ensure that the Maintenance 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 provided in this Agreement.

16.3 Operation Manual

The Operator shall prepare an operation manual (the "**Operation Manual**") for the operation of Buses in conformity with Good Industry Practice and the provisions of this Article 16. The Operator shall provide 10 (ten) copies of a provisional operation manual (the "**Provisional Operation Manual**") to the Authority no later than 30 (thirty) days from the Appointed Date. The Authority may review the Provisional Operation Manual and convey its comments to the Operator within a period of 15 (fifteen) days from the date of receipt thereof. The Operator shall revise the Provisional Operation Manual, as may be necessary, and provide 10 (ten) copies of the Operation Manual, accompanied by an electronic copy thereof, no later than the 60 (sixty) days from the Appointed Date. The Operation Manual shall be revised and updated once every year and the provisions of this Clause 16.3 shall apply, *mutatis mutandis*, to such revision. For the avoidance of doubt, the Parties expressly agree that until the Operation Manual is provided hereunder, the Provisional Operation Manual shall apply.

16.4 Routes and Schedules

16.4.1 The Parties agree that the Authority shall have the exclusive right to determine routes, frequency and schedule of the Buses as part of Deployment Plan through the Contract Period. The Authority shall provide the routes for Operation as specified in Schedule-J (the "**Operational Routes**"). The Authority shall be required to consult with the Operator in case it carries out a change to any Operational Route such that it affects the origin and destination of the relevant Operational Route. The Parties agree that no such consultation would be

required in case such change in the relevant Operational Route does not affect the origin and destination of the relevant Operational Route. The Operator shall only ply Buses on the Operational Routes, unless directed otherwise by the Authority. For the avoidance of doubt, it is clarified that the Authority may amend the Operational Routes with prior notice to the Operator under and in accordance with the provisions of this Agreement. Provided further that if the Authority amends the Operational Routes pursuant to this Clause 16.4.1, there shall be no reduction in the kilometres.

16.4.2 In the event the Operator makes any unscheduled or unauthorized trip outside operation hours and beyond the Operational Routes or in violation of any requirement of the Deployment Plan or without specific instructions of the Authority in relation thereof, it shall be liable for payment of Damages at the rate of 0.01% (zero point zero one percent) of the Performance Security.

16.4.3 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.

16.4.4 Unless directed by the Authority, the Operator shall maintain the frequency of the Buses as specified in the Deployment Plan.

16.4.5 The actual hours of operations in a day are specified in the Deployment Plan. The Parties agree that the hours of operation may be segregated into peak hours and off-peak hours of operation.

16.4.6 In the event there is a need for change in route of Bus, the Operator shall inform the control centre for monitoring of all activities ("**Control Centre**") about it and the same shall be tallied with the change in route length measured by ITS ("**Intelligent Transport Systems**") 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.

16.5 Deployment Plan

16.5.1 The Authority shall develop a Deployment Plan containing details including but not limited to number and type of Buses, details of the assured availability during the Contract Period, Operational 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 "**Deployment Plan**"), more particularly specified in Schedule-J.

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

16.5.3 The Operator shall make available Buses at prescribed locations as per the Deployment Plan.

16.5.4 The Authority reserves the right to make changes to the Deployment Plan from time to time with prior notification, of at least 5 (five) days, of such change to the Operator. The Parties agree that changes to the Deployment Plan by the Authority shall not exceed 20% (twenty percent) of the Total Scheduled Bus Kilometres as mentioned in the Deployment Plan.

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

16.5.6 Notwithstanding anything to the contrary contained herein, the Parties agree that any amendment to the Operational Routes or the Deployment Plan shall not reduce the Annual Assured Bus Kilometres.

16.6 Incidents En-Route

16.6.1 In case of Breakdown or discharging of battery 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 2 (two) hours of Breakdown and the Operator will not be entitled to receive any payment for KMs covered for that particular day. Further KM operated or to be operated for the particular day will be counted towards Annual Assured KM without any payment. In case of any claim raised by passenger and finally passed by court of law towards the incomplete journey will be at risk and cost of successful bidder.

16.6.2 The Operator shall ensure regular communication with Buses throughout the Operation Period by making use of relevant technology as specified in this Agreement, more specifically provided in Clause 19.7.

16.6.3 In an unforeseen event involving unruly behavior by passengers or vandalism in or involving the Bus, the Operator shall forthwith intimate the Authority. If the Bus in question is not in a condition to complete the Operational Route or go back to the Bus Depot, then the Operator shall arrange to tow-away such Bus within {1 (one) to 3 (three) hours} of such occurrence, failing which Operator shall be liable to pay Damages at the rate of 0.01% (zero point zero one percent) of the Performance Security.

16.6.4 The Operator shall, provide first aid to the injured on-site and also co-ordinate with the relevant Government Authorities including but not limited to the police to ensure timely medical help to the injured passengers.

16.6.5 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.

16.7 Excuse from Performance of Obligations

The Operator shall not be considered in breach of its obligations under this Agreement if any Bus is not available for Operation on account of event of a Force Majeure Event or breach of any obligation by the Authority. Notwithstanding the foregoing, the Operator agrees that it shall keep the unaffected Buses available for Operations.

16.8 Advertising on Buses and Maintenance Depots

16.8.1 Subject to Applicable Law, the Authority may display advertisements on the Buses through Third Party.

16.8.2 The Third party so appointed by the Authority 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 and as such operator will not be responsible for such damage.

16.8.4 Placement of Advertisement

(a) The Third Party may place the advertisement inside and outside the Buses at designated slots described, such that it does not obstruct any safety, advisory or other mandatory information.

16.8.5 The Operator shall not be entitled to any revenue generated from the display of advertisements on the Buses by the Authority or Third party appointed by the Authority.

16.9 User Fare

16.9.1 On and from the COD till the Transfer Date, the Authority or a third party nominated by the Authority ("**Authority Nominated Personnel**") shall have the right to demand, collect and appropriate User Fare from the Users in accordance with this Agreement.

16.9.2 The Authority or Authority Nominated Personnel shall, in accordance with Clause 16.9.1 above, provide conductors for collection of ticket revenue, every day prior to commencement of operations for the day, either at the Maintenance 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, who shall provide a replacement.

16.9.3 The Operator acknowledges and agrees that upon payment of User Fare to the Authority or the Authority Nominated Personnel, any User shall be entitled to use the Buses and the Operator shall not place, or cause to be placed, any restriction on such use, except to the extent specified in any Applicable Law, Applicable Permits or the provisions of this Agreement. It is clarified that the Authority or Authority Nominated Personnel shall collect User Fare from passengers prior to boarding the Bus and the Operator shall have the right to refuse entry to passengers refusing payment of the User Fare.

16.9.4 The Operator and its employees shall always extend courtesy while interacting with public.

ARTICLE 17
MAINTENANCE OF BUSES

17.1 Maintenance Obligations

17.1.1 The Operator shall maintain all Buses in accordance with the provisions of this Article 17, the Specifications and Standards, the Maintenance Manual and the Maintenance Requirements (the "**Maintenance Obligations**").

17.1.2 The Parties agree that for discharging the Maintenance Obligations hereunder, the Operator shall provide its staff, movable equipment, Spares and Consumables, workshop, office space etc. The Parties further agree that the workshop space to be provided hereunder by the Operator for discharging the Maintenance Obligations of the Operator shall be on As-is basis, within the Maintenance Depot.

17.2 Maintenance Manual

The Operator shall prepare a repair and maintenance manual (the "**Maintenance Manual**") for the maintenance of Buses as per Bus Manufacturer standards(OEM), in conformity with Good Industry Practice and the provisions of this Article 17. The Operator shall provide 5 (five) copies of a provisional maintenance manual (the "**Provisional Maintenance Manual**") to the Authority no later than 60 (sixty) days from the Appointed Date. The Authority may review the Provisional Maintenance Manual and convey its comments to the Operator within a period of 15 (fifteen) days from the date of receipt thereof. The Operator shall revise the Provisional Maintenance Manual, as may be necessary, and provide 5 (five) copies of the Maintenance Manual, accompanied by an electronic copy thereof, no later than the 90 (ninty) days from the Appointed Date. The Maintenance Manual shall be revised and updated once every year and the provisions of this Clause 17.2 shall apply, *mutatis mutandis*, to such revision. For the avoidance of doubt, the Parties expressly agree that until the Maintenance Manual is provided hereunder, the Provisional Maintenance Manual shall apply.

17.3 Spares and Consumables

17.3.1 During the Contract Period, the Operator shall, at its own cost and expense, replace and install materials which get consumed or wear out beyond serviceable limits in the normal course of operation of a Bus, including battery packs for driving of bus and for auxillary components, Driving Motors, oils, lubricants, brake blocks and pads, rubber parts and hoses, fuses, light fittings, bulbs, seats, curtains, filters, look out glass, bearings and insulators etc. complete in all respects what so ever(the "**Consumables**"). Save and except as provided in this Agreement, the Consumables shall be replaced or installed, as the case may be, by the Operator when a Bus is brought to a Maintenance Depot in accordance with the provisions of this Agreement.

17.3.2 During the Maintenance Period, the Operator shall, at its own cost and expense, replace any part or equipment of a Bus, which may be defective, damaged or worn out, by a substitute thereof (the "**Spares**") for the efficient Operation and Maintenance of a Bus.

17.3.3 The Parties expressly agree that the Operator shall, supply and install doors, window panes, seats,axle-boxes, brake gear components, wind shield, and under-gear piping/cabling at its own cost and expense; provided, however, that if such supply and installation have arisen on

account of vandalism, arson, riots or natural calamities, the Operator shall not be liable for replacement of such equipment.

17.3.4 The Operator shall maintain a sufficient inventory of Consumables and Spares for timely repair and maintenance of Buses in conformity with its Maintenance Obligations.

17.4 Maintenance Requirements

The Operator shall procure that at all times during the Contract Period, each and every Bus conforms to the maintenance requirements set forth in Schedule-I (the "**Maintenance Requirements**").

17.5 Damages for breach of Maintenance Obligations

17.5.1 In the event that the Operator fails to repair or rectify any defect or deficiency in a Bus, as set forth in the Maintenance Requirements and within the period specified therein, it shall be deemed to be in breach of this Agreement 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 rate of 0.5% (zero point zero five per cent) of the Performance Security. Recovery of such Damages shall be without prejudice to the rights of the Authority under this Agreement, including the right of Termination thereof.

17.5.2 The Damages set forth in Clause 17.5.1 may be assessed and specified forthwith by the Authority; provided that 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 Maintenance Obligations. The Operator shall pay such Damages forthwith and, in the event, that it contests such Damages, the Dispute Resolution Procedure shall apply.

17.6 De-commissioning due to Emergency

17.6.1 If in the reasonable opinion of the Authority, there exists an Emergency which warrants de-commissioning of a Bus, the Authority shall be entitled to de-commission the Bus for so long as such Emergency and the consequences thereof warrant; provided that such de-commissioning and particulars thereof shall be notified by the Authority to the Operator without any delay, and the Operator shall diligently carry out and abide by any reasonable directions that the Authority may give for dealing with such Emergency.

17.6.2 The Operator shall re-commission the Bus as quickly as practicable after the circumstances leading to its de-commissioning have ceased to exist or have so abated as to enable the Operator to re-commission the Bus and shall notify the Authority of the same without any delay.

17.7 Authority's right to take remedial measures

In the event the Operator does not maintain and/or repair the Bus in conformity with the provisions of this Agreement and the Maintenance Manual, 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 Agreement 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. In addition to recovery of the aforesaid cost, a sum

equal to 20% (twenty per cent) of such cost shall be paid by the Operator to the Authority as Damages. The Parties agree that the Authority shall not in any manner be liable for any damage to, or deterioration in, a Bus occurring on account of the remedial measures taken hereunder.

17.8 Overriding powers of the Authority

17.8.1 If in the reasonable opinion of the Authority, the Operator is in material breach of its obligations under this Agreement and, in particular, the Maintenance Obligations, and such breach is causing or is likely to cause material hardship to the Authority or render the use of a Bus unsafe for operation, the Authority may, without prejudice to any of its rights under this Agreement including Termination thereof, by notice, require the Operator to take reasonable measures immediately for rectifying or removing such hardship or unsafe condition, as the case may be.

17.8.2 In the event that the Operator, upon notice under the provisions of this Clause 17.8, fails to rectify or remove any hardship or unsafe condition affecting the operation of any Bus, within 15 (fifteen) days from the date of the notice, the Authority may exercise overriding powers under this Clause 17.8 and take over the performance of any or all the obligations of the Operator to the extent deemed necessary by it for rectifying or removing such hardship or unsafe situation; provided that the exercise of such overriding powers by the Authority shall be of no greater scope and of no longer duration than is reasonably required hereunder; provided further that for any costs and expenses incurred by the Authority in discharge of such obligations, the Authority shall be entitled to recover them from the Operator in accordance with the provisions of Clause 17.7 along with the Damages specified therein.

17.8.3 In the event of a national emergency, civil commotion or any such other event, the Authority may take over the performance of any or all the rights or obligations of the Operator to the extent deemed necessary by it, and exercise such control over the Buses and Maintenance Depots or give such directions to the Operator as may be deemed necessary; provided that the exercise of such overriding powers by the Authority shall be of no greater scope and of no longer duration than is reasonably required in the circumstances which caused the exercise of such overriding power by the Authority. It is agreed that the Operator shall comply with such instructions as the Authority may issue in pursuance of the provisions of this Clause 17.8, and shall provide assistance and cooperation to the Authority, on a best effort basis, for performance of its obligations hereunder.

17.9 Restoration of loss or damage to the Buses

Save and except as otherwise expressly provided in this Agreement, in the event that a Bus or any part thereof suffers any loss or damage during the Contract Period from any cause whatsoever, the Operator shall, at its cost and expense, rectify and remedy such loss or damage forthwith so that the Bus conforms to the provisions of this Agreement.

17.10 Modifications to the Buses

The Operator shall not carry out any material modifications to a Bus save and except where such modifications are necessary for the Bus to operate in conformity with the Specifications and Standards, Maintenance Obligations, Good Industry Practice and Applicable Laws; provided that the Operator shall notify the Authority of the proposed modifications along with particulars thereof at least 15 (fifteen) days before commencing work on such modifications

and shall reasonably consider any suggestions that the Authority may make within 15 (fifteen) days of receiving the Operator's proposal. For the avoidance of doubt, all modifications made hereunder shall comply with the Specifications and Standards, Applicable Laws, Good Industry Practice and the provisions of this Agreement.

17.11 Operation Assistance

17.11.1 The Operator shall operate the Buses in accordance with Applicable Laws and Good Industry Practice.

17.11.2 The Operator agrees that it shall, provide an operation manual (the "**Operation Manual**") for Buses. The Operator shall provide 10 (ten) copies of a provisional operation manual (the "**Provisional Operation Manual**") to the Authority along with the delivery of the Prototypes hereunder. The Authority may review the Provisional Operation Manual and convey its comments to the Operator within a period of 15 (fifteen) days from the date of receipt thereof. The Operator shall revise the Provisional Operation Manual, as may be necessary, and provide 50 (fifty) copies of the Operation Manual, in English, Hindi and Punjabi, no later than the 180 (one hundred and eighty) days from the Appointed Date. The Operation Manual shall be revised and updated once every year and the provisions of this Clause 17.11.2 shall apply, *mutatis mutandis*, to such revision.

17.11.3 The Operation Manual shall include:

(a) instructions to operating staff for operation of the Bus;

(b) instructions for troubleshooting;

(c) do's and don'ts for operating staff;

(d) safety precautions to be taken by the operating staff;

(e) rating and layout of equipment;

(f) operating limits of installed systems; and

(g) control and safety features of the Buses.

17.12 Excuse from performance of obligations

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

(a) an event of Force Majeure;

(b) measures taken to ensure the safe operation of Buses except when unsafe conditions occurred because of failure of the Operator to perform its obligations under this Agreement; or

(c) compliance with a request from the Authority or the directions of any Government Instrumentality.

provided that, any such non-availability and particulars thereof shall be notified by the Operator to the Authority without any delay. Notwithstanding the foregoing, the Operator shall keep every unaffected Bus available for operations.

17.13 Warranties for defects and deficiencies

17.13.1 The Operator warrants that:

(a) all equipment, supplies, plant and machinery at the Maintenance Depots as well as components, parts and systems forming part of a complete Bus including the Spares and Consumables shall be new and of utility-grade quality and in full conformity with the Specifications and Standards, Designs and Drawings, Applicable Permits, Applicable Laws and the other requirements of the Agreement, of suitable quality and fit for the purpose for which they are intended and be free from defects, deficiencies and defective workmanship;

(b) all Buses shall be free from defects, shall comply with all Applicable Laws and Good Industry Practice and will be capable of operating in the manner intended and contemplated in the Specifications and Standards, Designs and Drawings, Applicable Permits, Applicable Laws and the Agreement;

(c) the manufacturing, assembly and supply of the Buses shall be performed in accordance with the standards of professional care, skill, diligence and competence generally accepted in the international independent manufacturing industry applicable to engineering and manufacturing and project management practices for manufacturing projects of similar size and type as the Project, when operated in accordance with Good Industry Practice; and

(d) the Buses shall be capable of performing and would continue to perform as per this Agreement.

17.14 Maintenance Depots

17.14.1 For discharging its Maintenance Obligations under and in accordance with the provisions of this Agreement, the Operator shall maintain the buses in the depot handed over in accordance with the provisions of this Article 17 (the "**Maintenance Depots**").

17.14.2 The Authority shall provide Three Phase upstream connection including transformer upto HT/LT panel for charging of Buses. Subject to Clause 5.2, supply of electricity at the Maintenance Depots for the Charging Stations only shall be procured by the Operator at its own expense within the Maintenance Depots. It is clarified that the distribution of power for the purpose of charging Buses shall be arranged by the Operator and it shall procure Applicable Permits for the same.

17.14.5 The Operator agrees and undertakes to set up and operationalise, subject to the provisions of Clause 17.14.2, each of the Maintenance Depots on or prior to the date specified in Clause 17.14.7, and in the event of delay for any reason except if solely on account of Force Majeure or breach of this Agreement by the Authority, the Operator shall pay Damages to the Authority in a sum equal to 0.01% (zero point zero one per cent) of the Performance Security for each day of delay in setting up and operationalising a Maintenance Depot, and if such

delay exceeds 100 (hundred) days, the Authority shall be entitled to terminate this Agreement forthwith.

17.14.6 Maintenance Depots shall be set up by the Operator on the depot space handed over by the Authority at {***} and {***} in accordance with the provisions of Article 10 (the "**Maintenance Depots**").

17.14.7 The Operator shall set up Maintenance Depots at {***} and {***}, no later than {***}.

17.14.8 The Operator shall be responsible, at its own cost and expense, for operation and maintenance of all infrastructures inside the Maintenance Depots. It will be limited only to the depot space, Equipments handed over to the operator by the Authority.

17.15 Maintenance facilities

17.15.1 The Operator shall, at each Maintenance Depot, install and operate the maintenance facilities and equipment necessary for performing its Maintenance Obligations under and in accordance with this Agreement. Such maintenance facilities and equipment shall include:

(a) portable lifting jacks;

(b) measuring and recording devices;

(d) special tools, jigs & fixtures;

(e) Wi-Fi data retrieval and diagnostic system facilities; and

(f) hardware (2 (two) desktop computers) and software for the Maintenance Management Information System (the "**MMIS**").

17.15.2 The Parties agree that the Maintenance Depots may be set up and operationalised under this Clause 17.15 by procuring the maintenance facilities and equipment in a phased manner; provided, however, that all the facilities and equipment specified in this Clause 17.15 shall be installed and operationalised no later than 15 (fiften) days from the delivery of the prototype or first lot of buses.

ARTICLE 18
SAFETY REQUIREMENTS

18.1 Safety Requirements

The Operator shall develop, implement and administer a safety programme for providing a safe environment on or about the Buses and Maintenance Depots, and shall comply with the safety requirements set forth in this Article 18 and Schedule-K (the "**Safety Requirements**").

18.2 Guiding principles

18.2.1 Safety Requirements aim at reduction in injuries, loss of human life and damage to property resulting from accidents on account of the Buses or in the Maintenance Depots, irrespective of the person(s) at fault.

18.2.2 Safety Requirements shall apply to all phases of construction, operation and maintenance with emphasis on identification of factors associated with accidents, consideration of the same and implementation of appropriate remedial measures.

18.3 Obligations of the Operator

18.3.1 The Operator shall abide by the following to ensure safety of the Buses and Maintenance Depots, human life and property:

(a) instructions issued by the Authority;

(b) Applicable Laws and Applicable Permits;

(c) provisions of this Agreement;

(d) relevant standards/guidelines contained in internationally accepted codes; and

(e) Good Industry Practice.

18.3.2 The Operator shall impart safety training to its employees and shall at all times be responsible for observance of safety procedures by its staff, Contractors and agents.

18.3.3 The Operator shall be responsible for undertaking all the measures under its control to ensure safe operation of Buses.

18.3.4 The Operator agrees that the Authority shall be entitled to inspect any Bus or Maintenance Depot to verify adherence to Safety Requirements and the Operator shall be obliged to facilitate such inspection and implement the corrective measures identified in such inspection.

18.4 Safety measures during construction

The Operator shall, during construction of the Maintenance Depots, provide an environment for procuring the safety of human life and property in accordance with Applicable Laws and Good Industry Practice.

18.5 Annual Safety Report

18.5.1 The Operator shall submit to the Authority before the 31st (thirty first) May of each Accounting Year, an annual report in 10 (ten) copies containing, without limitation, a detailed listing and analysis of all accidents occurring on account of the Buses or in the Maintenance Depots during the preceding Accounting Year and the measures taken by the Operator for averting or minimizing such accidents in future ("**Annual Safety Report**").

18.5.2 Once in every Accounting Year, a safety audit shall be carried out by the Authority. It shall review and analyse the Annual Safety Report and accident data of the preceding Accounting Year and undertake an inspection of the Buses and Maintenance Depots. The Authority shall provide a safety report recommending specific improvements, if any, required to be made in the Buses and Maintenance Depots. Such recommendations shall be implemented by the Operator in accordance with Safety Requirements, Specifications and Standards and Applicable Laws.

ARTICLE 19
MONITORING OF OPERATION AND MAINTENANCE

19.1 Monthly status reports

19.1.1 During the Contract Period, the Operator shall, no later than 7 (seven) days after the end of each month, furnish to the Authority a monthly report stating in reasonable detail the maintenance services performed by the Operator on the Buses and the defects and deficiencies that require rectification. The report shall also include Key Performance Indicators achieved by the Buses and the compliance or otherwise with the Maintenance Requirements, Maintenance Manual and Operation Manual. The Operator shall promptly give such other relevant information as may be required by the Authority.

19.1.2 The monthly report specified in Clause 19.1.1 shall also include a summary of the key operational hurdles and deliverables expected in the succeeding month along with strategies for addressing the same and for otherwise improving the Operator's operational performance.

19.2 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 the failures, accidents and unusual occurrences relating to the Buses. 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. For the purposes of this Clause 19.2, unusual occurrences on a Bus shall include:

(a) failure of a Bus;

(b) accidents involving a Bus; and

(c) trouble on a Bus during operation.

19.3 Inspection

The Authority shall be entitled to inspect the Buses after any maintenance for evaluating the compliance of Buses with the Maintenance Obligations. It shall make a report of such inspection (the "**Maintenance Inspection Report**") stating in reasonable detail the defects or deficiencies, if any, with particular reference to the Maintenance Obligations and notify the Operator of the same for taking remedial measures in accordance with the provisions of Clause 19.5.

19.4 Tests

For determining that the maintenance of Bus conforms to the Maintenance Obligations, the Authority may require the Operator to carry out, or cause to be carried out, the tests specified by it in accordance with Good Industry Practice. The Operator shall, with due diligence, carry out or cause to be carried out all such tests in accordance with the instructions of the Authority and furnish the results of such tests to the Authority within 15 (fifteen) days of such tests being conducted. One half of the costs incurred on such tests shall be reimbursed by the Authority to the Operator. Provided, however, that the Authority shall not bear any costs hereunder for and in respect of Tests which have failed.

19.5 Remedial measures

19.5.1 The Operator shall repair or rectify the defects or deficiencies, if any, set forth in the Maintenance Inspection Report or in the test results referred to in Clause 19.3 and furnish a report in respect thereof to the Authority within 15 (fifteen) days of receiving the Maintenance Inspection Report or the test results, as the case may be.

19.5.2 The Authority shall require the Operator to carry out or cause to be carried out tests, at the cost of the Operator, to determine whether the remedial measures have brought the Buses into compliance with the Maintenance Obligations and Safety Requirements, and the procedure set forth in this Clause 19.5 shall be repeated until the maintenance of Buses conforms to the Maintenance Obligations and Safety Requirements. In the event that remedial measures are not completed by the Operator in conformity with the provisions of this Agreement, the Authority shall be entitled to recover Damages from the Operator at the rate of 0.01% (zero point zero one per cent) of the Performance Security.

19.6 Responsibility of the Operator

19.6.1 It is expressly agreed between the Parties that any inspection carried out by the Authority or the submission of any Maintenance Inspection Report by the Authority as per the provisions of this Article 19 shall not relieve or absolve the Operator of its obligations and liabilities hereunder in any manner whatsoever.

19.6.2 It is further agreed that the Operator shall be solely responsible for adherence to the Key Performance Indicators specified in Article 20.

19.7 Real Time Data Access

The Operator agrees that it shall provide for real time data monitoring and provide the Authority access to the raw feed of the monitoring system pertaining to the performance of the Operator under this Contract as generated by ITS. The Operator shall install the data monitoring system as provided in Schedule-Q hereto. The Operator further agrees to install on board devices to enable the Authority to access real time location and status of the Buses. The Operator agrees that failure to provide access to the monitoring the daily raw feed and the on-board device data, then it shall be deemed to be an Operator Default.

ARTICLE 20
KEY PERFORMANCE INDICATORS

20.1 Key Performance Indicators

Without prejudice to the obligations specified in this Agreement, the Operator shall operate and maintain every Bus such that it achieves the performance indicators comprising Reliability, Operation, Punctuality, Frequency, Safety, upkeep of Bus and conformity with ISO certification, as specified in this Article 20, Good Industry Practice and Applicable Laws (the "**Key Performance Indicators**").

20.2 Reliability

20.2.1 The Parties agree that the average reliability of all Buses in the fleet shall be measured on a quarterly basis in terms of the number of Breakdowns per 10,000 (ten thousand) kilometres travelled by the Buses (the "**Reliability**").

20.2.2 The Reliability hereunder shall be equal to the quotient of the cumulative distance travelled by all Buses divided by the aggregate number of Breakdown of all such Buses multiplied by 10,000 (ten thousand).

20.2.3 The Operator agrees that the Reliability for the Buses determined in accordance with Clause 20.2.2 shall be equal to or more than 1 (one).

20.3 Operation of Buses

20.3.1 The Operator shall at all times procure that, save and except any damage caused by theft, arson or vandalism:

(a) there are adequate lighting arrangements inside the Buses, in conformity with the Specifications and Standards;

(b) the temperature inside the Buses be maintained in accordance with Maintenance Requirements. If Air Conditioning does not work in any bus by maintaining the temperature of 24o+_ 1 degrees as per AIS standard then penalty @ 0.1% of performance security per incident will be imposed.

(c) the Buses are clean, hygienic and free of odour;

(d) seats, windows, doors and all fixtures in the Buses are operational; and

(e) all bus information systems and lighting systems function efficiently, and their availability is no less than 98% (ninety-eight per cent) in a month.

(f) Shoddy work due to inferior quality of workmanship in cleaning of bus /Improper washing affecting the appearance of the bus/poor upkeep of upholstery will result in penalty @0.01% of performance security per incident.

(g) Cancellation of complete schedule due to non-availability of the bus or failure to provide replacement will result in penalty @ 0.2% of performance security per incident.

(h) Non Display of PIS Display or ITS equipment will result in penalty @ 0.01% of performance security per incident.

20.4 Punctuality s

20.4.1 Punctuality shall be measured on a quarterly basis in terms of the percentage of on-time start of trips to the total number of trips operated on a daily basis ("**Start Punctuality**"). The total number of trips starting/arriving late during the month will be recorded and subtracted from the number of trips operated to arrive at the on-time trips operated figures separately in each case.

20.4.2 The Operator agrees that the Punctuality for arrival at the respective destination shall be measured on a quarterly basis in terms of the percentage of trips with on-time arrival at destination to the total number of trips operated on a daily basis ("**Arrival Punctuality**").

20.4.3 The Parties agree that the Operator may exercise a relaxation equivalent to 5 (five) minutes, for start of the bus schedule, and 10% (ten percent) of the subsequent scheduled trip time (subject to a maximum of 15 (fifteen) minutes) for start of subsequent schedules and arrival of trips.

20.4.4 Subject to the provisions of Clause 20.4.3, the Operator agrees that the Start Punctuality determined in accordance with Clause 20.4.2 shall be equal to or more than 90% (ninety percent) and the Arrival Punctuality shall be equal to or more than 80% (eighty percent) respectively.

20.5 Frequency

Deleted.

20.6 Safety of Operations

20.6.1 The Parties agree that the Safety of Buses in the fleet shall be measured in terms of inverse of number of accidents per 1,00,000 Kms (One lakh kilometres) (the "**General Safety**") and the number of fatalities per 10,00,000 Kms (Ten lakh kilometres) (the "**Severe Safety**"), respectively. The General Safety and Severe Safety shall be calculated in terms of cumulative Bus Kms operated divided by number of accidents multiplied by 1,00,000 (One lakh) and cumulative Bus Kms operated divided by number of fatalities multiplied by 10,00,000 (Ten lakh), respectively.

20.6.2 The Operator agrees that the General Safety and the Severe Safety, as the case may be, determined in accordance with Clause 20.6.1 shall be equal to or more than 1 (one).

20.7 Certification

20.7.1 The Operator shall, prior to 1st (first) anniversary of the COD, achieve and thereafter maintain throughout the Contract Period, ISO 9000:2005, ISO 14000:2004, ISO 18000:2007 and ISO 50000:2011 certification or a substitute thereof for the Maintenance Depots, and shall provide certified copies thereof to the Authority forthwith.

20.7.2 In the event of default in obtaining the certification specified in Clause 20.7.1, the Operator shall, within 15 (fifteen) days thereof, submit to the Authority an action plan that sets out the actions proposed to be taken by the Operator for rectifying its deficiencies and obtaining such certification for the Maintenance Depots.

20.7.3 If the period of default in obtaining the ISO certification under this Clause 20.7 shall exceed a continuous period of 15 (fifteen) months, the Operator shall pay Damages to the Authority in an amount equal to 5% (five per cent) of the Performance Security.

20.8 Monthly Report

The Operator shall, no later than 7 (seven) days after the end of each month, furnish to the Authority a report stating the Key Performance Indicators of each Bus as measured on a daily basis. The Operator shall promptly give such other relevant information as may be required by the Authority.

20.9 Passenger Charter

The Operator shall publish and implement a charter articulating the rights and expectations of Users (the "**Passenger Charter**") substantially in the form specified in Schedule-N. The Operator shall at all times be accountable and liable to Users in accordance with the provisions of the Passenger Charter and Applicable Laws.

20.10 Damages for failure to achieve Key Performance Indicators

The Operator shall ensure and procure compliance of each of the Key Performance Indicators specified in clause 20.2, 20.4 & 20.6 and for repeated shortfall in 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 Damages equal to 0.1% (zero point one per cent) of the Performance Security for such shortfall in any such performance indicator.

20.11 Incentive for exceeding to achieve Key Performance Indicators

The Operator shall ensure and procure compliance of each of the Key Performance Indicators specified in clause 20.2, 20.4 & 20.6 and for repeated increase in 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.

20.12 The total penalty amount per month is capped to 10% of the amount payable per month.

Part IV
Financial Covenants

ARTICLE 21
FINANCIAL CLOSE

Deleted

ARTICLE 22
FEE

22.1 Fee

22.1.1 In consideration for undertaking the Project, the Authority shall pay the Operator, based on the total distance travelled by each Bus, operated by the Operator (the "**Bus Kilometres**") in fulfilment of the Operators obligations under this Agreement (the "**Fee**").

22.1.2 The Fee shall be fixed except where varied or adjusted in accordance with this Article 22.

22.1.3 The Parties agree that the Bus Kilometre shall comprise:

(a) Distance travelled by a Bus assigned on a particular Operational Route as per the Deployment Plan;

(b) Distance travelled by a Bus from the Maintenance Depot to the first point of loading passengers at the commencement of its service on a Day;

(c) Distance travelled by a Bus from its last Bus Stop as per the Deployment Plan to the Maintenance Depot at the end of the day's service; and

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

Note:- Bus Kilometre will not comprise of KMs for bus charging purpose in/at any case.

22.1.4 The Operator agrees and acknowledges that a Bus Kilometre for the purpose of payment of Fee, shall not include any kilometre travelled by the Bus to any maintenance facilities other than the Maintenance Depot or for any travel not authorized by the Authority.

22.1.5 The Operator shall compute and provide to the Authority, for every month, 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 the ITS to be installed by the Operator and as approved by the Authority and calibrated with the supervision of the Authority's Representative using Odometer Reading of each Bus. In the event the Odometer for any Bus is non-functional or does not provide accurate reading, the Fee for such Bus shall be based on the Bus Kilometre for the respective Bus shall be paid on the recorded average of previous 7 days, multiplied with the Per Kilometre Fee ("**PK Fee**").

22.1.5 The Authority shall deposit or cause to be deposited all the Fee due and payable to the Operator subject to and in accordance with this Article 22, into the Escrow Account.

22.2 Basis of Payment

The Operator shall be paid for Bus Kilometre plied by the total number of Buses operational for that particular day, at PK Fee quoted by the Operator in its Bid.

22.3 Payment of Fee

22.3.1 The Operator shall submit an invoice in respect of the Bus Kilometres plied by each Bus put into commercial operation, in accordance with Clause 14.3.1 every 15 (fifteen) days. The

invoice shall also include any cost or Damages or any other charges that the Operator is entitled to recover from the Authority in terms of this Agreement (hereinafter together referred as "**Invoice Amount**");

22.3.2 The Authority shall within a period of 15 (fifteen) days from receipt of the invoice, subject to verification of the invoice against the records that it has in relation to the Bus Service, make the payments. All payments shall be made by the Authority to the Operator after making any tax deductions at source under Applicable Law.

22.3.3 The payment for Bus Kilometre up to Annual Assured Bus Kilometre per Bus deployed shall be calculated as:

Fee = PK Fee X Bus Kilometre X n
where n is the number of Buses

22.4 Annual Assured Kilometre

22.4.1 The Authority agrees that the Deployment Plan shall ensure the average Bus Kilometres scheduled per Bus in a continuous period of 12 (twelve) calendar months, commencing from the Commercial Operation Date of the respective Buses, will be no less than 64,195 KM (the "**Annual Assured Bus Kilometre**").

22.4.2 In the event the Authority is unable to demand from the Operator, Bus Kilometres up to Annual Assured Bus Kilometre, the Authority will pay to the Operator, in addition to the payments made for Bus Service based on invoices presented by the Operator, an amount equal to the PK Fee multiplied by the difference in utilised Bus Service and the Annual Assured Bus Kilometres. (the "**Annual Assured Payment Amount**"). For the avoidance of doubt and by way of illustration, if the Annual Assured Bus Kilometres is 100 km and the Authority utilises 90 km, it shall pay to the Operator the PK Fee for the difference of (100-90) km.

22.4.3 The Authority shall make the payments to the Operator within the period specified in Clause 22.3.2. In case of any delay in making the Payment of the Fee to the Operator, the Authority shall pay Damages at the rate of 2% (two percent) above the Bank Rate per annum calculated for each day's delay in making the payment subject to maximum of 1 (one) month of period from the date they become payable to the Operator. It is clarified that any delay of a period exceeding 30 (thirty) days shall be regarded as an Authority Default.

22.4.4 In case of any additional kilometres beyond the Annual Assured Bus Kilometres, the Operator shall be entitled to receive PK Fee for such additional kilometres at the discounted rate determined by the Authority. It is clarified that such additional PK Fee payable for kilometres beyond the Annual Assured Bus Kilometre will be 70 % of the PK Fee.

22.5 Revision of Fee

22.5.1 The Parties agree that the Fee shall be revised every 12 (12) months on the basis of variation in electricity tariff for the Charging Infrastructure and CPIIW and WPI in accordance with the terms of this Agreement ("**Fee Revision**").

22.5.2 The Operator shall submit to the Authority, no later than 30 (thirty) days prior to the expiry of the aforesaid period of 12 (twelve) months, a statement of the input cost of the electricity consumed at the Charging Infrastructure, as provided in Clause 5.12, in the format provided in

Schedule-T along with copies of electricity bills clearly segregating the consumption of electricity for the Charging Infrastructure.

22.5.3 The Parties agree that in addition to the provisions of Clause 22.5.2, the Operator shall be entitled to a revision in the PK Fee, to reflect the variation in CPIIW and WPI occurring between the Base Index Date and the Reference Index Date for the relevant Year (the "**Indexed Price**").

22.5.4 In the event that the CPIIW and WPI varies by more than 4% (four per cent) between the Reference Index Date for any Year and the last date preceding any month of that Year, the Indexed Price shall be revised to reflect such variation at the commencement of that month, and such Indexed Price shall be the PK Fee until its revision for the following month or Year, as the case may be, in accordance with the provisions of this Clause 22.5.3.

22.5.5 The Parties agree that the formula for revision of fee shall be:

(a) For the 1st revision after COD:

Indexed Fee = Fee * 1 + (0.2 * CPI IW) + (0.6 * 0.4 * WPI) + (0.2 * (price per kWh of electricity on the date of submission of the statement - price per kWh of electricity on the Base Index Date)/ price per kWh of electricity on the Base Index Date) / 100)

(b) For subsequent revisions:

Indexed Fee = Fee * 1 + (0.2 * CPI IW) + (0.6 * 0.4 * WPI) + (0.2 * (price per kWh of electricity on the date of submission of the statement - price per kWh of electricity on the preceding Fee Revision Date)/ price per kWh of electricity on the preceding Fee Revision Date) / 100)

22.5.6 Notwithstanding the provisions of Clause 22.5, the Parties agree that the Operator shall be entitled to a revision in Fee in accordance with this Clause 22.5 only if (i) the price per kWh of electricity consumed for the Charging Infrastructure varies by 10% (ten percent); and (ii) the CPIIW and WPI varies by more than 4% (four per cent) within a period of 12 (twelve) months from the Fee Revision Date in accordance with provisions of Clause 22.5.1.

22.5.7 The Parties agree that the Fee shall stand revised pursuant to any amendment in accordance with this Clause 22.5 and shall become the base Fee payable to the Operator under this Agreement. For the avoidance of doubt, it is clarified that in the event of any dispute or difference in calculation of the consumption of electricity or the CPIIW and WPI hereunder, the Dispute Resolution Procedure shall apply.

ARTICLE 23
TRAINING AND DEPUTATION OF GOVERNMENT EMPLOYEES

DELETED

ARTICLE 24
TRANSFER/HAND OVER OF MAINTENANCE DEPOTS

24.1 Transfer of Maintenance Depots

24.1.1 The Maintenance Depots shall, in accordance with the provisions of this Agreement, be handover to the Authority upon Termination of this Agreement. The Parties expressly agree that for and in respect of the handover hereunder, the provisions of Article 33 shall apply *mutatis mutandis*.

24.1.2 Upon of Maintenance Depots hereunder, all equipment, machinery, building, structures, hardware, software and other assets comprising the Maintenance Depots shall vest in the Authority without any Encumbrance.

24.2 Provision of Spares upon Termination

24.2.1 Without prejudice to the provisions of Clause 24.2.1, the Authority may, in its discretion, require the Operator to provide an additional inventory of Spares, equivalent in all respects to the inventory of Spares.

24.2.3 All Spares provided by the Operator under this Clause 24.2 shall carry a warranty of 12 (twelve) months from their delivery free of cost to the Authority. The terms of such warranty shall be determined in accordance with Good Industry Practice.

ARTICLE 25
INSURANCE

25.1 Insurance during Agreement Period

The Operator shall effect and maintain at its own cost, during the Agreement Period, such insurances for such maximum sums as may be required under this Agreement, 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. The Operator shall procure that in each insurance policy, the Authority shall be a co-insured.

25.2 Insurance Cover

Without prejudice to the provisions contained in Clause 25.1, the Operator shall, during the Agreement Period, procure and maintain Insurance Cover including but not limited to the following:

(a) loss, damage or destruction of the Maintenance Depots, Buses and charging infrastructure;

(b) comprehensive third party liability insurance for life, goods or property, including injury to or death of personnel of the Authority or others, arising from any accident at the Maintenance Depots or otherwise, caused by a Bus on account of any negligence of the Operator or a defect or deficiency in a Bus;

(c) the Operator's general liability arising out of the Agreement;

(d) workmen's compensation insurance; and

(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.

25.3 Notice to the Authority

No later than 45 (forty-five) days prior to Appointed Date, the Operator shall by notice furnish to the Authority, in reasonable detail, information in respect of the insurances that it proposes to effect and maintain in accordance with this Article 25. Within 30 (thirty) days of receipt of such notice, the Authority may require the Operator 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.

25.4 Evidence of Insurance Cover

All insurances obtained by the Operator in accordance with this Article 25 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, notarised true copies of the certificate(s) of insurance, copies of insurance policies and premia 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.

25.5 Remedy for failure to insure

If the Operator fails to effect and keep in force all insurances for which it is responsible pursuant hereto, the Authority shall have the option to either keep in force any such insurances, and pay such premia and recover the costs thereof from the Operator, or in the event of computation of a Termination Payment, treat an amount equal to the Insurance Cover as deemed to have been received by the Operator.

25.6 Waiver of subrogation

All insurance policies in respect of the insurance obtained by the Operator pursuant to this Article 25 shall include a waiver of any and all rights of subrogation or recovery of the insurers thereunder against, *inter alia*, the Authority, and its assigns, successors, undertakings and their subsidiaries, affiliates, employees, insurers and underwriters, and of any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy or in any way connected with any loss, liability or obligation covered by such policies of insurance.

25.7 Operator's waiver

The Operator hereby further releases, assigns and waives any and all rights of subrogation or recovery against, *inter alia*, the Authority and its assigns, undertakings and their subsidiaries, affiliates, employees, successors, insurers and underwriters, which the Operator may otherwise have or acquire in or from or in any way connected with any loss, liability or obligation covered by policies of insurance maintained or required to be maintained by the Operator pursuant to this Agreement (other than third party liability insurance policies) or because of deductible clauses in or inadequacy of limits of any such policies of insurance.

25.8 Application of insurance proceeds

The proceeds from all insurance claims, except life and injury, shall be paid to the Operator, and it shall apply such proceeds for any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation of the Buses or Maintenance Depots.

25.9 Compliance with conditions of insurance policies

The Operator expressly acknowledges and undertakes to fully indemnify the Authority from and against all losses and claims arising from the Operator's failure to comply with conditions imposed by the insurance policies effected in accordance with this Agreement.

ARTICLE 26
ACCOUNTS AND AUDIT

26.1 Audited accounts

26.1.1 The Operator shall maintain books of accounts recording all its receipts, income, expenditure, payments, assets and liabilities, in accordance with this Agreement, Good Industry Practice, Applicable Laws and Applicable Permits. The Operator shall provide 2 (two) copies of its Balance Sheet, Cash Flow Statement and Profit and Loss Account, along with a report thereon by its Statutory Auditors, within 90 (ninety) days of the close of its accounting year to which they pertain and such audited accounts, save and except where expressly provided to the contrary, shall form the basis of payments by either Party under this Agreement. The Authority shall have the right to inspect the records of the Operator during office hours and require copies of relevant extracts of books of accounts, duly certified by the Statutory Auditors, to be provided to the Authority for verification of basis of payments, and in the event of any discrepancy or error being found, the same shall be rectified and such rectified account shall form the basis of payments by either Party under this Agreement.

26.1.2 The Operator shall, within 30 (thirty) days of the close of each quarter of its accounting year, furnish to the Authority its unaudited financial results in respect of the preceding quarter, in the manner and form prescribed by the Securities and Exchange Board of India for publication of quarterly results by the companies listed on a stock exchange.

26.1.3 On or before the expiry of 2 (two) months after its accounting year, the Operator shall provide to the Authority, for that accounting year, a statement duly audited by its Statutory Auditors giving summarised information on (a) the bills raised by the Operator for payment by the Authority, (b) the payments received and other revenues derived from the Authority, and (c) such other information as the Authority may reasonably require.

26.2 Appointment of auditors

26.2.1 The Operator shall appoint, and have during the subsistence of this Agreement as its Statutory Auditors, a firm chosen by it from the mutually agreed list of 3 (three) reputable firms of chartered accountants (the "**Panel of Chartered Accountants**"), such list to be prepared substantially in accordance with the criteria set forth in Schedule-R. All fees and expenses of the Statutory Auditors shall be borne by the Operator.

26.2.2 The Operator may terminate the appointment of its Statutory Auditors after a notice of 45 (forty-five) days to the Authority, subject to the replacement Statutory Auditors being appointed from the Panel of Chartered Accountants.

26.2.3 Notwithstanding anything to the contrary contained in this Agreement, the Authority shall have the right, but not the obligation, to appoint at its cost from time to time and at any time, another firm (the "**Additional Auditors**") from the Panel of Chartered Accountants to audit and verify all those matters, expenses, costs, realisations and things which the Statutory Auditors are required to do, undertake or certify pursuant to this Agreement.

26.3 Certification of claims by Statutory Auditors

Any claim or document provided by the Operator to the Authority in connection with or relating to receipts, income, payments, costs, expenses, accounts or audit, and any matter incidental thereto shall be valid and effective only if certified by its Statutory Auditors.

26.4 Set-off

In the event any amount is due and payable by the Authority to the Operator, it may set-off any sums payable to it by the Operator and pay the balance remaining forthwith.

26.5 Dispute resolution

In the event of there being any difference between the findings of the Additional Auditors and the certification provided by the Statutory Auditors, such Auditors shall meet to resolve the differences and if they are unable to resolve the same, such Dispute shall be resolved by the Authority by recourse to the Dispute Resolution Procedure.

ARTICLE 27
ESCROW ACCOUNT

27.1 Escrow Account

27.1.1 The Authority shall prior to the Appointed Date open and establish an account ("**Escrow Account**") with a Bank ("**Escrow Bank**") in accordance with this Agreement read with the Escrow Agreement.

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

27.1.3 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)} months' estimated 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.

27.2 Deposit in Escrow Account

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

(a) All the Fee due and payable to the Operator subject to and in accordance with Article 22;

(b) any deposits by the Authority to maintain an amount equivalent to {2 (two)} month's estimated Fee in the Escrow Account;

(c) all grants, payments and financial support received by the Authority from the State Government and/or GoI, pursuant to this Agreement under and in accordance with Applicable Laws;

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

(e) dues towards Termination Payment to the Operator; and

(f) Ticket/Fare Revenue from 40 nos contracted buses in respect of this project.

27.2.2 Deleted.

27.3 Deleted

27.4 Withdrawal upon Termination

Please refer to Article 32 Termination.

ARTICLE 28
TRAFFIC REGULATION AND SECURITY

DELETED

Part V
Force Majeure and Termination

ARTICLE 29
FORCE MAJEURE

29.1 Force Majeure

As used in this Agreement, the expression "**Force Majeure**" or "**Force Majeure Event**" shall mean, save and except as expressly provided otherwise, occurrence in India of any or all of Non-Political Event, Indirect Political Event and Political Event, as defined in Clauses 29.2, 29.3 and 29.4, respectively, if it affects the performance by the Party claiming the benefit of Force Majeure (the "**Affected Party**") of its obligations under this Agreement and which act or event (a) is beyond the reasonable control of the Affected Party, and (b) the Affected Party could not have prevented or overcome by exercise of due diligence and following Good Industry Practice, and (c) has Material Adverse Effect on the Affected Party.

29.2 Non-Political Event

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

(a) act of God, epidemic, extremely adverse weather conditions, lightning, earthquake, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionising radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Depot Sites);

(b) strikes or boycotts (other than those involving the Operator, Contractors 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 24 (twenty four) hours and an aggregate period exceeding 7 (seven) days in an Accounting Year, and not being an Indirect Political Event set forth in Clause 29.3;

(c) any failure or delay of a Contractor but only to the extent caused by another Non-Political Event and which does not result in any offsetting compensation being payable to the Operator by or on behalf of such Contractor;

(d) any delay or failure of an overseas Contractor to deliver the Buses or equipment in India if such delay or failure is caused outside India by any event specified in Sub-clause (a) above and which does not result in any offsetting compensation being payable to the Operator by or on behalf of such Contractor;

(e) any judgement or order of 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 Agreement, or (iv) exercise of any of its rights under this Agreement by the Authority;

(f) the discovery of geological conditions, toxic contamination or archaeological remains on the Site or the Depot Sites that could not reasonably have been expected to be discovered through a site inspection; or

(g) any event or circumstances of a nature analogous to any of the foregoing.

29.3 Indirect Political Event

An Indirect Political Event shall mean one or more of the following acts or events:

(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) any political or economic upheaval, disturbance, movement, struggle or similar occurrence which could not have been anticipated or foreseen by a prudent person and which causes the construction or operation of the Project to be financially unviable or otherwise not feasible;

(c) industry-wide or State-wide strikes or industrial action for a continuous period of 24 (twenty-four) hours and exceeding an aggregate period of 7 (seven) days in an Accounting Year;

(d) any civil commotion, boycott or political agitation which prevents production and assembly of Buses or fulfilment of Maintenance Obligations by the Operator for an aggregate period exceeding 15 (fifteen) days in an Accounting Year;

(e) failure of the Authority to permit the Operator to continue its Construction Works, with or without modifications, in the event of stoppage of such works after discovery of any geological or archaeological finds or for any other reason;

(f) any failure or delay of a Contractor to the extent caused by any Indirect Political Event and which does not result in any offsetting compensation being payable to the Operator by or on behalf of such Contractor;

(g) any Indirect Political Event that causes a Non-Political Event; or

(h) any event or circumstances of a nature analogous to any of the foregoing.

29.4 Political Event

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

(a) Change in Law, only if consequences thereof cannot be dealt with under and in accordance with the provisions of Article 36 and its effect, in financial terms, exceeds the sum specified in Clause 36.1;

(b) compulsory acquisition in national interest or expropriation of any Project Assets or rights of the Operator or of the Contractors;

(c) unlawful or unauthorised or without jurisdiction revocation of, or refusal to renew or grant without valid cause, any clearance, licence, permit, authorisation, no objection certificate, consent, approval or exemption required by the Operator or any of the Contractors to perform their respective obligations under this Agreement and the Project Agreements; provided that such delay, modification, denial, refusal or revocation did not result from the Operator's or any Contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such clearance, licence, authorisation, no objection certificate, exemption, consent, approval or permit;

(d) any failure or delay of a Contractor but only to the extent caused by another Political Event and which does not result in any offsetting compensation being payable to the Operator by or on behalf of such Contractor; or

(e) any event or circumstance of a nature analogous to any of the foregoing.

29.5 Duty to report Force Majeure Event

29.5.1 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 29 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 Agreement;

(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.

29.5.2 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 Agreement.

29.5.3 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 29.5.1, and such other information as the other Party may reasonably request the Affected Party to provide.

29.6 Effect of Force Majeure Event on the Contract

29.6.1 Upon the occurrence of any Force Majeure Event prior to the Appointed Date, the period set forth in Clause 4.1 for fulfilment of Conditions Precedent and for achieving the Appointed Date shall be extended by a period equal in length to the duration of the Force Majeure Event.

29.6.2 At any time after the Appointed Date, if any Force Majeure Event occurs, the Contract Period shall be extended by a period, equal in length to the period during which the Operator was prevented from performing its obligations.

29.7 Allocation of costs arising out of Force Majeure

29.7.1 Upon occurrence of any Force Majeure Event prior to the Appointed Date, the Parties shall bear their respective costs and no Party shall be required to pay to the other Party any costs thereof.

29.7.2 Upon occurrence of a Force Majeure Event after the Appointed Date, the costs incurred and attributable to such event and directly relating to the Project (the "**Force Majeure Costs**") shall be allocated and paid as follows:

(a) upon occurrence of a Non-Political Event, the Parties shall bear their respective Force Majeure Costs and neither Party shall be required to pay to the other Party any costs thereof;

(b) upon occurrence of an Indirect Political Event, all Force Majeure Costs attributable to such Indirect Political Event, and not exceeding the Insurance Cover for such Indirect Political Event, shall be borne by the Operator, and to the extent Force Majeure Costs exceed such Insurance Cover, one half of such excess amount shall be reimbursed by the Authority to the Operator; and

(c) upon occurrence of a Political Event, all Force Majeure Costs attributable to such Political Event shall be reimbursed by the Authority to the Operator.

For the avoidance of doubt, Force Majeure Costs may include interest payments on debt, O&M Expenses, any increase in the cost of Construction Works on account of inflation and all other costs directly attributable to the Force Majeure Event, but shall not include loss of income or debt repayment obligations and for determining such costs, information contained in the Financial Package may be relied upon to the extent that such information is relevant.

29.7.3 Save and except as expressly provided in this Article 29, neither Party shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, expense, 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.

29.8 Termination Notice for Force Majeure Event

If a Force Majeure Event subsists for a period of 180 (one hundred and eighty) days or more within a continuous period of 365 (three hundred and sixty five) days, either Party may in its

discretion terminate this Agreement by issuing a Termination Notice to the other Party without being liable in any manner whatsoever, save as provided in this Article 29, and upon issue of such Termination Notice, this Agreement 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.

29.9 Termination Payment for Force Majeure Event

29.9.1 If Termination is on account of a Non-Political Event, the Authority shall make a Termination Payment to the Operator in an amount equal to 90% (ninety per cent) of the Debt Due less Insurance Cover.

29.9.2 If Termination is on account of an Indirect Political Event, the Authority shall make a Termination Payment to the Operator in an amount equal to:

(a) Debt Due less Insurance Cover; provided that if any insurance claims forming part of the Insurance Cover are not admitted and paid, then 80% (eighty per cent) of such unpaid claims shall be included in the computation of Debt Due;

(b) 110% (one hundred and ten per cent) of the Adjusted Equity; and

(c) an amount equivalent to the Additional Termination Payment less Insurance Cover; provided that if any insurance claims forming part of the Insurance Cover are not admitted and paid, then 80% (eighty per cent) of such unpaid claims shall be included in computation of the amount payable hereunder.

29.9.3 If Termination is on account of a Political Event, the Authority shall make a Termination Payment to the Operator in an amount that would be payable under Clause 32.3 as if it were an Authority Default.

29.10 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.

29.11 Excuse from performance of obligations

29.11.1 If the Affected Party is rendered wholly or partially unable to perform its obligations under this Agreement 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 Agreement, it shall give to the other Party notice to that effect and shall promptly resume performance of its obligations hereunder.

29.11.2 The Parties agree that the Operator shall develop alternate or standby arrangements for provision of goods and services in accordance with Good Industry Practice and failure on this account shall not excuse the Operator from performance of its obligations hereunder.

ARTICLE 30
COMPENSATION FOR BREACH OF AGREEMENT

30.1 Compensation for default by the Operator

In the event of the Operator being in material default or breach of this Agreement, it shall pay to the Authority by way of compensation, all direct costs suffered or incurred by the Authority as a consequence of such material default or breach, within 30 (thirty) days of receipt of the demand supported by necessary particulars thereof; provided that no compensation shall be payable under this Clause 30.1 for any default or breach in respect of which Damages are expressly specified and payable under this Agreement.

30.2 Compensation for default by the Authority

In the event of the Authority being in material default or breach of this Agreement at any time after the Appointed Date, it shall pay to the Operator by way of compensation, all direct costs suffered or incurred by the Operator as a consequence of such material default or breach within 60 (sixty) days of receipt of the demand supported by necessary particulars thereof; provided that no such compensation shall be payable for any material breach or default in respect of which Damages have been expressly specified in this Agreement. For the avoidance of doubt, compensation payable may include interest payments on debt, O&M Expenses, any increase in capital costs on account of inflation and all other costs directly attributable to such material default but shall not include loss of income or debt repayment obligations or other consequential losses.

30.3 Extension of Contract Period

Subject to the provisions of Clause 30.5, in the event that a material default or breach of this Agreement set forth in Clause 30.2 causes delay in achieving COD, the Authority shall, in addition to payment of compensation under Clause 30.2, extend the Contract Period, such extension being equal in duration to the period by which COD was delayed.

30.4 Compensation to be in addition

Compensation payable under this Article 30 shall be in addition to, and without prejudice to, the other rights and remedies of the Parties under this Agreement including Termination thereof.

30.5 Mitigation of costs and damage

The Affected Party shall make all reasonable efforts to mitigate or limit the costs and damage arising out of or as a result of breach of Agreement by the other Party.

ARTICLE 31
SUSPENSION OF OPERATOR'S RIGHTS

31.1 Suspension upon Operator Default

Upon occurrence of an Operator Default, the Authority shall be entitled, without prejudice to its other rights and remedies under this Agreement including its rights of Termination hereunder, to (a) suspend all rights of the Operator under this Agreement including the Operator's right to receive Fee, and other payments pursuant hereto, and (b) exercise such rights itself and perform the obligations hereunder or authorise any other person to exercise or perform the same on its behalf during such suspension (the "**Suspension**"). Suspension hereunder shall be effective forthwith upon issue of notice by the Authority to the Operator and may extend up to a period not exceeding 180 (one hundred and eighty) days from the date of issue of such notice.

31.2 Authority to act on behalf of Operator

31.2.1 During the period of Suspension, the Authority may, at its option and at the risk and cost of the Operator, remedy and rectify the cause of Suspension. The Authority shall be entitled to make deductions from the Fee for meeting the costs incurred by it for remedying and rectifying the cause of Suspension, and for defraying the expenses on Operation and Maintenance of Buses.

31.2.2 During the period of Suspension hereunder, all assets and liabilities in relation to the Operation and Maintenance of Buses, including the Maintenance Depots, shall continue to vest in the Operator in accordance with the provisions of this Agreement and all things done or actions taken, including expenditure incurred by the Authority for discharging the obligations of the Operator under and in accordance with this Agreement, shall be deemed to have been done or taken for and on behalf of the Operator and the Operator undertakes to indemnify the Authority for all costs incurred during such period. The Operator hereby licenses and sub-licenses respectively, the Authority or any other person authorised by it under Clause 31.1 to use during Suspension, all Intellectual Property belonging to or licensed to the Operator for and in respect of Operation and Maintenance of Buses.

31.3 Revocation of Suspension

31.3.1 In the event that the Authority shall have rectified or removed the cause of Suspension within a period not exceeding 90 (ninety) days from the date of Suspension, it shall revoke the Suspension forthwith and restore all rights of the Operator under this Agreement. For the avoidance of doubt, the Parties expressly agree that the Authority may, in its discretion, revoke the Suspension at any time, whether or not the cause of Suspension has been rectified or removed hereunder.

31.3.2 Upon the Operator having cured the Operator Default within a period not exceeding 90 (ninety) days from the date of Suspension, the Authority shall revoke the Suspension forthwith and restore all rights of the Operator under this Agreement. For the avoidance of doubt, the Authority shall provide access to the Maintenance Depots and Buses, as the case may be, to enable the Operator to cure the Operator Default hereunder.

31.4 Termination

31.4.1 At any time during the period of Suspension under this Article 31, the Operator may by notice require the Authority to revoke the Suspension and issue a Termination Notice. The Authority shall, within 15 (fifteen) days of receipt of such notice, terminate this Agreement under and in accordance with Article 32 as if it is an Operator Default under Clause 32.1.

31.4.2 Notwithstanding anything to the contrary contained in this Agreement, in the event that Suspension is not revoked within 180 (one hundred and eighty) days from the date of Suspension hereunder, the Agreement shall, upon expiry of the aforesaid period, be deemed to have been terminated by mutual agreement of the Parties and all the provisions of this Agreement shall apply, *mutatis mutandis*, to such Termination as if a Termination Notice had been issued by the Authority upon occurrence of an Operator Default.

ARTICLE 32
TERMINATION

32.1 Termination for Operator Default

32.1.1 Save as otherwise provided in this Agreement, 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 set forth below, or where no Cure Period is specified, then within a Cure Period of 90 (ninety) days, the Operator shall be deemed to be in default of this Agreement (the "**Operator Default**"), unless the default has occurred as a result of any breach of this Agreement by the Authority or due to Force Majeure. The defaults referred to herein shall mean and include the following:

(a) The Performance Security has been encashed and appropriated in accordance with Clause 9.2, and the Operator fails to replenish or provide fresh Performance Security, within a Cure Period of 30 (thirty) days;

(b) subsequent to the replenishment or furnishing of fresh Performance Security in accordance with Clause 9.2, the Operator fails to cure, within a Cure Period of 90 (ninety) days, the Operator Default for which whole or part of the Performance Security was appropriated;

(c) the Operator fails to supply the Prototypes within the period specified in Clause 13.6;

(d) the Operator is in material breach of the Maintenance Requirements or the Safety Requirements, as the case may be;

(e) the Operator has failed to make any payment to the Authority within the period specified in this Agreement;

(f) a material breach of any of the Project Agreements by the Operator has caused a Material Adverse Effect;

(g) the Operator creates any Encumbrance in breach of this Agreement;

(h) the Operator repudiates this Agreement or otherwise takes any action or evidences or conveys an intention not to be bound by the Agreement;

(i) a Change in Ownership has occurred in breach of the provisions of Clause 5.3;

(j) 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;

(k) an execution levied on any of the assets of the Operator has caused a Material Adverse Effect;

(l) the Operator is adjudged bankrupt or insolvent, or if a trustee or receiver is appointed for the Operator or for the whole or material part of its assets that has a material bearing on the Project;

(m) occurrence of any Insolvency Event;

(n) The Operator has been, or is in the process of being amalgamated or reconstituted in a manner that would cause, in the reasonable opinion of the Authority, a Material Adverse Effect provided that, as part of such amalgamation or reconstruction, the entire property, assets and undertaking of the Operator are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the obligations of the Operator under this Agreement and the Project Agreements; and provided that:

(i) the amalgamated or reconstructed entity has the capability and operating experience necessary for the performance of its obligations under this Agreement and the Project Agreements;

(ii) the amalgamated or reconstructed entity has the financial standing to perform its obligations under this Agreement and the Project Agreements and has a credit worthiness at least as good as that of the Operator as at the Appointed Date; and

(iii) each of the Project Agreements remains in full force and effect;

(o) any representation or warranty of the Operator herein contained which is, as of the date hereof, found to be materially false or the Operator is at any time hereafter found to be in breach thereof;

(p) 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;

(q) the Operator has failed to fulfil any obligation, for which failure Termination has been specified in this Agreement;

(r) the Operator issues a Termination Notice in violation of the provisions of this Agreement; or

(s) the Operator commits a default in complying with any other provision of this Agreement if such default causes a Material Adverse Effect on the Authority and the Operator fails to cure such default in a Cure Period of • days.

32.1.2 Without prejudice to any other rights or remedies which the Authority may have under this Agreement, upon occurrence of an Operator Default, the Authority shall be entitled to terminate this Agreement 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 subject to the provisions of Clause 32.1.3.

32.1.3 The Authority shall, if there be Senior Lenders, send a copy of its notice of intention to issue a Termination Notice referred to in Clause 31.4.1 to inform the Lenders' Representative and grant 15 (fifteen) days to the Lenders' Representative, for making a representation on behalf of the Senior Lenders stating the intention to substitute the Operator in accordance with the Substitution Agreement. In the event the Authority receives such representation on behalf of Senior Lenders, it shall, in its discretion, either withhold Termination for a period not exceeding 60 (sixty) days from the date of such representation or exercise its right of Suspension, as the case may be, for enabling the Lenders' Representative to exercise the Senior Lenders' right of substitution in accordance with the Substitution Agreement:

Provided that the Lenders' Representative may, instead of exercising the Senior Lenders' right of substitution, procure that the default specified in the notice is cured within the aforesaid period of 90 (ninety) days, and upon such curing thereof, the Authority shall withdraw its notice referred to above and restore all the rights of the Operator:

Provided further that upon written request from the Lenders' Representative and the Operator, the Government shall extend the aforesaid period of 90 (ninety) days by such further period not exceeding 30 (thirty) days, as the Authority may deem appropriate.

32.2 Termination for Authority Default

32.2.1 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 120 (one hundred twenty) days or such longer period as has been expressly provided in this Agreement, the Authority shall be deemed to be in default of this Agreement (the "**Authority Default**") unless the default has occurred as a result of any breach of this Agreement by the Operator or due to Force Majeure. The defaults referred to herein shall mean and include the following:

(a) the Authority commits a material default in complying with any of the provisions of this Agreement and such default has a Material Adverse Effect on the Operator;

(b) the Authority has failed to make any payment to the Operator within the period specified in this Agreement; or

(c) the Authority repudiates this Agreement or otherwise takes any action that amounts to or manifests an irrevocable intention not to be bound by this Agreement.

32.2.2 Without prejudice to any other right or remedy which the Operator may have under this Agreement, upon occurrence of a Authority Default, the Operator shall be entitled to terminate this Agreement 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.

32.3 Termination Payment

32.3.1 Upon Termination on account of an Operator Default during the Contract Period, the Authority shall pay to the Operator, by way of Termination Payment, an amount equal to:

(a) 80% (eighty per cent) of the Debt Due less Insurance Cover; and

Provided that if any insurance claims forming part of the Insurance Cover are not admitted and paid, then 70% (seventy per cent) of such unpaid claims shall be included in the computation of Debt Due.

Provided further that the Authority shall deduct any subsidy received by the Operator pursuant to Applicable Laws for implementation of the Project, for computation of Termination Payment. For the avoidance of doubt, the Operator hereby acknowledges that no Termination Payment shall be due or payable on account of an Operator Default occurring prior to COD.

32.3.2 Upon Termination on account of an Authority Default, the Authority shall pay to the Operator, by way of Termination Payment, an amount equal to:

(a) Debt Due;

(b) 100% (one hundred per cent) of the Adjusted Equity; and

Provided that the Authority shall deduct any subsidy received by the Operator pursuant to Applicable Laws for implementation of the Project, for computation of Termination Payment.

32.3.3 Termination Payment shall become due and payable to the Operator within 90 (ninety) days of a demand being made by the Operator to the Authority with the necessary particulars, and in the event of any delay, the Authority shall pay interest at a rate equal to 2% (three per cent) above the Bank Rate on the amount of Termination Payment remaining unpaid; provided that such delay shall not exceed 120 (one hundred twenty) days; provided further that liability of the Authority to make the Termination Payment hereof is subject to the fulfilment of the Divestment Requirements in accordance with the provisions of Article 33 of this Agreement. For the avoidance of doubt, it is expressly agreed that Termination Payment shall constitute full discharge by the Authority of its payment obligations in respect thereof hereunder.

32.3.4 Upon Termination on expiry of the Agreement Period by efflux of time, no Termination Payment shall be due and payable to the Operator; provided that in the event any assets and equipment at the Maintenance Depots, essential for the efficient, economic and safe operation of the Buses, shall have been acquired and installed after the 7^{th} (seventh) anniversary of the Appointed Date, with prior written consent of the Authority, which consent shall not be unreasonably denied, a Termination Payment equal to 70% (seventy percent) of the Adjusted Depreciated Value of such assets and equipment shall be deemed to be Debt Due for the purposes of Termination Payment.

32.3.5 The Operator expressly agrees that Termination Payment under this Article 32 shall constitute a full and final settlement of all claims of the Operator on account of Termination of this Agreement for any reason whatsoever and that the Operator or any shareholder thereof shall not have any further right or claim under any law, treaty, convention, contract or otherwise.

32.3.6 Notwithstanding anything to the contrary contained in this Agreement, the Operator expressly agrees that any Government Fiscal Assistance received by it for fulfilment of its obligations under this Agreement or for implementation of the Project, shall be excluded from the computation of Termination Payment.

32.4 Certain limitations on Termination Payment

32.4.1 Termination Payment, not being Additional Termination Payment, due and payable under this Agreement shall be limited to the Debt Due and Adjusted Equity, as the case may be, which form part of the Total Project Cost in accordance with the provisions of this Agreement; provided that the amount payable in respect of any Debt Due expressed in foreign currency shall be computed at the Reference Exchange Rate for conversion into the relevant foreign currency as on the date of Termination Payment. For the avoidance of doubt, it is agreed that within a period of 60 (sixty) days from COD, the Operator shall notify to the Authority, the Total Project Cost as on COD and its disaggregation between Debt Due and Equity, and only the amounts so conveyed shall form the basis of computing Termination Payment, and it is further agreed that in the event such disaggregation is not notified to the Authority, Equity shall be deemed to be the amount arrived at by subtracting Debt Due from Total Project Cost. The Parties also agree that for the purposes of computing Termination Payment, the Debt Due shall at no time exceed 70 % (seventy per cent) of the Total Project Cost. The Parties further agree that the Authority shall deduct any subsidy received by the Operator pursuant to Applicable Laws for implementation of the Project, for computation of Termination Payment and such subsidy shall be adjusted from the Termination Payment payable by the Authority.

32.4.2 Deleted.

32.5 Other rights and obligations of the Authority

Upon Termination for any reason whatsoever, the Authority shall:

(a) take possession and control of the Buses and Maintenance Depots forthwith;

(b) take possession and control of all materials, stores, implements, plants and equipment on or about the Maintenance Depots;

(c) be entitled to restrain the Operator and any person claiming through or under the Operator from entering upon the Maintenance Depots or any part of the Authority premises;

(d) require the Operator to comply with the Divestment Requirements set forth in Clause 33.1; and

(e) succeed upon election by the Authority, without the necessity of any further action by the Operator, to the interests of the Operator under such of the Project Agreements as the Authority may in its discretion deem appropriate, and shall upon such election be liable to the Contractors only for compensation accruing and becoming due and payable to them under the terms of their respective Project Agreements from and after the date the Authority elects to succeed to the interests of the Operator. For the avoidance of doubt, the Operator acknowledges and agrees that all sums claimed by such Contractors as being due and owing for works and services performed or accruing on account of any act, omission or event prior to such date shall constitute debt between the Operator and such Contractors, and the Authority shall not in any

manner be liable for such sums. It is further agreed that in the event the Authority elects to cure any outstanding defaults under such Project Agreements, the amount expended by the Authority for this purpose shall be deducted from the Termination Payment.

32.6 Survival of rights

Notwithstanding anything to the contrary contained in this Agreement, but subject to the provisions of Clause 32.3.5, any Termination pursuant to the provisions of this Agreement 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 Agreement, including Termination Payments and Divestment Requirements, shall survive the Termination to the extent such survival is necessary for giving effect to such rights and obligations.

ARTICLE 33
DIVESTMENT OF RIGHTS AND INTEREST

33.1 Divestment requirements upon expiry of the Agreement Period

33.1.1 Upon expiry of the Contract Period, the Operator shall comply with and conform to the following divestment requirements (the "**Divestment Requirements**"), no later than 15 (fifteen) days from the date of expiry of the Agreement Period:

(a) deliver forthwith the actual or constructive possession of the Maintenance Depots along with the infrastructure therein, free and clear of all Encumbrances;

(b) cure all the equipment at the Maintenance Depots of any defect or deficiency such that it can continue to be used efficiently and economically in accordance with Good Industry Practice;

(c) deliver and transfer relevant records, reports and Intellectual Property pertaining to the Maintenance Depots including all software and manuals pertaining thereto, and complete 'as built' Drawings as on the Transfer Date so as to enable the Authority to operate and maintain the Buses and Maintenance Depots, and execute such deeds of conveyance, documents and other writings as the Authority may reasonably require in connection therewith. For the avoidance of doubt, the Operator represents and warrants that the Intellectual Property shall be adequate and complete for the Operation and Maintenance of the Bus and shall be assigned or licensed to the Authority free of any Encumbrance;

(d) transfer and/or deliver all Applicable Permits in respect of the Maintenance Depots and Depot Sites to the extent permissible under Applicable Laws;

(d) execute such deeds of conveyance, documents and other writings as the Authority may reasonably require for conveying, divesting and assigning all the rights, title and interest of the Operator in respect of the outstanding insurance claims to the extent due and payable to the Authority;

(f) execute such deeds of conveyance, documents and other writings as the Authority may reasonably require for conveying, divesting and assigning all the rights, title and interest of the Operator in the Maintenance Depots; and

(g) comply with all other requirements as may be prescribed or required under Applicable Laws for completing the divestment and assignment of all rights, title and interest of the Operator in the Maintenance Depots and Insurance Cover, free from all Encumbrances, absolutely unto the Authority or to its nominee.

33.2 Inspection and cure

Not earlier than 90 (ninety) days prior to expiry but not later than 15 (fifteen) days prior to the effective date of such expiry, the Authority shall verify, after giving due notice to the Operator specifying the time, date and place of such verification and/or inspection, compliance by the Operator with the Maintenance Obligations, and if required, cause

appropriate tests to be carried out at the Operator's cost for this purpose. The Operator shall at its own cost and expense, cure defaults if any, in the Maintenance Obligations and the provisions of Article 32 shall apply, *mutatis mutandis*, in relation to curing of defects or deficiencies under this Article 33.

33.3 Cooperation and assistance on transfer/hand over of Maintenance Depots

33.3.1 The Parties shall cooperate on a best effort basis and take all necessary measures, in good faith, to achieve a smooth handover of the assets specified in Clause 33.1.1 in accordance with the provisions of this Agreement so as to protect the safety of and avoid undue delay or inconvenience to the users, other members of the public or the lawful occupiers of any part of the Depot Sites.

33.3.2 The Authority shall have the option to purchase or hire from the Operator at a fair market value and free from any Encumbrance all or any part of the plant and machinery used in connection with the Project but which does not form part of the assets specified in Clause 33.1.1 and is reasonably required in connection with operation of the Maintenance Depots. For the avoidance of doubt, in the event of Dispute or difference relating to fair market value, the Dispute Resolution Procedure shall apply.

33.4 Divestment requirements upon termination

33.4.1 Upon termination before the expiry of the Contract Period, the Operator shall comply with and conform to the following divestment requirements (the "**Divestment Requirements**"), no later than 15 (fifteen) days from the date of Termination:

(a) deliver forthwith the actual or constructive possession of the Buses and Maintenance Depots, free and clear of all Encumbrances;

(b) cure all Buses of all defects and deficiencies so that the Buses are compliant with the Maintenance Obligations; provided that if such defects and deficiencies have arisen on account of accident, vandalism, arson, riot or natural calamity occurring no earlier than 120 (one hundred and twenty) days prior to such Termination or expiry of the Agreement Period, the Authority shall grant to the Operator such additional time, not exceeding 90 (ninety) days, as may be reasonably required for repair and rectification thereof;

(c) deliver and transfer relevant records, Intellectual Property and reports pertaining to the Buses including all software and manuals pertaining thereto, and complete 'as built' Drawings as on the Transfer Date so as to enable the Authority to operate and maintain the Buses, and execute such deeds of conveyance, documents and other writings as the Authority may reasonably require in connection therewith. For the avoidance of doubt, the Operator represents and warrants that the Intellectual Property shall be adequate and complete for the Operation and Maintenance of the Bus and shall be assigned or licensed to the Authority free of any Encumbrance;

(e) transfer and/or deliver all Applicable Permits in respect of the Buses, to the extent permissible under Applicable Laws;

(f) execute such deeds of conveyance, documents and other writings as the Authority may reasonably require for conveying, divesting and assigning all the rights, title and interest of the Operator in respect of the outstanding insurance claims to the extent due and payable to the Authority;

(g) execute such deeds of conveyance, documents and other writings as the Authority may reasonably require for conveying, divesting and assigning all the rights, title and interest of the Operator in the Buses; and

(h) comply with all other requirements as may be prescribed or required under Applicable Laws for completing the divestment and assignment of all rights, title and interest of the Operator in the Buses free from all Encumbrances, absolutely unto the Authority or to its nominee.

33.4.2 Subject to the exercise by the Authority of its rights under this Agreement or any of the Project Agreements to perform or procure the performance by a third party of any of the obligations of the Operator, the Parties shall continue to perform their obligations under this Agreement notwithstanding the giving of any Termination Notice until the Termination of this Agreement becomes effective in accordance with its terms.

33.5 Vesting Certificate

The divestment of all rights, title and interest in the assets specified in Clause 33.1.1 shall be deemed to be complete on the date on which all of the Divestment Requirements have been fulfilled, and the Authority shall, without unreasonable delay, thereupon issue a certificate substantially in the form set forth in Schedule-P (the "**Vesting Certificate**"), which will have the effect of constituting evidence of divestment by the Operator of all of its rights, title and interest in such assets, and their vesting in the Authority pursuant hereto. It is expressly agreed that any defect or deficiency in the Divestment Requirements shall not in any manner be construed or interpreted as restricting the exercise of any rights by the Authority or its nominee on, or in respect of, the Buses and Maintenance Depots on the footing that all Divestment Requirements have been complied with by the Operator.

33.6 Divestment costs etc.

33.6.1 Upon expiry of the Contract Period, the Parties shall bear and pay equally, all costs incidental to divestment of all of the rights, title and interest of the Operator in the Maintenance Depots in favour of the Authority.

33.6.2 In the event of Termination attributable to the Operator, it shall bear and pay all costs incidental to divestment of all of the rights, title and interest of the Operator in the Buses and Maintenance Depots in favour of the Authority upon such Termination.

33.6.3 In the event of Termination attributable to the Authority, it shall bear and pay all costs incidental to divestment of all of the rights, title and interest of the Operator in the Buses and Maintenance Depots in favour of the Authority upon such Termination.

33.6.4 In the event of any Dispute relating to matters covered by and under this Article 33, the Dispute Resolution Procedure shall apply.

ARTICLE 34
DEFECTS LIABILITY AFTER TERMINATION

34.1 Liability for defects after Termination

The Operator shall be responsible for all defects and deficiencies in the Buses and Maintenance Depot for a period of 180 (one hundred and eighty) days after Termination, and it shall have the obligation to repair or rectify, at its own cost, all defects and deficiencies observed by the Authority in the Buses during the aforesaid period. In the event that the Operator fails to repair or rectify such defect or deficiency within a period of 15 (fifteen) days from the date of notice issued by the Authority in this behalf, the Authority shall be entitled to get the same repaired or rectified at the Operator's risk and cost so as to make the Buses conform to the Maintenance Obligations. All costs incurred by the Authority hereunder shall be reimbursed by the Operator to the Authority within 15 (fifteen) days of receipt of demand thereof, and in the event of default in reimbursing such costs, the Authority shall be entitled to recover the same from the Escrow Account.

34.2 Retention in Escrow Account

34.2.1 Notwithstanding anything to the contrary contained in this Agreement, but subject to the provisions of Clause 34.2.3, a sum equal to 10% (ten per cent) of the total Fee in respect of the Accounting Year immediately preceding the Transfer Date shall be retained by the Authority for a period of 150 (one hundred and fifty) days after Termination for meeting the liabilities, if any, arising out of or in connection with the provisions of Clause 34.1.

34.2.2 Without prejudice to the provisions of Clause 34.2.1, the Authority shall carry out an inspection of the Buses and Maintenance Depots at any time between 180 (one hundred and eighty) and 15 (fifteen) days prior to the Termination and if it determines that the status of the Buses is such that a sum larger than the amount stipulated in Clause 34.2.1 should be retained by the Authority and for a period longer than the aforesaid 180 (one hundred and eighty) days, the amount so determined, subject to a ceiling equivalent to twice the amount specified in Clause 34.2.1 shall be retained by the Authority for a period not exceeding 240 (two hundred and forty) days.

34.2.3 The Operator may, for the performance of its obligations under this Article 34, provide to the Authority a guarantee from a Bank for a sum equivalent to the amount determined under Clause 34.2.1 or 34.2.2, as the case may be, and for the period specified therein, substantially in the form set forth in Schedule-D (the "**Performance Security**"), to be modified, *mutatis mutandis*, for this purpose, and the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate the required amounts from the Performance Security for undertaking the repairs or rectification at the Operator's risk and cost in accordance with the provisions of this Article 34. Upon furnishing of a Performance Security under this Clause 34.2.3, the retention of funds in terms of Clause 34.2.1 or 34.2.2, as the case may be, shall be dispensed with.

Part VI
Other Provisions

ARTICLE 35
ASSIGNMENT AND CHARGES

35.1 Restrictions on assignment and charges

35.1.1 Subject to Clause 35.2, this Agreement 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.

35.1.2 Subject to the provisions of Clause 35.2, 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 Agreement 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.

35.2 Permitted assignment and charges

The restraints set forth in Clause 35.1 shall not apply to:

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

(b) mortgages/pledges/hypothecation of goods/assets, 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 Senior Lenders under the Financing Agreements and/or for working capital arrangements for the Project;

(c) assignment of rights, interest and obligations of the Operator to or in favour of the Lenders' Representative as nominee and for the benefit the Senior Lenders, to the extent covered by an in accordance with the Substitution Agreement as security for financing provided by the Senior Lenders under the Financing Agreements; and

(d) liens or encumbrances required by any Applicable Law.

35.3 Substitution Agreement

Deleted

35.4 Assignment by the Government

Notwithstanding anything to the contrary contained in this Agreement, 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 Agreement 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 Agreement.

ARTICLE 36
CHANGE IN LAW

DELETED

ARTICLE 37
LIABILITY AND INDEMNITY

37.1 General indemnity

37.1.1 The Operator shall indemnify, defend, save and hold harmless the Authority and its officers, servants, agents, Government Instrumentalities and Authority owned and/or controlled entities/enterprises, (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 Agreement or any related agreement or on account of any defect or deficiency in the provision of goods and services by the Operator to the Authority or to any person or from any negligence of the Operator under 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 Agreement on the part of the Authority Indemnified Persons.

37.1.2 The Authority shall 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 (a) defect in title and/or the rights of the Authority in the land comprised in the Site and Depot Sites, and/or (b) breach by the Authority of any of its obligations under this Agreement or any related agreement, which materially and adversely affect the performance by the Operator of its obligations under this Agreement, 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 Agreement or any related agreement and/or breach of its statutory duty on the part of the Operator, its subsidiaries, affiliates, Contractors, servants or agents, the same shall be the liability of the Operator.

37.2 Indemnity by the Operator

37.2.1 Without limiting the generality of Clause 37.1, 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 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 or any of its Contractors which are payable by the Operator or any of its Contractors.

37.2.2 Without limiting the generality of the provisions of this Article 37, 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 Maintenance Depots or Buses, as the case may be, 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 licence, at no cost to the Authority, authorising continued use of the infringing work. If the Operator is unable to secure such licence within a reasonable time, the Operator shall, at its own expense, and without impairing the Specifications and Standards, 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 become non-infringing.

37.3 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 37 (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.

37.4 Defence of claims

37.4.1 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 37, 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.

37.4.2 If the Indemnifying Party has exercised its rights under Clause 37.3, 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).

37.4.3 If the Indemnifying Party exercises its rights under Clause 37.3, 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 authorised in writing by the Indemnifying Party;

(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;

(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; or

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

Provided that if Sub-clauses (b), (c) or (d) of this Clause 37.4.3 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.

37.5 No consequential claims

Notwithstanding anything to the contrary contained in this Article 37, 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 Agreement.

37.6 Limitation of Liability

37.6.1 Notwithstanding anything to the contrary in this Agreement, the liability of one Party towards the other Party for any damages or compensation of any nature whatsoever under this Agreement, save and except Termination Payment, shall not exceed Rs. 300 crore (Rupees

three hundred crore). For the avoidance of doubt, the limitation hereunder shall not apply to any or all liabilities in respect of third parties.

37.6.2 Except as otherwise provided in this Agreement, neither Party shall be liable to the other Party for any loss of profit or for any other indirect or consequential damages or losses that may be suffered in connection with this Agreement.

37.7 Survival on Termination

The provisions of this Article 37 shall survive Termination.

ARTICLE 38
RIGHTS AND TITLE OVER SITES

38.1 Operator's rights

For the purpose of this Agreement, the Operator shall have rights to the use of the Depot Sites as sole , subject to and in accordance with this Agreement, and to this end, it may regulate the entry and use of the Depot Sites by third parties in accordance with and subject to the provisions of this Agreement.

38.2 Access rights of the Authority and others

38.2.1 The Operator shall allow free access to the Depot Sites at all times for the authorised representatives of the Authority and for the persons duly authorised by any Government Instrumentality to inspect the Maintenance Depots, and 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.

38.2.2 The Operator shall, for the purpose of operation and maintenance of any utility allow free access to the Depot Sites, as the case may be, at all times for the authorised persons and vehicles of the controlling body of such utility.

38.3 Property taxes

38.3.1 All property taxes on the Depot Sites shall be payable by the Authority as owner of the Depot Sites.

38.4 Restriction on sub-letting

The Operator shall not sublicense or sublet the whole or any part of Depot Sites, save and except as may be expressly set forth in this Agreement; provided that nothing contained herein shall be construed or interpreted as restricting the right of the Operator to appoint Contractors for the performance of its obligations hereunder including for Operation and Maintenance of all or any part of the Depot Sites.

ARTICLE 39
DISPUTE RESOLUTION

39.1 Dispute resolution

39.1.1 Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (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 39.2.

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

39.2 Conciliation

In the event of any Dispute between the Parties, either Party may call upon a mutually accepted person to mediate and assist the Parties in arriving at an amicable settlement thereof. Failing mediation by such person or without the intervention of such person, either Party may require such Dispute to be referred to the Vice-Chairman of CHANDIGARH TRANSPORT UNDERTAKING (CTU) and the Chairman of the Board of Directors of the Operator for amicable settlement, and upon such reference, the said persons shall meet no later than 15 (fifteen) days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 15 (fifteen) day period or the Dispute is not amicably settled within 30 (thirty) days of the meeting or the Dispute is not resolved as evidenced by the signing of written terms of settlement within 45 (forty five) days of the notice in writing referred to in Clause 39.1.1 or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 39.3.

39.3 Arbitration

39.3.1 Any Dispute which is not resolved amicably by conciliation, as provided in Clause 39.2, shall be finally decided by reference to arbitration by an arbitral tribunal constituted in accordance with Clause 39.3.2. Such arbitration shall be held in accordance with the Arbitration and Conciliation (Amendment) Act, 2019 and rules made there under or such other rules as may be mutually agreed by the Parties and shall be subject to the provisions of the Arbitration Act. The place of such arbitration shall be Chandigarh, and the language of arbitration proceedings shall be English.

39.3.2 There shall be an arbitral tribunal comprising 3 (three) arbitrators, of whom each Party shall select 1 (one), and the third arbitrator shall be appointed by the 2 (two) arbitrators so selected, and in the event of disagreement between the two arbitrators, the appointment shall be made in accordance with the Rules.

39.3.3 The arbitral tribunal shall make a reasoned award (the "**Award**"). Any Award made in any arbitration held pursuant to this Article 39 shall be final and binding on the Parties as from the

date it is made, and the Operator and the Authority agree and undertake to carry out such Award without delay.

39.3.4 The Operator and the Authority agree that an Award may be enforced against the Operator and/or the Authority, as the case may be, and their respective assets wherever situated.

39.3.5 This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder.

39.4 Adjudication by a tribunal

In the event of constitution of a statutory tribunal or other forum with powers to adjudicate upon disputes between the Operator and the Authority, all Disputes arising after such constitution shall, instead of reference to arbitration under Clause 39.3, be adjudicated upon by such tribunal or other forum in accordance with Applicable Laws and all references to Dispute Resolution Procedure shall be construed accordingly.

ARTICLE 40
DISCLOSURE

40.1 Disclosure of Specified Documents

The Operator shall make available for inspection by any person, copies of this Agreement, the Maintenance Manual, the Safety Requirements and the Manual of Specifications and Standards (hereinafter collectively referred to as the "**Specified Documents**"), free of charge, during normal business hours on all working days at the Operator's registered office. The Operator shall prominently display at the Maintenance Depots, 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.

40.2 Disclosure of Documents relating to safety

The Operator shall make available for inspection by any person copies of all Documents and data relating to Safety of the Buses, free of charge, during normal business hours on all working days, at the Operator's registered office. The Operator shall make copies of the same available to any person upon payment of copying charges on a 'no profit no loss' basis.

40.3 Withholding disclosure of Protected Documents

Notwithstanding the provisions of Clauses 40.1 and 40.2, the Authority shall be entitled to direct the Operator, from time to time, to withhold the disclosure of Protected Documents (as defined herein below) to any person in pursuance of the aforesaid Clauses.

Explanation:

The expression Protected Documents shall mean such of the Specified Documents or documents referred to in Clauses 40.1 and 40.2, or portions thereof, the disclosure of which the Authority is entitled to withhold under the provisions of the Right to Information Act, 2005.

ARTICLE 41
REDRESSAL OF COMPLAINTS

41.1 Complaint Register

41.1.1 The Operator shall keep one register (the "**Complaint Register**") in every Bus for recording of complaints by passengers, and another for recording of complaints by drivers and maintenance staff.

41.1.2 The Complaint Register shall be securely bound, and each page thereof shall be duly numbered. It shall have appropriate columns including the complaint number, date, substance of the complaint and the action taken by the Operator.

41.1.3 Without prejudice to the provisions of Clauses 41.1.1 and 41.1.2, the Authority may, in consultation with the Operator, specify the procedure for making complaints in electronic form and for responses thereto.

41.2 Redressal of complaints

41.2.1 The Operator shall inspect the Complaint Register of every Bus before undertaking any Maintenance, as the case may be, and take prompt and reasonable action for redressal of each complaint. The action taken shall be briefly recorded by the Operator in the Complaint Register.

41.2.2 In the event that a complaint shall require an urgent response from the Operator, the driver of a Bus or any maintenance staff of the Authority, as the case may be, shall inform the Maintenance Depot or the Control Centre forthwith.

41.2.3 The Operator shall submit to the Authority, extract of the Complaint Register no later than 7 days from the close of each month. If the Operator fails to address complaints in accordance with this Article 41, the Operator shall pay Damages equal to 0.01 % of the Performance Security for each day of delay to rectify the complaints specified in the Complaint Register, to the satisfaction of the Authority.

ARTICLE 42
MISCELLANEOUS

42.1 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 Delhi shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

42.2 Waiver of immunity

Each Party 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, 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 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; 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).

42.3 Depreciation

For the purposes of depreciation under Applicable Laws, the property representing the capital investment made by the Operator in the Maintenance Depots shall be deemed to be acquired and owned by the Operator. For the avoidance of doubt, the Authority shall not in any manner be liable in respect of any claims for depreciation to be made by the Operator under Applicable Laws.

42.4 Delayed payments

42.4.1 The Parties hereto agree that payments due from one Party to the other Party under the provisions of this Agreement shall be made within the period set forth therein, and if no such period is specified, within 30 (thirty) days of receiving a demand along with the necessary particulars. Unless otherwise specified in this Agreement, in the event of delay beyond such period, the defaulting Party shall pay interest for the period of delay calculated at a rate equal

to 2% (two per cent) above the Bank Rate, and recovery thereof shall be without prejudice to the rights of the Parties under this Agreement including Termination thereof.

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

42.5 Waiver

42.5.1 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 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.

42.5.2 Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement 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.

42.6 Liability for review of Documents and Drawings

Except to the extent expressly provided in this Agreement:

(a) no review, comment or approval by the Authority of any Project Agreement, Document or Drawing submitted by the Operator nor any observation or inspection of the construction, operation or maintenance of the Project and Buses 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 Agreement, 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.

42.7 Exclusion of implied warranties etc.

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

42.8 Survival

42.8.1 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 Agreement 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.

42.8.2 All rights and obligations surviving Termination shall only survive for a period of 3 (three) years following the date of such Termination; provided, however, that all obligations of the Operator in relation to licensing, sub-licensing, assignment or transfer of the specified Intellectual Property to the Authority shall survive the Termination in perpetuity.

42.9 Entire Agreement

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

42.10 Severability

If for any reason whatsoever, 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 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 Agreement or otherwise.

42.11 No partnership

This Agreement shall not be interpreted or construed to create an association 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 agreement 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.

42.12 Third parties

This Agreement is intended solely for the benefit of the Parties, and their respective successors and permitted assigns, and nothing in this Agreement 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 Agreement.

42.13 Successors and assigns

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

42.14 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 Agreement 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 Delhi 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;

{Attention:
Designation:
Address:
Fax No:
Email:}

(b) in the case of the Authority, be given by facsimile or e-mail and by letter delivered by hand at the address given below and addressed to the person named below with a copy delivered to the Authority Representative or such other person as the Authority may from time to time designate by notice to the Operator; provided that if the Operator does not have an office in Delhi it may send such notice by facsimile or e-mail and by registered acknowledgement due, air mail or by courier;

{Name:
Designation:
Address: Fax
No: Email:};
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.

42.15 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 Agreement shall be in writing and in English language.

42.16 Counterparts

This agreement is made in duplicate. The Service Provider shall return a copy of this Agreement duly signed and stamped as a token of acceptance of all terms and conditions mentioned herein. In the event of commencement of services / activities on the basis of letter of intents, it shall be taken that terms are acceptable to the Service Provider. This agreement should be got registered by the Service Provider with the Sub registrar, U.T., Chandigarh on the stamp paper of appropriate value at his own cost.

ARTICLE 43
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:

"**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 Auditors**" shall have the meaning ascribed to it in Clause 26.2.3;

"**Additional Termination Payment**" means the amount payable upon Termination in respect of Specified Assets, if any, as further limited by the provisions of Clause 32.4.2;

"**Adjusted Depreciated Value**" means the amount arrived at after adjusting the depreciated book value of an asset (as stated in the books of account of the Operator) to reflect the variation occurring in WPI between the date of procurement thereof and the Transfer Date;

"**Adjusted Equity**" means the Equity funded in Indian Rupees and adjusted on the first day of the current month (the "**Reference Date**"), in the manner set forth below, to reflect the change in its value on account of depreciation and variations in WPI, and for any Reference Date occurring:

(a) on or before COD, the Adjusted Equity shall be a sum equal to the Equity funded in Indian Rupees and expended on the Project, revised to the extent of one half of the variation in WPI occurring between the first day of the month of Appointed Date and the Reference Date;

(b) from COD and until the 4th (fourth) anniversary thereof, an amount equal to the Adjusted Equity as on COD shall be deemed to be the base (the "**Base Adjusted Equity**") and the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, revised at the commencement of each month following COD to the extent of variation in WPI occurring between COD and the Reference Date; and

(c) after the 4th (fourth) anniversary of COD, the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, reduced by 0.56% (zero point five six per cent)[4] thereof at the commencement of each month following the 4th (fourth) anniversary of COD and the amount so arrived at shall be revised to the extent of variation in WPI occurring between COD and the Reference Date;

For the avoidance of doubt, the Adjusted Equity shall, in the event of Termination, be computed as on the Reference Date immediately preceding the Transfer Date; provided that no reduction in the Adjusted Equity shall be made for a period equal to the duration, if any, for which the Contract Period is extended, but the revision on account of WPI shall continue to be made;

"**Affected Party**" shall have the meaning as set forth in Clause 29.1;

[4] This number shall be substituted in each case by the figure arrived at upon dividing 100 by the number of months comprising the Contract Period. For example, the figure for a 15 (fifteen) year Contract Period shall be 100/180= 0.555 rounded off to two decimal points i.e. 0.56.

"**Agreement**" or "**Supply-cum-Operation and Maintenance Agreement**" means this Agreement, its Recitals, the Schedules hereto and any amendments thereto made in accordance with the provisions contained in this Agreement;

"**Annual Assured Bus Kilometres**" shall have the meaning ascribed to it in Clause 22.4.1;

"**Annual Assured Payment Amount**" shall have the meaning ascribed to it in Clause 22.4.2;

"**Annual Safety Report**" shall have the meaning ascribed to it in Clause 18.5.1;

"**Appendix**" shall have the meaning as set forth in Clause 10.3.1;

"**Applicable Laws**" means all laws, brought into force and effect by GoI or the State Government including rules, regulations and notifications made thereunder, and judgements, decrees, injunctions, writs and orders of any court of record, applicable to this Agreement 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 Agreement;

"**Applicable Permits**" means all clearances, licences, permits, authorisations, no objection certificates, consents, approvals and exemptions required to be obtained or maintained under Applicable Laws in connection with the construction, Operation and Maintenance of the Buses and Maintenance Depots, as the case may be, during the subsistence of this Agreement;

"**Appointed Date**" means the date on which contract agreement is signed, and such date shall be the date of commencement of the Contract Period;

"**Approved Valuer**" means a firm of valuers recognized as such by the Inform Tax Department and having experience of valuing at least 5 (five) properties exceeding Rs. 100 cr. (Rs. One hundred crore) each in value.

"**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;

"**Associate**" or "**Affiliate**" means, in relation to either Party {and/or Consortium Members}, a person who controls, is controlled by, or is under the common control with such Party {or Consortium Member} (as used in this definition, the expression "control" means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person, whether by operation of law or by contract or otherwise);

"**Authority Default**" shall have the meaning set forth in Clause 32.2.1;

"**Authority Indemnified Persons**" shall have the meaning set forth in Clause 37.1.1;

"**Authority Nominated Personnel**" means any person authorized by the Authority to collect User Fare from passengers for using the Bus Service;

"**Authority Representative**" means such person or persons as may be authorised in writing by the Authority to act on its behalf under this Agreement and shall include any person or persons having authority to exercise any rights or perform and fulfil any obligations of the Authority under this Agreement;

"**Award**" shall have the meaning set forth in Clause 39.3.3;

"**BOOT**" or "**Build, Own, Operate and Transfer**" shall have the meaning as set forth in Recital (G);

"**Bank**" means a nationalised bank or a scheduled bank incorporated in India and having a minimum net worth of Rs. 1,000 crore (Rupees one thousand crore). For the avoidance of doubt, scheduled bank shall mean a bank as defined under section 2(e) of the Reserve Bank of India Act, 1934;

"**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;

"**Base Index Date**" means the last date of the month which shall have closed no later than 30 (thirty) days prior to the Bid Date;

"**Bid**" means the documents in their entirety comprised in the bid submitted by the {selected bidder/Consortium} in response to the Request for Proposals in accordance with the provisions thereof and "**Bids**" shall mean the bids submitted by any and all pre-qualified bidders;

"**Bid Date**" means the last date on which the Bid may have been submitted in accordance with the provisions of the Request for Proposals;

"**Bid Security**" means the security provided by the Operator to the Authority along with the Bid in accordance with the Request for Proposals, and which is to remain in force until substituted by the Performance Security;

"**Breakdown**" means the mechanical failure of a bus that prevents the bus from being operation or impedes the operation so much that it is impossible or dangerous to operate;

"**Bus**" means bus complying with Standards and Specifications as detailed in Schedule B, procured by the Operator as per the Procurement Schedule, for the purposes of Project;

"**Bus Kilometre**" means kilometres travelled by each Bus, as per this Agreement or as directed/approved by the Authority;

"**Bus Kms Frequency**" shall have the meaning as set forth in Clause 20.5.1;

"**Bus Service**" means the service provided to Users in terms of this Agreement;

"**Bus Stop**" means designated stops, along the routes from where passengers board and alight the Bus, as per the Deployment Plan at Schedule-J;

"**CDM**" shall have the meaning as set forth in Clause 5.13;

"**CPIIW**" means the Consumer Price Index for Industrial Workers published by Labour Bureau, Government of India and shall include any index which substitutes the CPIIW, and any reference to CPIIW shall, unless the context otherwise requires, be construed as a reference to the CPIIW published for the period ending with the preceding month;

"**Change in Law**" means the occurrence of any of the following after the Bid Date:

(a) the enactment of any new Indian law;

(b) the repeal, modification or re-enactment of any existing Indian law;

(c) the commencement of any Indian law, which has not entered into effect until the Bid Date;

(d) a change in the interpretation or application of any Indian law, by a judgement 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 Bid Date; or

(e) any change in the rates of any of the Taxes that have a direct effect on the Agreement;

"**Change in Ownership**" means a transfer of the direct and/or indirect legal or beneficial ownership of any shares, or securities convertible into shares or a fresh issue of any of the foregoing, that causes the aggregate holding of the {Selected Bidder/Consortium Members}, together with {its/their} Associates in the total Equity to decline below (i) 51% (fifty one per cent) thereof till the COD and (ii) 26% (twenty six per cent) thereof, or such lower proportion as may be permitted by the Authority during the remaining Contract Period; provided that any material variation (as compared to the representations made by or on behalf of the Operator during the bidding process for the purposes of meeting the minimum conditions of eligibility or for evaluation of its application or Bid, as the case may be,) in the proportion of the equity holding of {the Selected Bidder/ Lead Member} to the total Equity, if it occurs prior to COD, shall constitute Change in Ownership. Any direct and/or indirect transfer of legal or beneficial ownership of any shares, or securities convertible into shares, (i) such that the Consortium Members cease to collectively hold a minimum of 51% (fifty one per cent) of the subscribed and paid-up Equity of the Operator, (ii) the Lead Member cease to hold a minimum of 33% (thirty three per cent) of such Equity, or (iii) by any Consortium Member whose technical and/or financial capacity was evaluated for the purposes of pre-qualification and short-listing in response to the Request for Qualification, that results, or may result, in such member ceasing to hold Equity less than; (a) 26% (twenty six per cent) of the Equity; or (b) 5% (five per cent) of the total project cost, till the expiry of COD, shall constitute a Change in Ownership;

"**Change of Scope**" shall have the meaning as set forth in Clause 15.1;

"**Change of Scope Notice**" shall have the meaning set forth in Clause 15.2.1;

"**Change of Scope Order**" shall have the meaning set forth in Clause 15.2.3;

"**Charging Infrastructure**" means the infrastructure including the equipment installed by the Operator for the sole purpose of charging Buses at the Maintenance Depots;

"**Commercial Operation Date**" or "**COD**" shall have the meaning set forth in Clause 14.3.1;

"**Completion Certificate**" shall have the meaning as set forth in Clause 14.3.2;

"**Complaint Register**" shall have the meaning as set forth in Clause 41.1.1;

"**Control Centre**" shall have the meaning as set forth in Clause 16.4.6;

"**Conditions Precedent**" shall have the meaning as set forth in Clause 4.1.1;

{"**Consortium**" shall have the meaning as set forth in Recital (B);}

{"**Consortium Member**" means a company specified in Recital (B) as a member of the Consortium;}

"**Consumables**" shall have the meaning as set forth in Clause 17.3.1;

"**Construction Period**" means the period beginning from the Appointed Date and ending on COD;

"**Construction Works**" means all works and things necessary to complete the Maintenance Depots in accordance with this Agreement;

"**Contract**" shall have the meaning as set forth in Clause 3.1.1;

"**Contract Period**" shall have the meaning as set forth in Clause 3.1.1;

"**Contractor**" means the person or persons, as the case may be, with whom the Operator has entered into any of the construction contracts, the O&M Contract any other material contract for construction, operation and/or maintenance of the Maintenance Depots or the Buses, as the case may be, or matters incidental thereto, but does not include a person who has entered into an agreement for providing financial assistance to the Operator;

"**Covenant**" shall have the meaning as set forth in Clause 5.2.7;

"**Cure Period**" means the period specified in this Agreement for curing any breach or default of any provision of this Agreement 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 Agreement; and

(c) not in any way be extended by any period of Suspension under this Agreement;

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 its approval;

"**Damages**" shall have the meaning as set forth in Sub-clause (y) of Clause 1.2.1;

"**Debt Due**" means the aggregate of the following sums expressed in Indian Rupees outstanding on the Transfer Date:

(a) the principal amount of the debt provided by the Senior Lenders under the Financing Agreements for financing the Total Project Cost (the "principal") but excluding any part of the principal that had fallen due for repayment 2 (two) years prior to the Transfer Date;

(b) all accrued interest, financing fees and charges payable under the Financing Agreements on, or in respect of, the debt referred to in Sub-clause (a) above until the Transfer Date but excluding (i) any interest, fees or charges that had fallen due one year prior to the Transfer Date, (ii) any penal interest or charges payable under the Financing Agreements to any Senior Lender, and (iii) any pre-payment charges in relation to accelerated repayment of debt except where such charges have arisen due to Authority Default; and

(c) any Subordinated Debt which is included in the Financial Package and disbursed by lenders for financing the Total Project Cost;

provided that if all or any part of the Debt Due is convertible into Equity at the option of Senior Lenders and/or the Operator, it shall for the purposes of this Agreement be deemed to be Debt Due even after such conversion and the principal thereof shall be dealt with as if such conversion had not been undertaken;

provided further that the Debt Due, on or after COD, shall in no case exceed 70% (seventy per cent) of the Total Project Cost.

"**Debt Service**" means the sum of all payments on account of principal, interest, financing fees and charges due and payable in an Accounting Year to the Senior Lenders under the Financing Agreements;

"**Depot Sites**" shall have the meaning as set forth in Article 10;

"**Deployment Plan**" shall have the meaning as set forth in Clause 16.5.1;

"**Designs**" or "**Drawings**" means all of the drawings, designs, calculations and documents pertaining to the Buses as set forth in Schedule-F;

"**Design Report**" shall have the meaning as set forth in Clause 13.4.2;

"**Dispute**" shall have the meaning as set forth in Clause 39.1.1;

"**Dispute Resolution Procedure**" means the procedure for resolution of Disputes as set forth in Article 39;

"**Divestment Requirements**" means the obligations of the Operator for and in respect of Termination as set forth in Clause 33.1.1;

"**Document**" 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;

"**Emergency**" means a condition or situation that is likely to endanger the security of the individuals on or about the Maintenance Depots or Buses, as the case may be, or which poses an immediate threat of material damage to any of the Project Assets;

"**Encumbrances**" means, in relation to the Depot Sites Maintenance Depots or Buses and Real Estate Development, as the case may be, any encumbrances such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations, and shall include any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Maintenance Depots or Buses, as the case may be, where applicable herein;

"**Equity**" means the sum expressed in Indian Rupees representing the paid up equity share capital of the Operator for meeting the equity component of the Total Project Cost, and for the purposes of this Agreement shall include convertible instruments or other similar forms of capital, which shall compulsorily convert into equity share capital of the Operator, and any interest-free funds advanced by any shareholder of the Operator for meeting such equity component.

"**Escrow Account**" means an Account which the Operator 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 Agreement**" shall have the meaning set forth in Clause 27.1.2;

"**Escrow Bank**" shall have the meaning set forth in Clause 27.1.1;

"**Escrow Default**" shall have the meaning set forth in Schedule-M;

"**Fee**" shall have the meaning set forth in Clause 22.1;

"**Fee Revision**" shall have the meaning set forth in Clause 22.5.1;

"**Fee Revision Date**" means the date of Fee Revision in accordance with Clause 22.5;

"**Financial Close**" means the fulfilment of all Conditions Precedent to the initial availability of funds under the Financing Agreements;

"**Financial Model**" means the financial model adopted by Senior Lenders, setting forth the capital and operating costs of the Project and revenues there from on the basis of which financial viability of

the Project has been determined by the Senior Lenders, and includes a description of the assumptions and parameters used for making calculations and projections therein;

"**Financial Package**" means the financing package indicating the total capital cost of the Project and the means of financing thereof, as set forth in the Financial Model and approved by the Senior Lenders, and includes Equity, all financial assistance specified in the Financing Agreements, Subordinated Debt, if any;

"**Financing Agreements**" means the agreements executed by the Operator in respect of financial assistance to be provided by the Senior Lenders by way of loans, guarantees, subscription to non-convertible debentures and other debt instruments including loan agreements, guarantees, notes, debentures, bonds and other debt instruments, security agreements, and other documents relating to the financing (including refinancing) of the Total Project Cost, and includes amendments or modifications made in accordance with Clause 5.2.3;

"**First Lot of Buses**" means the first lot of Buses procured by the Operator, as per the Procurement Schedule;

"**Force Majeure**" or "**Force Majeure Event**" shall have the meaning ascribed to it in Clause 29.1;

"**Force Majeure Costs**" shall have the meaning as set forth in Clause 29.7.2;

"**Funded Works**" shall have the meaning as set forth in Clause 12.6.1;

"**GoI**" means the Government of India;

"**Good Industry Practice**" means 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 Agreement and which would be expected to result in the performance of its obligations by the Operator in accordance with this Agreement, Applicable Laws and Applicable Permits in reliable, safe, economical and efficient manner;

"**Government Fiscal Assistance**" means any financial assistance provided to the Operator by any Government Instrumentality, under any Applicable Laws or any scheme, policy or guidelines, as may be applicable;

"**Government Instrumentality**" means any department, division or sub-division of the Government of India 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 of India or the State Government, as the case may be, and having jurisdiction over all or any part of the Buses or Maintenance Depots as the case may be, or the performance of all or any of the services or obligations of the Operator under or pursuant to this Agreement;

"**Indemnified Party**" means the Party entitled to the benefit of an indemnity pursuant to Article 37;

"**Indemnifying Party**" means the Party obligated to indemnify the other Party pursuant to Article 37;

"**Indexed Price**" shall have the meaning as set forth in Clause 22.5.3;

"**Indirect Political Event**" shall have the meaning as set forth in Clause 29.3;

"**Insolvency Event**" in respect of a Party means:

(a) such Party has (A) applied for or consented to the appointment of, or the taking of possession by, a receiver, custodian, trustee, administrator, liquidator or the like of itself or of all or a substantial part of its assets or business; (B) been unable to pay its debts as such debts become due; (C) enters into a compromise arrangement with its creditors; (D) an attachment or restraint has been levied on the assets of such entity Party which materially affects such Party's ability to perform its obligations under this Agreement; (E) commenced proceedings under the (Indian) Insolvency and Bankruptcy Code, 2016 ("**Code**"); (F) filed a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; or (G) taken any corporate or other action for the purpose of effecting any of the foregoing; or

(b) a proceeding or case has been commenced without the application or consent of such Party in any court of competent jurisdiction seeking (A) its liquidation, reorganization, dissolution or winding-up or the composition or readjustment of debts or, (B) the appointment of an insolvency resolution professional, a trustee, receiver, custodian, administrator, liquidator or the like of such Party under the Code and an order admitting the insolvency petition has been passed in such proceeding and such order has not been stayed or dismissed within a period of 90 (ninety) days or (C) directions with the same or similar effect happen under the provisions of the Companies Act, 1965 or the Companies Act, 2013 or the Code in relation to the winding up of the company;

"**Insurance Cover**" means the aggregate of the maximum sums insured under the insurances taken out by the Operator pursuant to Article 25, and includes all insurances required to be taken out by the Operator under Clause 25.2 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, trade marks, 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, geographical indicators, 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;

"**Intelligent Transport Systems**" shall have the meaning as set forth in Clause 16.4.6;

"**Invoice Amount**" shall have the meaning as set forth in Clause 22.3.1;

"**Key Performance Indicators**" shall have the meaning as set forth in Clause 20.1;

"**LOA**" or "**Letter of Award**" means the letter of award referred to in Recital (D);

"**Lead Member**" shall mean the lead member of the Consortium, and in the event there is no Consortium, the Selected Bidder;

"**Lenders' Representative**" means the person duly authorised by the Senior Lenders to act for and on behalf of the Senior Lenders with regard to matters arising out of or in relation to this Agreement, and includes his successors, assigns and substitutes;

"**Licensed Premises**" shall have the meaning set forth in Clause 10.2.2;

"**Lot of Buses**" means Buses procured, by the Operator, in lots as per the Procurement Schedule;

"**Maintenance Depots**" shall have the meaning as set forth in Clause 17.14;

"**Maintenance Depot Completion Date**" means the date on which the Completion Certificate or the Provisional Certificate, as the case may be, is issued under the provisions of Article 14;

"**Maintenance Depot Completion Schedule**" means the Project Milestones set forth in Schedule-E for completion of the Maintenance Depots on or before the Scheduled Maintenance Depot Completion Date;

"**Maintenance Inspection Report**" shall have the meaning as set forth in Clause 19.3;

"**Maintenance Manual**" shall have the meaning ascribed to it in Clause 17.2;

"**Maintenance Obligations**" shall have the meaning as set forth in Clause 17.1.1;

"**Maintenance Requirements**" shall have the meaning as set forth in Clause 17.4;

"**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 Agreement and which act or event causes a material financial burden or loss to either Party;

"**MMIS**" shall have the meaning as set forth in Clause 17.15.1;

"**Non-Political Event**" shall have the meaning as set forth in Clause 29.2;

"**Nominated Company**" means a company, incorporated under the provisions of the Companies Act, 1956, or the Companies Act, 2013, as the case may be, selected by the Operator, and proposed to the Authority for assignment/transfer of the Agreement;

"**NPV**" shall have the meaning as set forth in Clause 36.3;

"Operation and Maintenance" or "**O&M**" means operation and maintenance of the Buses or of the Maintenance Depot, as the case may be, and includes all matters connected with or incidental to such maintenance, and provision of services and facilities in accordance with the provisions of this Agreement;

"**O&M Contract**" means the maintenance contract that may be entered into between the Operator and the O&M Contractor for performance of all or any of the O&M obligations;

"**O&M Contractor**" means the person, if any, with whom the Operator has entered into an O&M Contract for discharging O&M obligations for and on behalf of the Operator;

"**O&M Expenses**" means expenses incurred by or on behalf of the Operator or by the Authority, as the case may be, for all O&M including (a) cost of salaries and other compensation to employees, (b) cost of materials, supplies, utilities and other services, (c) premia for insurance, (d) all taxes, duties, cess and fees due and payable for O&M, (e) all repair, replacement, reconstruction, reinstatement, improvement and maintenance costs, (f) payments required to be made under any other contract in connection with or incidental to O&M, and (g) all other expenditure required to be incurred under Applicable Laws, Applicable Permits or this Agreement;

"**Operation Manual**" shall have the meaning as set forth in Clause 17.11.2;

"**Operational Route**" shall have the meaning as set forth in Clause 16.4.1;

"**Operator Default**" shall have the meaning as set forth in Clause 32.1.1;

"**Panel of Chartered Accountants**" shall have the meaning set forth in Clause 26.2.1;

"**Parties**" means the parties to this Agreement collectively and "**Party**" shall mean any of the parties to this Agreement individually;

"**Passenger Charter**" shall have the meaning as set forth in Clause 20.9;

"**Performance Security**" shall have the meaning as set forth in Clause 9.1.1;

"**PHPDT**" or "**Peak Hour Peak Direction Traffic**" means the maximum number of Users commuting through the entire length of the busiest section of a Route consisting of 5 (five) successive bus stops on an Operational Route during a Peak Hour in the direction which is carrying a higher volume of traffic;

"**PK Fee**" shall have the meaning as set forth in Clause 22.1.5

"**PKM**" or "**Passenger Kilometres"** means the cumulative distance travelled by Users on the Buses in a day;

"**Political Event**" shall have the meaning as set forth in Clause 29.4;

"**Procurement Schedule**" shall have the meaning as set forth in Clause 29.4;

"**Project**" means the supply, operation and maintenance of Buses and the construction, operation and maintenance of the Maintenance Depots in accordance with the provisions of this Agreement, and includes all works, services and equipment relating to or in respect of the Scope of the Agreement and shall include Real Estate Development;

"**Project Agreements**" means this Agreement, construction contracts, O&M Contract, all agreements relating to Real Estate Development and any other material agreements or contracts that may be entered into by the Operator with any person in connection with matters relating to, arising out of or incidental to this Agreement, but does not include any agreement for procurement of components, sub-systems for the Buses and goods and services for the Maintenance Depots;

"**Project Assets**" means all physical and other assets relating to and forming part of the Depot Sites and Maintenance Depots, including:

(a) rights over the Depot Sites in the form of licence, Right of Way or otherwise;

(b) tangible assets such as civil works and equipment including foundations, embankments, electrical systems, communication systems and administrative offices;

(c) all rights of the Operator under the Project Agreements;

(d) financial assets, such as receivables, security deposits etc.;

(e) insurance proceeds; and

(f) Applicable Permits and authorisations relating to or in respect of the Project;

"**Project Milestones**" means the project milestones set forth in Schedule-E;

"**Protected Documents**" shall have the meaning as set forth in Clause 40.3;

"**Prototypes**" shall have the meaning as set forth in Clause 13.5.1;

"**Provisional Maintenance Manual**" shall have the meaning as set forth in Clause 17.2;

"**Provisional Operational Manual**" shall have the meaning as set forth in Clause 16.3;

"**Punch List**" shall have the meaning set forth in Clause 14.1.4;

"**Re**.", "**Rs**." or "**Rupees**" or "**Indian Rupees**" means the lawful currency of the Republic of India;

"**Real Estate Development**" shall have the meaning set forth in Clause 3.1.3;

"**Reliability**" shall have the meaning as set forth in Clause 20.2.1;

"**Reference Exchange Rate**" means, in respect of any one currency that is to be converted into another currency in accordance with the provisions of this Agreement, the exchange rate as of 12.00 (twelve) noon on the relevant date quoted in Delhi by the State Bank of India, and in the absence of such rate, the average of similar rates quoted in Delhi by the Bank of India and the Bank of Baroda;

"**Reference Index Date**" for and in respect of a Year, means the last date of the month which shall have closed no later than 30 (thirty) days prior to commencement of that Year;

"**Request for Proposals**" or "**RFP**" shall have the meaning as set forth in Recital (C);

"**Request for Qualification**" or "**RFQ**" shall have the meaning as set forth in Recital (B);

"**Right of Way**" means the constructive possession of the Depot Sites, together with all way leaves, easements, unrestricted access and other rights of way, howsoever described, necessary for construction, operation and maintenance of the Maintenance Depots and Real Estate Development, in accordance with this Agreement;

"**Rules**" shall have the meaning set forth in Clause 39.3.1;

"**Safety**" means general safety and severe safety;

"**Safety Requirements**" shall have the meaning as set forth in Clause 18.1;

"**Scheduled Maintenance Depot Completion Date**" shall have the meaning set forth in Clause 12.5.1;

"**Scope of the Agreement**" shall have the meaning as set forth in Clause 2.1;

"**Selected Bidder**" shall have the meaning as set forth in Recital (D);

"**Senior Lenders**" means the financial institutions, banks, multilateral lending agencies, trusts, funds and agents or trustees of debenture holders, including their successors and assignees, who have agreed to guarantee or provide finance to the Operator under any of the Financing Agreements for meeting all or any part of the Total Project Cost and who hold *pari passu* charge on the assets, rights, title and interests of the Operator;

"**Site**" shall have the meaning set forth in Clause 10.1;

"**Spares**" shall have the meaning as set forth in Clause 17.3.2;

"**Specifications and Standards**" means the specifications and standards relating to the quality, quantity, capacity and other requirements for the Buses and Maintenance Depots, as set forth in Schedule-B, and any modifications thereof, or additions thereto, as included in the design and engineering for the Buses submitted by the Operator to, and expressly approved by, the Authority;

"**Specified Assets**" means and includes all or any of the following:

(a) all buildings and immovable fixtures or structures forming part of Real Estate Development; and

(b) such of the Project Assets which are constructed, acquired or installed after the 5^{th} (fifth) anniversary of COD, but before the 10^{th} (tenth) anniversary thereof; and but shall in no case include land.

"**Specified Documents**" shall have the meaning as set forth in Clause 40.1;

"**Start Punctuality**" shall have the meaning as set forth in Clause 20.4.1;

"**State**" means the States of India, including a Union Territory, where the Buses are operated, and the Maintenance Depots are located and "**State Government**" means the governments of those States;

"**Statutory Auditors**" means a reputable firm of chartered accountants acting as the statutory auditors of the Operator under the provisions of the Companies Act, 2013 including any re-enactment or amendment thereof, for the time being in force;

"**Subordinated Debt**" means the aggregate of the following sums expressed in Indian Rupees or in the currency of debt, as the case may be, outstanding as on the Transfer Date:

(a) the principal amount of debt provided by lenders or the Operator's shareholders for meeting the Total Project Cost and subordinated to the financial assistance provided by the Senior Lenders; and

(b) all accrued interest on the debt referred to in Sub-clause (a) above but restricted to the lesser of actual interest rate and a rate equal to 5% (five per cent) above the Bank Rate in case of loans expressed in Indian Rupees and lesser of the actual interest rate and six-month LIBOR (London Inter Bank Offer Rate) plus 2% (two per cent) in case of loans expressed in foreign currency, but does not include any interest that had fallen due one year prior to the Transfer Date;

provided that if all or any part of the Subordinated Debt is convertible into Equity at the option of the lenders and/or the Operator's shareholders, it shall for the purposes of this Agreement be deemed to be Subordinated Debt even after such conversion and the principal thereof shall be dealt with as if such conversion had not been undertaken;

"**Substitution Agreement**" shall have the meaning as set forth in Clause 35.3.1;

"**Suspension**" shall have the meaning as set forth in Clause 31.1;

"**Taxes**" means any Indian taxes including the goods and services tax, excise duties, customs duties, value added tax, sales tax, local taxes, cess and any impost or surcharge of like nature (whether Central, State or local) on the goods, materials, equipment and services incorporated in and forming part of the Project, which are charged, levied or imposed by any Government Instrumentality, but excluding any interest, penalties and other sums in relation thereto imposed on any account whatsoever. For the avoidance of doubt, Taxes shall not include taxes on corporate income;

"**Termination**" means the expiry or termination of this Agreement;

"**Termination Notice**" means the communication issued in accordance with this Agreement by one Party to the other Party terminating this Agreement;

"**Termination Payment**" means the amount payable by the Authority under and in accordance with the provisions of this Agreement, upon Termination and includes Additional Termination Payment. For the avoidance of doubt, it is expressly agreed that the amount payable shall be subject to the limitations specified in Clause 32.3;

"**Tests**" means the tests as set forth in Schedule-H to determine the conformity of Buses with the provisions of this Agreement;

"**Total Project Cost**" means the capital cost incurred on construction and financing of the Project, excluding Real Estate Development, and shall be limited to the lowest of:

(a) the capital cost of the Project, as set forth in the Financial Package;

(b) the actual capital cost of the Project upon completion; and

(c) a sum of Rs. ***** crore (Rupees ***** crore);

provided that in the event of Termination, the Total Project Cost shall be deemed to be modified to the extent of variation in WPI or Reference Exchange Rate occurring in respect of Adjusted Equity and Debt Due, as the case may be, in accordance with the provisions of this Agreement; provided further that in the event WPI increases, on an average, by more than 6% (six per cent) per annum for the period between the date hereof and COD, the Parties shall meet, as soon as reasonably practicable, and agree upon revision of the amount hereinbefore specified such that the effect of increase in WPI, in excess of such 6% (six per cent), is reflected in the Total Project Cost. For the avoidance of doubt, it is agreed that Total Project Cost shall not include the cost of Specified Assets.

"**Total Scheduled Bus Kilometres**" shall have the meaning as set forth in Schedule-J;

"**Training Obligations**" shall have the meaning as set forth in Clause 23.1;

"**Transfer Date**" means the date of completion of the services under this Agreement or termination of the Agreement by a Termination Notice;

"**Trip Frequency**" shall have the meaning as set forth in Clause 20.5.1;

"**User**" means a person who uses or intends to use the Buses on payment of User Fare or in accordance with the provisions of this Agreement and Applicable Laws;

"**User Fare**" means the fare payable by users for traveling on the Bus;

"**Vesting Certificate**" shall have the meaning as set forth in Clause 33.5.

"**WPI**" means the Wholesale Price Index for all commodities as published by the Ministry of Industry, GoI and shall include any index which substitutes the WPI, and any reference to WPI shall, unless the context otherwise requires, be construed as a reference to the WPI published for the period ending with the preceding month.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERD THIS AGREEMENT AS OF THE DAY, MONTH AND YEAR FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED For and on behalf of THE AUTHORITY by:

THE COMMON SEAL OF OPERATOR has been affixed pursuant to the resolution passed by the Board of Directors of the Operator at its meeting held on the ……...day of 20…… hereunto affixed in the presence of ……. Director, who has signed these presents in token thereof and …… Company Secretary / Authorised Officer who has countersigned the same in token thereof£:

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)
(E-mail Address)

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)
(E-mail Address)

In the presence of:
1.

2.

£ To be affixed in accordance with the articles of association of the Operator and the resolution passed by its Board of Directors

SCHEDULES

SCHEDULE-A

(See Clause 10.1)

SITE OF THE MAINTENANCE DEPOT

1 The Depot Site

1.1 Depot Site shall include the land described in Annex-I of this Schedule-A.

1.2 An inventory of the Site including the land, buildings, structures, road works, trees and any other immovable property on, or attached to the Site shall be prepared jointly by the Authority Representative and the Operator, and such inventory shall form part of the memorandum referred to in Clause 10.3.1 of the Agreement.

Annex - I

Site of the Depot

The Space will be allocated at CTU premises at Depot No. 3 at Sector-25, Chandigarh at no cost to the Operator. Further the Depot Equipments as mentioned at Schedule-L will also be provided by the Authority on Free of Cost basis.

Annex-II

Real Estate Development

Deleted

Annex - III
Funded Works
(*See Clause 12.6*)

●

Note: Briefly but precisely list the work to be included in Funded Works along with the lump sum amount of capital cost of each of the listed works.

SCHEDULE -B

(See Clause 12.5.1)

SPECIFICATIONS AND STANDARDS

1. The Operator shall comply with the Bus Specifications (including specifications for ITS) set forth in Annex - I of this Schedule - B for procurement of Buses.

2. Latest bus specifications, currently Urban Bus Specifications - II issued by Ministry of Urban Development, GoI in April 2013, the AIS 052 – Bus Body Code issued by the Automotive Research Association of India ("ARAI") in 2015, and the Central Motor Vehicles Rules, 1989, should be followed unless changes are specified in Annex - I to this schedule by the Authority.

Annex – I

1. Subject to the provisions of this Schedule, procurement of Bus shall conform to Applicable Laws and the latest bus specifications published by Ministry of Urban Development, GoI. An authenticated copy of the latest bus specifications has been provided to the Operator as part of the RFP.

2. Deviations from the aforesaid bus specifications shall be listed out as mentioned at Part-A of RFP. Such deviations shall be specified only if they are considered essential in view of project-specific requirements.

Technical Specifications			**Complying Yes/No with Remarks if any**
Sr. No.	**Particulars**	**Requirement of CTU**	
1	**Vehicle Data**		
	Basic Model	As per OEM	
	Type / Description	Air Conditioned System	
	Range per Charge	Daily Operating Range as 200 KMs per day on actual conditions(with Air conditioning, GVW, with Passengers load and city traffic conditions) Range per Charge (Battery Capacity):- 140 KMs in case requires opportunity charging or 200 KMs with slow charging. The operator may install adequate number of opportunity chargers at three locations i.e. ISBT 17, ISBT-43, PGI. Opportunity charging upto 45 mins will be allowed. Opportunity charging will be optional and in addition to depot charging. Opportunity charging will be allowed only at above said three locations. The successful bidder will be liable to install opportunity chargers along with requisite infrastructe (including civil works) from transformer to charging station. The space for installation of opportunity chargers along with transformer will be provided by CTU. Further, operator will submit	

		the charging plan along with route operational plan.	
	Floor Height (mm)	650-900 mm	
2	**Steering**		
	Type / Description	**Hydraulic power steering or better.** Driver seat control be manually adjustable or better.	
3	**Suspension**		
	Type / Description	Suspension System Front and Rear **Front:** Parabolic / Weweller suspension or better. **Rear:**Parabolic/Weweller suspension or better	
	Spring/Air Bellows	Front - 2 nos Rear - 2/4 nos	
	Shock Absorbers	Hydraulic double acting 2 at front & 2/4 at rear	
4	**Brake**		
	Service Brake (Brief Description)	Dual circuit full air brakes.	
	Auto Slack Adjuster Fitted (Yes / No / Optional)	Auto Slack Adjuster	
	ABS Fitted (yes / no / optional)	Yes	
	Front (Disc / Drum)	Drum or better	
	Rear (Disc / Drum)	Drum or better	
	Parking Brake	Graduated hand controlled, spring actuated parking brakes acting on both rear wheels.	
5	**Wheels and Tyres**		
	Tyre Type	Steel radial tube-less including spare tyre.	
6	**Electrical System**		
	System Voltage (V)	24 V	
	Battery Rating (Ah)	Electrical System Battery Rating (Ah) for auxiliaries as per OEM	
	Wiper Motor	Dual Speed	
7	**Dimensions**		
	Wheel Base (mm)	As per OEM	
	Overall Width (mm)	2600 (maximum)	
	Overall Length (mm)	8900- 9500	
	Overall Height (mm)	3800(Maximum)	
8	**Weights**		
	Maximum GVW kg	GVW upto 16600 Kg	
9	**Seating**		
	Seating Capacity	Passenger Seating Capacity 26-32	

Battery			
10	**Description of the Traction Battery**		
10.1	Trade Name and Mark of the Battery	As per OEM	
10.2	Kind of Electro- Chemical Couple	As per OEM	
10.3	Nominal Voltage (V)	As per OEM	
10.4	Battery Energy (kWh)	As per OEM	
10.2	**Provision of ventilation for battery Yes/No**	As per OEM	
10.3	**On-board indication of battery state of charge**	As per OEM	
10.3.1	**Details of indication when state of charge of the battery reaches a level when the manufacturer recommends re-charging.**	As per OEM	
10.3.1.1	Indication format.	As per OEM	
10.4	Battery mass (kg)	As per OEM	
11	**Description of the Drive Train**	As per OEM	
11.1	General	As per OEM	
11.1.1	Make	As per OEM	
11.1.2	Type	As per OEM	
11.1.3	Use : Mono motor / multi motors (number)	As per OEM	
11.1.4	Transmision arrangement parallel/ transaxial/ others to precise	As per OEM	
11.2	**Traction Motor**	As per OEM	
11.2.1	Make	As per OEM	
11.2.2	Working principle	As per OEM	
11.2.2.1	Direct current/ alternating current/ number of phases	As per OEM	
11.3	**Power controller**	As per OEM	
11.3.1	Make	As per OEM	
11.3.2	Type	As per OEM	
11.3.4	**Cooling system motor : liquid/ air controller : liquid/ air**	As per OEM	
11.4	Liquid cooling equipment characteristics	As per OEM	

11.4.1	Nature of the liquid, circulating pumps, yes /no	As per OEM	
11.5	**Insulating category:**	As per OEM	
11.5.1	International protection (IP)-code:	As per OEM	
12	**Charger**	As per OEM	
12.1	Charger : on board / external	As per OEM	
12.1.1	Trademark, model, rating	As per OEM	
12.2	Description of the normal profile of charging system:	As per OEM	
12.2.1	**Specification of mains**	As per OEM	
12.2.1	**mains: single phase / three phase:**	As per OEM	
12.2.2	**Nominal Voltage (V) and frequncy (Hz) with tolerances:**	As per OEM	
12.3	**Recommended duration of a complete charge**	As per OEM	
12.4	**In case of on-board charger**	As per OEM	
12.4.1	**Continuous rating of charger socket (A)**	As per OEM	
13	**Electrical energy consumption of vehicle**	As per OEM	
	Bus Body Technical Specs	As per Bus Body Code AIS-052	
14	**Bus Gates/Doors**		
14.1	**Entry exit gates with doors**		
a	**Operating mechanism**	Electro pneumatically controlled	
b	**Maximum opening closing time in seconds per operation**	4	
c	**Positions of door controls**	As per AIS 052	
d	**Passenger safety system - allowing bus motion on doors closing and doors opening only when the bus is stopped**	Mandatory	
14.2	**Front service doors - near side:**		
a	**Door aperture (without flaps) in mm**	As per AIS 052	
b	**Clear door width (fully opened) in mm**	As per AIS 052	
c	**Door height in mm**	As per AIS 052	
d	**Positioning front service gate**	Front door: Ahead of front Axle or in front overhang area.	
e	**Number of gates minimum**	As per AIS 052	
14.3	**Rear service doors (near side) where provided :**		
a	**Door aperture (without flaps) in mm**	As per AIS 052	
b	**Clear door width (fully opened) in mm**	As per AIS 052	
c	**Door height in mm**	As per AIS 052	
d	**Position of rear door with respect to centre liner of rear axle**	Rear Door: Between the wheel base or behind Rear Axle.	
e	**Number of gates**		

14.4	**Maximum first step height (mm) from ground – unladen**	As per AIS 052	
a	**Stepped type entry**	Max 400mm	
b	**No step level entry (maximum)**	As per AIS 052	
14.5	**Maximum height (mm) of other steps**	As per AIS 052	
a	**If door ahead of rear axle**		
b	**If door behind of rear axle**		
C	**Requirement of passenger with limited mobility**	Location to be specified by applying sticker	
D	**Priority seats- minimum 2 seats**	To be allocated by affixing stickers	
E	**Stop request- on every pillar**	Required	
F	**Emergency door/exits or apertures (Numbers)**	Behind driver door window to be declared as emergency window/As per AIS-052	
	Dimensions in mm	As per AIS-052	
G	**Door closing requirements for bus movement**	Bus could move only after door closing completed	
H	**Power operated service door - construction & control system of a power operated service door be such that a Passenger is unlikely to be injured/ trapped between the doors while closing.**	As per AIS 052	
I	**Door components**	As per AIS 052	
J	**Door locks/locking systems/door retention**	As per AIS 052	
K	**Door hinges**	As per AIS 052	
15	**Bus Body:**	As per AIS 052	
15.1	**Design type approval**	As per AIS 052	
15.2	**As per Annexure-3 of UBS-II Specifications**	As per AIS 052	
15.3	**Insulation**		
A	**Roof structure/body**	FR grade thermocoal to be provided or better insulation material.	
15.5	**Floor type / materials etc**		
A	**Type of floor**	As per AIS 052	
B	**Floor surface material**	12 mm thick ply wood as per UBS-II	
C	**Anti – skid material**	3 mm Slicon embeded vinyl	
15.6	**Safety glasses and fittings:**		
a	**Front windscreen (laminated) glass:**	Single piece laminated	
	Size:	As per AIS 052	
b	**Rear windscreen:(wherever provided)**	Toughned glass	
	Size:	As per AIS 052	
c	**Side windows:**	As per AIS 052	

d	**Glass specifications**	Toughned glass	
	Glass thickness:	As per AIS 052	
e	**Window & other glasses - material specifications, thickness etc**	As per AIS 052	
f	**Safety glass**	As per AIS 052	
g	**Rear view mirrors**	As per CMVR	
15.7	**Seating and gangway etc.**	As per AIS 052	
15.7.1	**Passenger seating's for ordinary type- 1 buses**	As per AIS 052	
a	**Seat layout in the low floor area**	As per AIS 052	
b	**Seat layout in the higher floor area**		
c	**Seat area/seat space (minimum)per passenger (width*depth) mm**	400*350	
d	**Seat pitch - minimum in mm**	As per AIS 052 /023	
e	**Minimum backrest height-from floor to top of seat/headrest**	As per AIS 052 /023	
	Seat base height-distance from floor to horizontal front upper surface of seat cushion mm.	As per AIS 052 /023	
	Seat back rest height in mm	As per AIS 052 /023	
f	**Torso angle (degrees)**	As per AIS 052 /023	
g	**Seat materials**	As per AIS 052 /023	
h	**Seat frame structure material where required:**	As per AIS 052 /023	
i	**Free height over seating position in mm**	As per AIS 052 /023	
	Seat base height:	As per AIS 052 /023	
j	**Clearance space for seated Passenger facing partition mm**	As per AIS 052 /023	
k	**Seat back/Pad material/ Thickness:**	As per AIS 052 /023	
	Type:	As per AIS 052 /023	
	Upholstery:	As per AIS 052 /023	
l	**Area for seated passengers (sq. mm.):**	As per AIS 052 /023	
m	**Area for standee passengers (sq. mm.):**	As per AIS 052 /023	
n	**Number of seats**	To be decided	
o	**Number of standees (calculation As per AIS 052)**	As per OEM/AIS-052	
p	**Seats side facing location**	As per AIS 052 /023	
q	**Seat back rest**	As per AIS 052 /023	
r	**Seat belts & their anchorage**	As per AIS 052 /023	
s	**Performance & strength requirements of:**	As per AIS 052 /023	

T	**Driver seat**	As per AIS 052 /023	
U	**Passenger seats**	As per AIS 052 /023	
15.7.2	**Gangway:**		
A	**Minimum interior head room (centre line of gangway) in mm**	As per AIS 052	
B	**Gangway width (mm) from gates to longitudinal space between rows of seats (access to service doors)**	As per AIS 052	
C	**Gangway width (mm) in longitudinal space between rows of seats**	As per AIS 052	
D	**Gangway width (mm) in longitudinal space between rows of seats (rear of rear edge of the rear door in RE bus)**	As per AIS 052	
E	**Driver's working space**	As per AIS 052	
	Driver's seat	As per AIS 052	
16	**Electricals**		
16.1	**Electrical cables:**	As per IS/ISO: 6722:2006, BIS mark not available.	
B	**Isolation switches for electrical circuits where RMS value of voltage exceeds 100 volts**	Required	
C	**Location of cables away from heat sources**	Required	
D	**Type approval of circuit diagram as per standards related to electric equipments/wiring**	Required	
E	**Cable insulation with respect to heat**	Required	
F	**Battery cut - off switch (isolator switch):**	01 Nos. Battery cut - off switch (isolator switch)	
16.4	**Wind screen wiper:**	As per AIS 011	
A	**Wiper motor:**	As per AIS 011	
B	**Wiper arm/blade:**	As per AIS 011	
16.6	**Lighting - internal & external and illumination**	Required	
16.7	**Illumination requirements/performance of:**	-	
A	**Dash board tell tale lighting/control lighting**	Required	
B	**Cabin lighting - luminous flux of all lamps for cabin lighting**	As per AIS-052	
C	**Passenger area lighting - luminous flux of all lamps for Passenger area lighting**	As per AIS-053	
17	**ITS enabled bus**	ITS Enabled Bus 4 nos. PIS Screens (One each at front, side and rear) and one in saloon area., GPS(AIS-140), SCN along with BDC,NVR	

		with storage upto 15 days along with 5 nos. CCTV IP cameras (one for dashboard, one for driver behavior, one for reverse, 2 for saloon area), panic button (AIS-140) and the technical specifications of these ITS equipments be as per AIS-140 and e-tender floated by CTU for System Integrator of implementation of ITS, AIS-140 and other AIS/BIS standards.	
18	**Safety related items:**		
18.1	**Driver seat belt & anchorage duly type approved.**	As per AIS 052	
18.2	**Passenger seat belt:**	As per CMVR / AIS-052	
	Number	Not Applicable	
	Driver/Passenger/Wheelchair seat belt anchorage	As per AIs 052	
18.3	**Fire extinguisher:**	As per AIS 052	
18.4	**First aid box:**	Required with Medicines	
18.5	**Handrails minimum length* diameter* height above floor in mm**	As per AIS 052	
18.6	**Handholds:**	As per AIS 052	
18.7	**Stanchions:**	As per AIS 052	
18.10	**Entrance/Exit Guard/Step well guard:**	As per AIS 052	
18.11	**Emergency exit doors, warning devices etc:**	As per AIS052	
18.12	**Front/rear door, step well lights, door open sign**	Required	
18.13	**Mirrors right/left side exterior/interior:**	Required	
18.14	**Towing device front /rear**	Required	
18.15	**Warning triangle**	Required 2 nos at rear side	
18.16	**Fog lighting**	Required in front	
18.17	**Bumpers - front and rear**	As per OE design	
	Impact strength for bumpers	FRP	
19	**Miscellaneous items/requirements**	-	
19.1	**Windows**	-	
A	**Type of window**	Fixed	
B	**Minimum height of window aperture (clear vision)3**	As per AIS052	
C	**Minimum height of upper edge of window aperture from bus floor**	As per AIS052	
D	**Minimum width of windows (clear vision zone)**	As per AIS052	
20	**Additional requirements**	Air Conditioning only	

20.1	**Air circulations and ventilation in driver's area**	Required	
20.2	**Maximum noise levels inside the saloon (irrespective of fuel type/engine location)- test procedure as per AIS020**	84 decibals	
21	**Air conditioning system (without heating) - test procedure for type approval**	As per AIS-052	
21.1	**Specifications**		
21.2	**Target results**	a) 24 ± 4°C	

SCHEDULE-C

(See Clause 4.1.3)

APPLICABLE PERMITS

I. The following permits shall be obtained by the Operator:

1. For Buses

(a) Commercial Vehicle Permit
(b) Certificate of Registration of Buses
(c) Certificate of Fitness
(d) Bus Insurance
(e) Customs Clearance Certificate (if needed)

2. For Depot (Space allocated only)

(a) Fire safety clearance from Fire Department.
(b) Insurance for Depot, Electrical & Civil Infrastructure and other Authority owned assets.
(c) Customs Clearance Certificate for any testing or maintenance equipment (if needed)
(d) License for use of explosives (if needed)
(e) Any other permits or clearances required under Applicable Laws

II. The following permits shall be procured by the Authority:

1. No Objection Certificate from State Transport Department or RTA or from State Transport Undertaking as applicable
2. Stage Carriage Permit
3. Conductor's License
4. Bus Permits
5. Fare Notification
6. Passenger Tax
7. Applicable Environment Clearance from State Government

SCHEDULE-D

(See Clause 9.1)

PERFORMANCE SECURITY

……
Government of ……..,
……

WHEREAS:

A. **The Governor of •**, acting through {.....}, •, and having its head office at {……..} (hereinafter referred to as the "**Authority**" or, which expression shall, unless excluded by and/or repugnant to the context, mean and include its successors, legal representatives and permitted assigns) of the one part;

AND

{****** Limited}, having its registered office at {……..} represented through its ****** (hereinafter referred to as the "**Operator**", which expression shall, unless it be repugnant or contrary to the subject or context thereof, be deemed to mean and include its legal representatives, successors and permitted assigns) of the other part.

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

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

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 hereby unconditionally and irrevocably guarantees the due and faithful performance of the Operator's obligations during the Agreement Period, under and in accordance with the Agreement, 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 ……, that the Operator has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Agreement 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 Agreement Period under the Agreement 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 be entitled to act as if the Bank were the principal debtor 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 the liability or obligation of the Bank under this Guarantee.

4. It shall not be necessary, and the Bank hereby 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 Agreement 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 Agreement 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 forbear from enforcing any of the terms and conditions contained in the Agreement and/or the securities 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 forbearance, indulgence, act or omission on the part of the Authority or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its 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 Agreement.

7. Notwithstanding anything contained hereinbefore, 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 ● days beyond the Agreement Period and unless a demand or claim in writing is made by the Authority on the Bank under this Guarantee, no later than ● 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 ● year and ● months or until it is released earlier by the Authority pursuant to the provisions of the Agreement.

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 -E

(See Clause 12.5.1)

MAINTENANCE DEPOT COMPLETION SCHEDULE

1. Completion Schedule

The Operator shall comply with the requirements set forth in this Schedule-E for each of the Project Milestones and Scheduled Maintenance Depot Completion Date (the "**Maintenance Depot Completion Schedule**"). Within 15 (fifteen) days of the date of each Project Milestone, the Operator shall notify the Authority of such compliance along with necessary particulars thereof.

2. The completion timeline of the following essential components, *inter alia*, of Maintenance Depot shall be periodically reviewed by the Authority:

(a) Electrical Work for Charging Stations and Charging Infrastructure

(b) Fire safety system for Charging Infrastructure

3. Scheduled Maintenance Depot Completion Date

The Scheduled Completion Date shall occur on the 90 (ninety) days from the Appointed Date. On or before the Scheduled Maintenance Depot Completion Date, the Operator shall have completed the Maintenance Depot in accordance with this Agreement.

4. Extension of period

Upon extension of any or all of the aforesaid Project Milestones or the Scheduled Maintenance Depot Completion Date, as the case may be, under and in accordance with the provisions of this Agreement, the Maintenance Depot Completion Schedule shall be deemed to have been amended accordingly.

SCHEDULE-F

(See Clause 13.4)

DESIGN AND DRAWINGS

1 Designs and Drawings

1.1 In compliance of the obligations set forth in Clause 13.4 of this Agreement, the Operator shall furnish to the Authority, free of cost, all Designs and Drawings listed in Annex-I of this Schedule-F; provided that the Designs and Drawings relevant for design review by the Government as specified in Clause 13.4.2, shall be submitted prior to such review.

1.2 For the purposes hereof, Design shall mean and include plans and Drawings of the Buses or sub-system or equipment thereof. Provided that the Operator may share only details regarding the layout of the bus and not any other propriety information.

1.3 All Designs shall include maintenance and service manual of the respective sub-systems.

1.4 All Designs and Drawings shall be supplied in hard copy, in duplicate, and in electronic form. All Drawings shall be provided in auto-cad format.

1.5 All Designs and Drawings shall conform to and refer to the relevant provisions in the Specifications and Standards.

1.6 All Designs and Drawings shall be in English.

2 Additional Designs and Drawings

If the Authority determines that for discharging its duties and functions under this Agreement, it requires any Designs or Drawings other than those listed in Annex – I, it may by notice require the Operator to prepare and furnish such Designs and Drawings forthwith. Upon receiving a requisition to this effect, the Operator shall promptly prepare and furnish such Designs and Drawings to the Authority, as if such Designs and Drawings formed part of Annex – I of this Schedule F.

Annex – I
List of Designs and Drawings

1 Designs and Drawings

In compliance with the requirement under Clause 13.4.1, the Operator shall provide the following Designs and Drawings:

(i) General schematic Drawings
(ii) Bus offer drawing attached Layout
(iii) Front, rear and both side views of the offered design of the Bus

SCHEDULE-G

(See Clause 13.3)

PROCUREMENT SCHEDULE

Sr. No.	Lot No.	Type of Bus	Number of Buses	Expected date of receipt of Buses from the Appointed Date	Expected date of achieving Readiness for Commencement of Bus Service
	1	Midi 9.0 Mtr	1	Appointed Date + 90 days for delivery of Proto-Type Bus.	Appointed Date + 90 Days for delivery of Proto-Type Bus days
	2	Midi 9.0 Mtr	19	Appointed Date + 135 days for delivery of First Lot of 19 Buses	Appointed Date + 150 Days for delivery of First Lot of 19 buses
	3	Midi 9.0 Mtr	20	Date Appointed + 180 days for delivery of 2nd Lot of 20Buses	Appointed Date + 210 days of delivery for Second Lot of 20 Buses.

SCHEDULE-H

(See Clause 13.5)

TESTS

1 Tests

1.1 Save and except as otherwise provided in this Agreement, the Operator shall conduct, or cause to be conducted, each of the Tests specified in this Schedule-H.

1.2 The Authority shall conduct, or cause to be conducted, adequate trial runs of Prototypes to determine their compliance with Specifications and Standards, requirements and Safety Requirements.

1.3 Tests to be conducted on the Prototype or its sub-systems, as the case may be, (the "**Type Tests**") have been specified in Annex-I of this Schedule-H and routine tests to be carried out on all Buses (the "**Routine Tests**") have been specified in Annex-II of this Schedule-H.

1.4 The Operator shall provide the results of all Tests to the Authority for review and comments, if any.

2 Schedule for Tests

2.1 The Operator shall, not later than ● weeks prior to the likely date of conducting a Type Test, notify the Authority of its intent to conduct the Test and furnish particulars of the equipment and methodology forming part of the Test.

2.2 The Operator shall notify the Authority of its intent to conduct the Type Test, referred to in paragraph 2.1 above, at any time after ● days from the date of such notice. The notice shall specify the place, date and time of such Test. Upon receipt of such notice, the Authority may, within ● days of such notice, designate its representative to witness the Test. The Operator shall, whether or not an Authority Representative is designated, conduct the Test in accordance with Article 13 and this Schedule-H.

2.3 The Authority may at any time designate its representative to witness any Routine Test on a Bus and the Operator shall, upon receipt of a notice to this effect, undertake such Routine Test on a mutually agreed date, and in the presence of the Authority Representative.

3 Agency for conducting Tests

Save and except as otherwise specified, all Tests set forth in this Schedule-H shall be conducted by the Operator or such other agency or person as it may specify in consultation with the Authority.

4 Tests for Safety certification

Tests for determining the conformity of a Bus with the Safety Requirements shall be conducted in accordance with Good Industry Practice and in conformity with Applicable Laws.

5 Acceptance certificate

Upon successful completion of Tests, the Authority shall issue an Acceptance Certificate for the Prototype in accordance with the provisions of Article 13.

Annex - I
Type Tests

In addition to the standard Type Tests of ARAI, the following tests shall be conducted for the buses:

S. No.	Applicable Tests	Standard / Regulation
1	Gradeability	AIS 003 & AIS 049
2	Pass by noise	IS 3028 & AIS 049
3	Coast Down Test	IS 14785 & AIS 049
4	Brake, Base line (Part – 3)	IS 11852 & AIS 049
5	Brake static (Part - 4)	IS 11852 & AIS 049
6	Construction and Functional safety requirements	AIS 038
7	Electrical energy consumption	AIS 039
8	Range Test	AIS 040
9	Net Power and Max 30 min power test	AIS 041
10	Safety requirements of Traction batteries	AIS 048
11	EMC	AIS 004 (Part 3) & AIS 049
12	Shower Test	As per relevant ARAI and BIS standards

Annex - II
Routine Tests

Routine Tests under this Agreement shall include the list of routine tests determined by Government Instrumentality including ARAI from time to time.

Some of the ARAI Tests but not limited to as follows:-

1) Bus Body Test as per AIS-052.

2) Driver Seat and Passenger Seats Test as per AIS-023.

3) External illumination as well as Internal illumination Test

4) Air Conditioning Test

5) ITS Equipment as per AIS-140 and other relevant standards.

6) Bus Roll Over Test

SCHEDULE-I

(See Clause 16.1.1 and Clause 17.4)

OPERATION AND MAINTENANCE REQUIREMENTS

Bus repair and maintenance generally calls for following activities amongst others at varying intervals / periodicity / Km 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 / Km plied - such maintenance generally varies with period / Km plied by various sub-systems of a Bus. As an example periodicity of some such maintenance schedules and main activities therein are illustrated as under:

(i) Daily maintenance - fuel, oils / lubricants, coolant, air pressure, air inflation, loose fasteners, fitments etc. - check, top up, tighten, as required.

(ii) Monthly / bi-monthly – • /• Km 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.

(iii) Quarterly – • Km 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.

(iv) Six monthly – • Km - All activities of above schedules, and activities related to steering, axles, transmission, tyres, drive line, etc.

(v) Yearly – • Km - All above activities and full checking / inspection of bus chassis, bus bodies and their fitments, and taking necessary corrective / preventive actions.

(vi) Bi-annual / annual - Certification of road worthiness of buses - Initial periodicity being after two years for up to certain age then annually.

(vii) 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.

(q) Reconditioning of Bus aggregates such as engines, transmission, axles, steering system, electrical, etc.

(r) Retrieval of spare parts during / for above processes.

(s) Repair and re-treading of tyres / repair of tubes.

(t) Major accidental repair of buses including chassis, bus body and related items.

(u) Acquisition, storage, inventory management, distribution, scrapping and disposal of spares / items / materials / vehicles etc.

(v) Any other activity related to operation and maintenance of buses.

(w) Infrastructure and other requirements for repair and maintenance functions of Bus, such as:

(i) Bus depot duly equipped with requisite plant and equipment, machinery, tools, jigs and fixtures, etc.

(ii) Other facilities as under:

(A) Washing facilities complete with washing machine, water storage and treatment facilities, etc.,

(B) Charging infrastructure,

(C) Service pits / ramps etc if required,

(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, and

(I) Breakdown van / recovery / towing vehicle etc in case of requirement.

(iii) Control Centre facilities duly equipped with microprocessors, communications and other related facilities.

(iv) Trained staff for various trades and shifts of work.

(v) Documents, schedules, manuals etc. for maintenance activities; specifications of spares, etc.

SCHEDULE-J
TENTATIVE OPERATIONAL PLAN FOR ELECTRIC AC BUSES FOR 200 KMS

Sr. No.	Route No.	Route Description	Route Length per Single Trip	Buses Planned	Running Time per Trip	Freq.	Trip Detail per bus		Total Trip per bus	Per Bus KM Details		Total covered KM/Per Bus	Dead Milage per bus	Total KM (Dead +covered)
							Full Trip	Partial Trip		Full Trip KM	Partial Trip KM			
1	2D Existing	PGI to IT Park via OPD, PEC, Sec-10/16, Sec-17/16, ISBT-17, Sec-17/18, Sec-8/18, Sec-7/19, Sec-26/27, G.Mkt., CTU W/Shop, R/Station, R/Crossing, Kalagram, H.Board, Mani Majra, Indira Colony, Kishangarh and vice versa.	21.0 KM 0.6 KM **21.6 KM**	5	75 Min.	30 Min.	8	01 PGI to ISBT-43	9	172.8	11.1	183.9	Depot-3 to PGI = 4 KM, ISBT-43 to Depot-3- 7 KM = 11 **KM**	194.9
2*	38A Existing	ISBT-17 to New Air Port via Sec-22/23, Sec-35/36, Sec-43/42, ISBT-43, YPS, Sohana, Sec-68/79, Sec-67/80, Sec-66/81, Sec-82, Airport Chowk and vice versa.	21.1 KM	4	70 Min.	35 Min.	8	02 ISBT-17 to Manimajra via R. station (Up/Down)= 20.4 KM	10	168.8	20.4	189.2	Depot-3 to ISBT-17= 5.5 KM ISBT-17 to Depot-3= 5.5 KM = **11 KM**	200.2
3*	205 Existing	ISBT-43 to PGI via Sec-43/44, Sec-35/34, Aroma, Sec-22/17, Sec-16/17, Sec-16/10, PEC, OPD and vice versa.	11.1 KM 0.6KM **11.7 KM**	9	45 Min.	15 Min.	16	Nil	16	187.2	Nil	187.2	Depot-3 to PGI = 4 KM, PGI to Depot-3= 4 KM = **8 KM**	195.2
4	143 Existing	Dhanas to Old Airport(Behlana) via Sarangpur Barrier, Khuda Lahora, PGI, OPD, PEC, Sec-10/16, Sec-17/16, ISBT-17, Aroma, Sec-21 Mkt, Sec-20 Mkt, Sec-30 Mkt, Sec-29 Mkt, Elante Mall, Colony No.4, Hallo Majra, Airport Chowk and vice versa.	21.3 KM	5	75 Min.	30 Min.	8	02 Dhanas to ISBT-17 (11.8 KM) ISBT-17 to Dhanas (via OPD) 11.8 KM	10	170.4	23.6	194	Depot-3 to Dhanas= 2.2 KM, Dhanas to Depot 3= 2.2 KM= **4.4 KM**	198.4
5	15 New	ISBT-43 to Railway Station via Sec-43/44, Sec-35/34, Sec-21/34, Sec-20/33, Sec-32/30, Tribune Chowk, Paultry Farm, Colony No.4, CTU W/Shop and vice versa.	12.1 KM	6	45 Min.	15 Min.	15	01 Railway Station to ISBT-17 via 19 Mkt.- 5.5 KM,	16	181.5	5.5	187	Depot- 3 to ISBT-43=7 Km ISBT-17 to Depot-3= 5.5 KM **=12.5 KM**	199.5
6	6 New	PGI to Bhudda Singhpura via OPD, PEC, Sec-10/16, Sec-9/17 (KC),Sec-8/18, Sec-7/19, Sec-26/27, Grn. Mkt, Transport Chowk, 28 Petrol Pump, Centra Mall, tribune Chowk, Hallomajra, Airport Chowk, Zirakpur and Vice versa	20.7 KM 0.6 KM **21.3 KM**	2	70 Min.	70 Min.	8	02 PGI to ISBT-43 - 11.1 KM, ISBT-43 to Sec-22/17- 5 KM	10	170.4	16.1	186.5	Depot- 3 to PGI-4 KM, ISBT-17 to Depot-3-5.5 KM **9.5 KM**	196
7	12 New	Sarangpur Barrier to Ramdarbar via Khuda Lahora, PGI, New OPD, PEC, Sec-10/16, Sec-17/16, ISBT-17, Aroma, 21 Mkt., 20 Mkt., Sec-30/20, Sec-32/33, Sec-46/45(Burail), 46 Mkt., 47 Mkt. and vice versa.	20 KM	7	70 Min.	20 Min.	9	01 Ramdarbar to ISBT-17	10	180	9.5	189.5	Depot-3 to S.P. Barrier= 4.2 KM ISBT-17 to Depot-3=5.5 KM **= 9.7KM**	199.2
		Total Bus	38											

SCHEDULE-K

(See Clause 18.1)

SAFETY REQUIREMENTS

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 Service 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

2.1 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.

3. Safety Management

3.1 The Operator shall develop safety procedures for the Project and shall implement the safety procedures throughout the Contract Period.

4. Applicable Laws

4.1 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 Effective Date relating to safety.

4.2 The Operator shall comply and shall procure that Sub-Contractors shall comply with the requirements of all relevant Government Authorities

5. Response to Emergencies

5.1 The Operator shall react safely and quickly to emergencies in all aspects of the Project.

5.2 The Operator shall co-operate with relevant Fire Services, Police, and any other Government Instrumentalities wherever necessary.

5.3 The Operator shall develop an Emergency Management Plan that sets out its predetermined actions to providing a response to a major crisis or emergency occurring at Maintenance Depots, and en-Route Buses (the "**Emergency Management Plan**").

5.4 In developing the Emergency Management Plan, the Operator shall consult with all relevant Government Instrumentalities, emergency services and local authorities.

5.5 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.

5.6 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.

6. Reporting of Incidents

6.1 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-L

Sr No.	Equipment	Investment by and ownership of equipment / facilities	Operations and Maintenance of equipment and facilities
A	**Major depot workshop items**		
1.	Fully automatic two brushes bus washing machine with simultaneous chassis and wheel washing arrangement and complete with waste water treatment and recycling system.	Authority	Authority
2.	Effluent Treatment Plant (ETP)	Authority	Authority
3.	Heavy duty vacuum cleaner	Operator	Operator
4.	Diesel generator set	Authority	Authority
5.	Fire safety equipment set for bus charging stations and infrastructure from transformer to charging stations	Operator	Operator
6.	Air compressor	Operator	Operator
7.	Paint Machine complete with environment control, paint drying system, etc.	Operator	Operator
B	**General Machinery**		
8.	Lathe machine complete with general tools, jigs and fixtures	Authority	Authority
9.	Radial drilling machine	Authority	Authority
10.	Brake drum turning / re-boring machine	Authority	Authority
11.	Hydraulic press	Authority	Authority
12.	Brake efficiency assessment system	Authority	Authority
13.	Wheel alignment	Authority	Authority
C	**Brakes Lubrication**		

14.	Grease pump (Air operated)	Operator	Operator
15.	Hand held grease pump	Operator	Operator
D	**Tyre system related items**		
16.	Nitrogen tire inflation	Authority	Authority
	Tire – wheel rim dismantling and	Authority	Authority

Sr No.	Equipment	Investment by and ownership of equipment / facilities	Operations and Maintenance of equipment and facilities
18.	Wheel balancing equipment	Authority	Authority
E	**Electricals**		
19.	Auto electrical test bench	Operator	Operator
20.	AC gas charger with AC gas cylinders	Operator	Operator
21.	Battery charger auto cut-off system	Operator	Operator
22.	Battery tester	Operator	Operator
23.	Multi-function tester	Operator	Operator
F	**Material handling equipment / facilities**		
24.	Hydraulic jack	Operator	Operator
25.	Hydraulic pallet trolley	Operator	Operator
G	**Metal joining / cutting forming / facilities**		
26.	Power cutter	Operator	Operator
27.	Pneumatic impact tools kit	Operator	Operator
28.	Portable electric welding machine	Operator	Operator
29.	Portable gas welding machine	Operator	Operator
30.	Full set of hand tools, including torque wrench, measuring instruments, gauges,	Operator	Operator
31.	Riveting tools, hand drills,	Operator	Operator

	riveting guns / equipment		
32.	Sheet metal / tubing / structural items cutting, forming facilities / equipment; plywood and upholstery cutting an fabrication facilities	Operator	Operator
H	**Miscellaneous requirements**		
33.	Work benches, bench vices. Hand drills, jigs and fixtures, clamping devices,	Operator	Operator
34.	Complete set of workmen cup boards, rest room facilities,	Operator	Operator
35.	All utilities- phones, fax, mobile phones, printers, etc. for workshop and other offices,	Operator	Operator
Sr No.	**Equipment**	Investment by and **ownership of equipment / facilities**	Operations and **Maintenance of equipment and facilities**
36.	Depot yard lighting - high mast type, boundary lights, etc.	Authority	Authority
I	**Material storage, holding, accounting and disposal facilities**		
37.	Storage facilities for: □ new materials, spares, aggregates, tyres, oils and lubricants □ repairable as above □ scrapped and disposable items as above	Operator	Operator
38.	Vehicles for transportation of materials, stores and spares	Operator	Operator
39.	Desk tops and laptops, printers, related hard ware and software.	Operator	Operator
J	**Control Centre and ITS / IT**		
	Basic Control Centre equipment including those related to IT, ITS,		

40.	communication, display, etc. - hardware and software excluding on board ITS Hardware and software and any communication media.	Authority	Authority
41.	Navigation based operational schedule monitoring system	Authority	Authority
K	**Other ITS**		
42.	Other equipment, facility, tools etc. if any required for O&M of Buses and for other facilities under its control	Operator	Operator

SCHEDULE-M

(See Clause 27.1)

ESCROW AGREEMENT

THIS ESCROW AGREEMENT is entered into on this the..... day of..... 20....

ESCROW AGREEMENT

THIS ESCROW AGREEMENT is entered into on this the …….. day of …….. 20…..

AMONGST

1 …….. Limited, a company incorporated under the provisions of the Companies Act, 2013 and having its registered office at …… (hereinafter referred to as the "**Operator**" which expression shall, unless repugnant to the context or meaning thereof, include its successors, permitted assigns and substitutes);

2 …… (name and particulars of Lenders' Representative) and having its registered office at …… acting for and on behalf of the Senior Lenders as their duly authorised agent with regard to matters arising out of or in relation to this Agreement (hereinafter referred to as the "**Lenders' Representative**" which expression shall, unless repugnant to the context or meaning thereof, include its successors and substitutes);

3 …… (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

4 The Governor of *****, represented by **** and having its principal offices at ****** (hereinafter referred to as the "**Authority**" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns).

WHEREAS:

(A) The Authority has entered into a Supply cum Operation and Maintenance Agreement dated …….. with the Operator (the "**SCOM Agreement**") for operation of Buses on build, own, operate and transfer basis ("**BOOT"**), and a copy of which is annexed hereto and marked as Annex-A to form part of this Agreement.

(B) Senior Lenders have agreed to finance the Project in accordance with the terms and conditions set forth in the Financing Agreements.

(C) The SCOM Agreement requires the Operator to establish an Escrow Account, *inter alia*, on the terms and conditions stated therein.

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

1.1Definitions

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 made in accordance with the provisions contained herein;

"**Contract**" means the Supply cum Operation and Maintenance Agreement referred to in Recital (C) above and annexed hereto 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 Operator or the Authority, as the case may be and shall commence from the date on which a notice is delivered by the Authority or Operator, to the Operator or the Authority, as the case may be, with either the Operator or the Authority asking the other Party 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 thereto in Clause 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 therefrom 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 Operator hereby appoints the Escrow Bank to act as trustee for the Authority, Lenders' Representative and the Operator in connection herewith and authorises the Escrow Bank to exercise such rights, powers, authorities and discretion as are specifically delegated to the Escrow Bank by the terms hereof together with all such rights, powers, authorities and discretion as are reasonably incidental hereto, and the Escrow Bank accepts such appointment pursuant to the terms hereof.

2.1.2 The Operator hereby 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, Lenders' Representative and the Operator, and applied in accordance with the terms of this Agreement. No person other than the Authority, Lenders' Representative and the Operator shall have any rights hereunder 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 of this 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 Operator or the Senior Lenders' or the Authority 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, Lenders' Representative 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, and in any case prior to the Appointed Date, the Operator 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 Operator shall, after consultation with the Lenders' Representative and the Authority 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 Parties. 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, Lenders' Representative and the Operator in the monies held in the Escrow Account are set forth in their entirety in this Agreement and the Authority, Lenders' Representative and the Operator shall have no other rights against or to the monies in the Escrow Account.

2.6 Substitution of the Operator

Deleted

3 DEPOSITS INTO ESCROW ACCOUNT

3.1Deposit by the Authority

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

(a) All the Fee due and payable to the Operator subject to and in accordance with Article 22;

(b) any deposits by the Authority to maintain an amount equivalent to {2 (two)} month's estimated Fee in the Escrow Account;

(c) all grants, payments and financial support received by the Authority from the State Government and/or GoI, pursuant to this Agreement under and in accordance with Applicable Laws;

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

(e) dues towards Termination Payment to the Operator; and

(f) Ticket/Fare Revenue from 40 nos contracted buses in respect of this project.

3.2 Deposits by the Operator

Deleted

3.3 Deposits by Senior Lenders

Deleted

3.4 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 to the Escrow Account.

4 WITHDRAWALS FROM ESCROW ACCOUNT

Deleted

4.2 Withdrawals upon Termination

As per Article 32 Termination

4.3 Application of insufficient funds

Funds in the Escrow Account shall be applied in the serial order of priority set forth 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 utilised 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 OF THE 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) business days prior to each Payment Date (and for this purpose the Escrow Bank shall be entitled 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 7 business days after receipt, deliver a copy to the Authority acting through……. (name to be specified by the

Authority) 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; and

(d) shall, within 7 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 set off

The Escrow Bank agrees not to claim or exercise any right of set off, banker's lien or other right or 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 case of 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

6.1Escrow Default

6.1.1 Authority Default

Following events shall constitute an event of default by the Authority (an "**Authority 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 monies 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 30 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 30 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 60 business days.

6.1.2 **Operator Default**

Deleted

7 TERMINATION OF ESCROW AGREEMENT

7.1Duration 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 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 30 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

As per mutual consent of Operator and Authority.

9 INDEMNITY

9.1 General indemnity

9.1.1 The Authority will indemnify, defend 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 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 out of 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 30 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 event that 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 Party may 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 Arbitration and Conciliation (Amendment) Act, 2019 and rules made there under 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.

10.1.2 The Arbitrators shall issue a reasoned award and such award shall be final and binding on the Parties. The venue of arbitration shall be Chandigarh and the language of arbitration shall be English.

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

SIGNED, SEALED AND	SIGNED, SEALED AND
DELIVERED	DELIVERE
For and on behalf of	For and on behalf of
ESCROW BANK by:	AUTHORITY by:
(Signature) (Name) (Designation)	(Signature (Name) (Designation)

(Address)
(Fax No.)

(Address)
(Fax No.)

SIGNED, SEALED AND
DELIVERED

For and on behalf of OPERATOR
in the presence of:

1.

2.

SCHEDULE-N

(See Clause 20.9)

PASSENGER CHARTER

Buses

At your service

Our Passenger Charter explains our commitments to you and sets out the targets that these are based upon. It is not legally binding and does not affect your legal rights, which are set under the law. Copies of the Conditions can be obtained from our Customer Service Centre. They can also be viewed online at www.*****.

Contents

(1) Introduction

(2) Our standards for bus service performance

(3) Information and planning for your journey

(4) Passengers who require assistance

(5) Buying a ticket

(6) Your journey

(7) Claims for delays and cancellations

(8) Listening to your views

1. Introduction

We want to give our passengers excellent service!

This is a bold statement but its intention is to focus the mind of every employee of the ***** Bus, on what is important - our passengers. We aim to provide you with:

(i) Safe, clean, reliable and punctual services

(ii) Clean and safe bus stops

(iii) Reliable, timely and easy to understand information

(iv) Polite, friendly and helpful staff

We will also continue to work at improving the integration of our bus services with other transport providers.

Inevitably, there will be times when problems occur and we are not able to achieve the standards we aim for. Our Charter explains what we will do for you when this happens.

2. Our standards for bus service performance

We will continue to work hard at improving our performance to provide you with a consistently reliable and punctual service.

2.1 Punctuality

Our target is that 95% (ninety-five per cent) of the buses will arrive at their final destination within one minute of the scheduled time.

2.2 Peak time definition

Peak buses are any buses departing between 0800 and 1000 hours inclusive, or between 1700 and 1900 inclusive, Monday to Friday only and the aforesaid time definition may be modified from time to time depending on average daily traffic volumes during these hours.

2.3 Reliability

Our target is that 99% (ninety-nine per cent) of all scheduled services will run. This is measured from Monday to Friday (excluding public holidays).

You can view our performance results for the previous four weeks and 12 months on 'Track Record' posters displayed on the website of the ****.

The method of monitoring our performance is independently audited annually.

We do not include disruption caused by matters out of the industry's control, such as trespass, vandalism and terrorism.

3. Information and planning for your journey

We will provide you with accurate and impartial information about the bus services, fares and facilities to help you plan your journey. You can obtain this information in a number of ways.

(i) ***** **Bus Enquiries - telephone:** ……. **(24 hours)**

****** Bus Enquiries offers you impartial information on bus times and fares for any part of the city, on behalf of all the bus companies.

* Calls are charged at a local rate and may be monitored.

You can also obtain online information about bus times and up-to-the-minute bus-running information by visiting www.*****.

(ii) **Customer Service Centre – Tel: *****

In addition to the Bus Enquiries, Customer Service Centre also provides information on how our buses services are running. The Customer Service Centre is open 24 hours a day except on national holidays.

*Calls are charged at a local rate and may be monitored.

3.1 At the Maintenance Depots

We will display up-to-date timetable posters at all Maintenance Depots and our website ****. These will include the main destinations and connections.

Timetables and pocket timetables are available in advance of timetable changes.

We also provide information on posters and other signages at bus stops about the location of bus stops and other local transport to help you continue your journey.

3.2 Our website

We aim to provide as much useful and relevant information as possible on our website to help you plan your journey. This includes real-time bus-running information and pocket timetables to download.

3.3 Engineering work

3.3.1 Planned engineering work

From time to time, ***** Buses have to carry out planned engineering and improvement work to maintain the Buses. This can cause alterations to our services, especially on weekends and public holidays.

When alterations take place, we will advise you in advance where possible through our published timetables and our website ****.

For weekend and public holiday engineering work affecting our services, a poster titled 'Changes to Bus Times' will be displayed at each bus stop we serve.

Information will also be available from:

- Bus Enquiries
- Customer Service Centre

We will always aim to provide information at least four weeks in advance through these three channels.

3.3.2 Unplanned engineering work

Occasionally, ***** Buses have to carry out emergency engineering work at very short notice. When this happens, we aim to inform you through Bus Enquiries, our Customer Service Centre, bus stop and on-bus public address announcements, bus stop posters, Teletext and local radio stations.

3.3.3 Bus replacement services

When bus services are replaced by a special bus service, for all or part of the journey, it may not be possible for you to take prams or bicycles on these buses. Please enquire on our website **** or contact our Customer Service Centre if you need further advice.

3.3.4 Help and advice during your journey

We understand that alterations to services due to engineering work can cause extra problems for customers. Our on-bus staff can help you if you need advice.

4. Passengers who require assistance

We are committed to meeting the travelling needs of our disabled passengers. We recognise that many of our passengers may have special needs which require us to adjust the way we provide our service.

4.1 Advance information and assistance for disabled passengers

We advise passengers who would like assistance to contact our Customer Service Centre in advance. Our staff will advise you of the most suitable route for you, taking into account those bus stops along our route which may not be accessible for passengers with disabilities.

- Telephone (24 hours): ……
- Fax: ……
- Textphone: ……..
- Bus Enquiries textphone: …….

4.2 Buses

All buses on our network are fully accessible to disabled passengers.

4.3 Reservations of wheelchair spaces

Reservations are available to disabled passengers on all of our services that have a designated wheelchair space and/or priority seats.

4.4 On-bus information

We are committed to providing important travel information in a variety of ways so that it can be accessed by as wide a group of passengers as possible.

All of our buses are equipped with public address systems to provide audible announcements to hearing passengers. All buses are equipped with a passenger information system that uses visual displays to enable hearing-impaired passengers to access information.

We recognise that good announcements are essential to visually impaired passengers, so our employees are trained to speak clearly.

4.5 Disability awareness training

All our frontline staff and managers receive training in disability awareness.

4.6 Further Information:

***** Bus System Disabled Persons' Protection Policy (DPPP) sets out our full arrangements for passengers with disabilities. It can be supplied in a range of formats (large print, Braille and audio), available from our Customer Service Centre.

We have also produced a leaflet containing useful information, called ‘Our Service for Passengers with Impairments’. It is available at our Maintenance Depots and from our Customer Service Centre.

5. Buying a ticket

We will sell you the most appropriate ticket for your journey.

5.1 In the bus

You can pay by cash or pre-paid cards.

6. Your journey

6.1 Getting a seat

We operate a 'walk-on' service, which means you can board any bus provided you purchase a valid ticket. As a result, we cannot guarantee to provide a seat for you, especially during peak periods or during disruption.

6.2 Security

We work very closely with the local authorities to improve security on our buses.

We aim to reduce levels of crime, trespass and vandalism and we are investing to achieve this. Initiatives include:

- Teams of Travel Safe Officers, trained and co-ordinated by the Police
- Installation of CCTV on Buses
- Lighting in buses Security guards at key locations.

More information can be found in the *Safety and security* section of our website.

6.4 Smoking

Smoking is not permitted anywhere on the Buses.

6.5 Lost Property

Our Lost Property office at …….. is open from 0730 -1900 Monday to Friday. Telephone the office on ……..... All property found on our services and at our bus stops is forwarded to our Lost Property office.

To make an enquiry, complete our Lost Property online form.

6.6 Service disruption

Unfortunately, things do sometimes go wrong, causing disruption that cannot always be foreseen or avoided. In these circumstances, we may have to introduce emergency timetables. We will aim to inform you in advance before these timetables come into operation, with notices at bus stops and by other appropriate media.

Other causes of disruption include:

- Emergency engineering work
- Trespass and vandalism
- Bus breakdowns
- Accidents
- Security alerts.

Under such circumstances we may have to make changes to our services without giving prior warning to protect your safety and that of our staff. We will always try to minimise disruption, keep you informed and provide or recommend alternative means of travel.

If a problem occurs after your bus journey has started, we will work hard to get you to your destination bus stop or provide other transport arrangements. If your intended journey is no longer possible, we will do our best to get you back to an appropriate bus stop.

All our buses are fitted with public address systems and most of our staff are linked by telephone systems. We aim to let you know what is happening.

7. Listening to your views

We carry out and analyse passenger survey research to provide information about what you think of different aspects of our service.

We hold regular Meet the Manager events, which enable you to speak directly to managers to put your views to them or ask them questions. Details of Meet the Manager events will be advertised on bus stop posters, in our passenger magazine *e-motion*, through our Customer Service Centre and also online.

We will listen to your views and communicate through correspondence and by telephone. We have a specially trained Customer Service Centre team able to respond to you and we also liaise with passenger representative bodies and user groups that exist to protect your interests.

7.1 Making a comment or complaint

We welcome your comments, suggestions, complaints and praise about any aspect of our service. We also welcome comments about our Charter.

Senior managers monitor the number and type of complaints and comments that you make. They are also responsible for delivering continuous improvement to customer service. Your feedback can therefore help us to achieve this.

If you are commenting on a journey please remember to include your tickets and any other details, as this will help us to provide you with a quicker response.

7.2 Further information:

We have a full Customer Comments and Complaints Handling Procedure (CCCHP). Copies of our CCCHP can be obtained from our Customer Service Centre or from our website www.*****.

7.3 Contacting our Customer Service Centre

Please visit our *Contact us* section for details.

7.4 Our promised response times

If you write to us, you should hear from us within five working days of us receiving your communication.

However, it may take longer to provide a full reply (e.g. if an investigation is required) and if this happens, we will send you an acknowledgement within five working days and reply within 20 (twenty) working days.

If a full reply cannot be made within 20 (twenty) working days, we will contact you again to update you.

7.5 If you are unhappy with our reply

We will work hard to deal with your concerns to your satisfaction but if you are unhappy with our response please let us know.

Alternatively, you can approach the consumer courts or other similar fora set up under Applicable Laws.

SCHEDULE-O

(See Clause 5.5.4)

STAFFING QUALIFICATIONS

1. Drivers:

The Operator to ensure that the driver complies with the following conditions:

(a) Must be a holder of a valid driving license in accordance with Applicable Laws for at least • years preceding the date of employment; (the Operator to submit copies of the licenses of all such drivers appointed by it to the Authority for its record);

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

(c) Should possess minimum • years' experience of driving heavy transport vehicles in 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 • years preceding Effective Date; and

(f) Should meet all requirements specified under Applicable Laws including without limitation, the Central Motor Vehicle Rules, 1989.

SCHEDULE-P

(See Clause 33.5)

VESTING CERTIFICATE

1. The (the "**Authority**") refers to the Contract dated*** (the "**Contract**") entered into between the Authority and ……. (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 33 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 handback 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 OPERATOR by:	For and on behalf of Authority by:
(Signature)	(Signature)
(Name)	(Name)
(Designation)	(Designation)
(Address)	(Address)

In the presence of:

1. 2.

SCHEDULE-Q

(See Clause 19.7)

DATA MONITORING SYSTEM

1. Data Monitoring System

In compliance with the obligations set forth in Clause 19.7 of this Agreement, the Operator shall install the data monitoring system comprising of all equipment and services listed in Annex 1 of this Schedule–Q.

2. On Board Devices

In compliance with the obligations set forth in Clause 19.7 of this Agreement, the Operator shall install the on-board devices on each bus in accordance with the specifications listed in Annex 2 of this Schedule–Q.

Annex – I
Data Monitoring System

•

Annex - II
On Board Devices

•

SCHEDULE-R

(See Clause 26.2)

PANEL OF CHARTERED ACCOUNTANTS

1 Panel of Chartered Accountants

Pursuant to the provisions of Clause 26.2.1 of the Agreement, the Authority and the Operator shall prepare a mutually agreed panel of 5 (five) reputable firms of Chartered Accountants having their registered offices in India (the "**Panel of Chartered Accountants**"). The criteria for preparing such Panel and the procedure to be adopted in this behalf shall be as set forth in this Schedule-R.

2 Invitation for empanelment

2.1 The Authority shall invite offers from all reputable firms of Chartered Accountants who fulfil the following eligibility criteria, namely:

(a) the firm should have conducted statutory audit of the annual accounts of at least one hundred companies registered under the Companies Act, 1956, or the Companies Act, 2013, of which at least ten should have been public sector undertakings;

(b) the firm should have at least 5 (five) practicing Chartered Accountants on its rolls, each with a minimum experience of ten years in the profession;

(c) the firm or any of its partners should not have been disqualified or black-listed by the Comptroller and Auditor General of India or the Authority; and

(d) the firm should have an office in the State or in an adjacent State with at least 2 (two) practicing Chartered Accountants on its rolls in such State.

2.2 Interested firms meeting the eligibility criteria shall be required to submit a statement of their capability including the bio-data of all the practicing Chartered Accountants on its rolls. In particular, each firm shall be required to furnish year-wise information relating to the names of all the companies with an annual turnover exceeding Rs. 25,00,00,000 (Rupees twenty five crore) whose annual accounts were audited by such firm in any of the preceding 5 (five) Accounting Years.

3 Evaluation and selection

3.1 The information furnished by each firm shall be scrutinised and evaluated by the Authority and 1 (one) point shall be awarded for each annual audit of the companies specified in Paragraph 2.2 above. (For the avoidance of doubt, a firm which has conducted audit of the annual accounts of any such company for five years shall be awarded five points).

3.2 The Authority shall prepare a list of all the eligible firms along with the points scored by each such firm and 5 (five) firms scoring the highest points shall be identified and included in the draft Panel of Chartered Accountants.

4 Consultation with the Operator

The Authority shall convey the aforesaid panel of firms to the Authority for scrutiny and comments, if any. The Operator shall be entitled to scrutinise the relevant records of the Authority to ascertain whether the selection of firms has been undertaken in accordance with the prescribed procedure and it shall send its comments, if any, to the Authority within 15 (fifteen) days of receiving the aforesaid panel.

5 Mutually agreed panel

5.1 The Authority shall, after considering all relevant factors including the comments, if any, of the Operator, finalise and constitute a panel of 5 (five) firms which shall be deemed to be the mutually agreed Panel of Chartered Accountants.

5.2 After completion of every 5 (five) years from the date of preparing the mutually agreed Panel of Chartered Accountants, or such earlier period as may be agreed between the Authority and the Operator, a new panel shall be prepared in accordance with the provisions of this Schedule-R.

SCHEDULE-S

(See Clause 35.3.1)

SUBSTITUTION AGREEMENT

Deleted

SCHEDULE-T

(See Clause 22.5.2)

STATEMENT OF INPUT COST

Period	**Total Units of Electricity consumed at the Maintenance Depot**	**Electricity Units consumed at / by the Charging Infrastructure**	**Price per kWh of electricity on the Date of Submission of Statement**

Name & Designation of the Authorised Signatory:

Date of Submission: _____

Note: Authority may modify the statement depending on specific requirement.

SCHEDULE-U
SCOPE OF AGREEMENT

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

a. Provide Bus Service within the Bus Service Area by the CTU;

b. Operate the Buses in compliance with frequency and schedule specified by the CTU from time to time.

c. Procure 40 nos. Midi (9.0 mtr) Electric Buses as per Technical Specifications defined in RFP including appropriate and adequate bus charging stations along with charging Infrastructure from Transformer to bus charging stations.

d. Provide enough Drivers to man the Buses as per Fleet Procurement Schedule. 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 specified.

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

g. Maintain Bus Depot, Space allocated at ISBT-43/17, PGI(in case of Opportunity charging) and Parking Space(if any), handed over for the purposes of rendering Bus Service in the Bus Service Area;

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

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

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

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

l. Redress passenger complaints and issues;

m. Procure all Applicable Permits, as required in conformity mentioned in this agreement;

n. Submit to CTU, monthly reports in formats as required by the CTU;

o. Any other obligations hereinbefore provided in the contract.

p. Make Buses available for display of Advertisements and allow retrofitting if required by third party appointed by CTU. The operator will have no claim in revenue generated through advertisement, damage, if any due to advertisement, will be rectified or shall be paid by the third party.

q. The Operator shall at its own cost and expense bring any such consumables, moveable equipment, equipments, machinery etc, if required, for implementation of this project.

r. The Operator will get the logo affixed on all buses as per requirement of CTU.

APPENDICES

APPENDIX-I

LIST OF BID-SPECIFIC PROVISIONS

A. Provisions with currency-based footnotes

Footnotes with "$" or "£" signs

1. First line of the Concession Agreement.
2. Concession Agreement: Signature page.
3. Schedule S: Substitution Agreement – Signature page.

B. Provisions where curly brackets are used

1. Recitals: Recital 1, E, F and G.
2. Clause 4.1.3(d): Conditions Precedent.
3. Clause 7.1(g): Representations and warranties of the Operator.
4. Clause 7.1(k): Representations and warranties of the Operator.
5. Clause 7.1(l): Representations and warranties of the Operator.
6. Clause 7.1(m): Representations and warranties of the Operator.
7. Clause 7.1(q): Representations and warranties of the Operator.
8. Clause 8.1: Disclaimer.

C. Provisions with blank spaces

1. First line of Supply-Cum-Operation and Maintenance Agreement.
2. Recitals: Recital Para 2.
3. Recitals: Recital B, D, E, F.
4. Signature/ Execution Page of the Supply-Cum-Operation and Maintenance Agreement.
5. Schedule D: Addressee, Recital A, B, C, Para 2, Signature / Execution Page of the Supply-Cum-Operation and Maintenance Agreement.
6. Schedule M: Escrow Agreement Recital.
7. Schedule M: Para 2.3.1 Establishment and operation of Escrow Account.
8. Schedule M: Para 5.3 Communications and notices.
9. Schedule M: Para 10.1.2 Dispute Resolution.
10. Schedule M: Para 11.1 Governing law and jurisdiction.
11. Schedule M: Signature/ Execution Page of the Escrow Agreement.
12. Schedule N: Para 4.1 Advance information and assistance for disabled passengers.
13. Schedule N: Para 6.5 Lost Property.
14. Schedule P: Vesting Certificate Paragraph 1, Signature / Execution Page of the Vesting Certificate.
15. Schedule S: Substitution Agreement Recital.
16. Schedule S: Signature / Execution Page of the Substitution Agreement.

Note: All blank spaces in Schedules shall be retained in the Concession Agreement to be executed between the Parties. These shall be filled up as and when the format of the respective Schedule is used.

Note: The Table of Contents may also be suitably modified to reflect omission(s) and/or re-numbering of Bid-specific provisions.

APPENDIX-II

LIST OF PROJECT-SPECIFIC PROVISIONS

A. Provisions with serially numbered footnote

1. Clause 4.1.2 (b): Conditions Precedent (Fn. 1).
2. Clause 9.1.1: Performance Security (Fn. 2).
3. Clause 22.4: Annual Assured Kilometres (Fn. 3).
4. Clause 43.1: Definition of Adjusted Equity (Fn. 4).

B. Provisions with square parenthesis

1. Recitals: Recital 1, 2, A and B.
2. Clause 1.2.1(k): Interpretation of Business Day.
3. Clause 2.1(c): Scope of Agreement.
4. Clause 3.1.3: The Contract.
5. Clause 4.1.2(b): Conditions Precedent.
6. Clause 4.2: Damages for delay by the Authority.
7. Clause 4.3: Damages for delay by the Operator.
8. Clause 5.2.5: Obligations relating to Project Agreements.
9. Clause 5.2.6: Obligations relating to Project Agreements.
10. Clause 5.6: Advertisement and Branding of Buses.
11. Clause 5.12: Obligations relating to Charging Infrastructure.
12. Clause 5.13: Registration of the Project under Clean Development Mechanism (CDM).
13. Clause 7.1(k): Representations and warranties of the Operator.
14. Clause 9.1.1: Performance Security.
15. Clause 9.1.2: Performance Security.
16. Clause 9.2: Appropriation of Performance Security.
17. Clause 9.3: Release of Performance Security.
18. Clause 10.1: Site for the Maintenance Depots.
19. Clause 10.2.2: Licence and Right of Way for Depot Sites.
20. Clause 10.2.4: Licence and Right of Way for Depot Sites.
21. Clause 10.3.4: Procurement of the Depot Site.
22. Clause 10.3.5: Procurement of the Depot Site.
23. Clause 12.1: Development of Site.
24. Clause 12.5.1: Completion of the Maintenance Depots.
25. Clause 12.5.3: Completion of the Maintenance Depots.
26. Clause 12.6: Construction of Funded Works
27. Clause 13.4.1: Prototype.
28. Clause 13.4.2: Prototype.
29. Clause 13.5.2: Tests at Manufacturer's Plant.
30. Clause 13.6.1: Supply of Prototype.
31. Clause 13.6.2: Supply of Prototype.
32. Clause 13.7.1: Acceptance of Prototypes.
33. Clause 13.9.1: Delay in Procurement.
34. Clause 13.9.2: Delay in Procurement.
35. Clause 13.9.3: Delay in Procurement.
36. Clause 13.10.2: Readiness for Commencement of Service.
37. Clause 13.11.3: Damage due to accident.
38. Clause 14.1.2: Inspection by the Authority.

39. Clause 14.1.3: Inspection by the Authority.
40. Clause 14.1.4: Inspection by the Authority.
41. Clause 14.3.1: Commercial Operation Date (COD) for Respective Lot of Buses.
42. Clause 14.3.2: Commercial Operation Date (COD) for Respective Lot of Buses.
43. Clause 15.1.2: Change of Scope.
44. Clause 15.3.1: Payment for Change of Scope.
45. Clause 15.4.2: Restrictions on certain works.
46. Clause 16.1.3: Operations of Buses.
47. Clause 16.3: Operation Manual.
48. Clause 16.4.2: Routes and Schedules.
49. Clause 16.4.3: Routes and Schedules.
50. Clause 16.5.4: Deployment Plan.
51. Clause 16.5.5: Deployment Plan.
52. Clause 16.6.1: Incidents En-Route.
53. Clause 16.6.3: Incidents En-Route.
54. Clause 17.1.2: Maintenance Obligations.
55. Clause 17.2: Operation Manual.
56. Clause 17.3.3: Spares and Consumables.
57. Clause 17.7: Authority's right to take remedial measures.
58. Clause 17.8.2: Authority's right to take remedial measures.
59. Clause 17.10: Modifications to the Buses.
60. Clause 17.11.2: Operation Assistance.
61. Clause 17.14.4: Maintenance Depots.
62. Clause 17.5.1: Maintenance facilities.
63. Clause 17.15.2: Maintenance facilities.
64. Clause 18.5.1: Annual Safety Report.
65. Clause 19.1.1: Monthly status reports.
66. Clause 19.2: Reports of unusual occurrence.
67. Clause 19.4: Tests.
68. Clause 19.5.1: Remedial measures.
69. Clause 19.5.2: Remedial measures.
70. Clause 20.2.1: Reliability.
71. Clause 20.2.2: Reliability.
72. Clause 20.2.3: Reliability.
73. Clause 20.3.1: Operation of Buses.
74. Clause 20.4.3: Punctuality.
75. Clause 20.5.2: Frequency.
76. Clause 20.5.3: Frequency.
77. Clause 20.5.4: Frequency.
78. Clause 20.5.5: Frequency.
79. Clause 20.6.1: Safety of Operations.
80. Clause 20.7.1: Certification.
81. Clause 20.7.2: Certification.
82. Clause 20.7.3: Certification.
83. Clause 20.8: Monthly Report.
84. Clause 20.10: Damages for failure to achieve Key Performance Indicators.
85. Clause 20.11: Incentive for exceeding to achieve Key Performance Indicators.
86. Clause 21.1.1: Financial Close.
87. Clause 22.1.5: Fee.
88. Clause 22.3.1: Payment of Fee.

89. Clause 22.3.2: Payment of Fee.
90. Clause 22.4.1: Annual Assured Kilometre.
91. Clause 22.4.3: Annual Assured Kilometre.
92. Clause 22.4.3: Annual Assured Kilometre.
93. Clause 22.5.1: Revision of Fee.
94. Clause 22.5.4: Revision of Fee.
95. Clause 22.5.5: Revision of Fee.
96. Clause 23.2.2: Content and duration of training.
97. Clause 23.2.3: Content and duration of training.
98. Clause 23.2.4: Content and duration of training.
99. Clause 23.3: Location of training.
100. Clause 23.4: Annual training programme.
101. Clause 23.7.4: Terms of deputation.
102. Clause 24.2.1: Provision of Spares upon Termination.
103. Clause 24.2.3: Provision of Spares upon Termination.
104. Clause 25.3: Notice to the Authority.
105. Clause 25.4: Evidence of Insurance Cover.
106. Clause 25.5: Remedy for failure to insure.
107. Clause 26.1.1: Audited accounts.
108. Clause 26.1.2: Audited accounts.
109. Clause 26.1.3: Audited accounts.
110. Clause 26.2.1: Appointment of auditors.
111. Clause 27.2.1: Deposit in Escrow Account.
112. Clause 27.2.2: Deposit in Escrow Account.
113. Clause 28.1.1: Traffic regulation by the Operator.
114. Clause 29.2(b): Non-Political Event.
115. Clause 29.3(c): Indirect Political Event.
116. Clause 29.3(d): Indirect Political Event.
117. Clause 29.5.2: Duty to report Force Majeure Event.
118. Clause 29.8: Termination Notice for Force Majeure Event.
119. Clause 30.1: Compensation for default by the Operator.
120. Clause 30.2: Compensation for default by the Authority.
121. Clause 31.1: Suspension upon Operator Default.
122. Clause 31.3.1: Revocation of Suspension.
123. Clause 31.3.2: Revocation of Suspension.
124. Clause 31.4.2: Termination.
125. Clause 32.1.1: Termination for Operator Default.
126. Clause 32.1.2: Termination for Operator Default.
127. Clause 32.3(b): Termination Payment.
128. Clause 32.3.2(c): Termination Payment.
129. Clause 32.3.3: Termination Payment.
130. Clause 32.3.4: Termination Payment.
131. Clause 32.4.2(c): Certain limitations on Termination Payment.
132. Clause 33.1.1: Divestment requirements upon expiry of the Agreement Period.
133. Clause 33.2: Inspection and cure.
134. Clause 33.4.1: Divestment requirements upon termination.
135. Clause 33.4.1(b): Divestment requirements upon termination.
136. Clause 33.4.1(c): Divestment requirements upon termination.
137. Clause 34.1: Liability for defects after Termination.
138. Clause 34.2.1: Retention in Escrow Account.

139. Clause 34.2.2: Retention in Escrow Account.
140. Clause 35.3.2: Substitution Agreement.
141. Clause 36.1: Increase in costs.
142. Clause 36.2: Reduction in costs.
143. Clause 36.4: Restriction on cash compensation.
144. Clause 37.3: Notice and contest of claims.
145. Clause 37.6.1: Limitation of Liability.
146. Clause 38.3.1: Property taxes.
147. Clause 39.2: Conciliation.
148. Clause 39.3.1: Arbitration.
149. Clause 41.2.3: Redressal of complaints.
150. Clause 42.1: Governing law and jurisdiction.
151. Clause 42.4.1: Delayed payments.
152. Clause 42.8.2: Survival.
153. Clause 42.14(a): Notices.

C. Provisions with asterisks

1. Recitals: Recital 2, B and G.
2. Clause 5.12: Obligations relating to Charging Infrastructure.
3. Clause 7.1(k): Representations and warranties of the Operator.
4. Clause 9.1.1: Performance Security.
5. Clause 10.2.2: Licence and Right of Way for Depot Sites.
6. Clause 10.2.3(a): Licence and Right of Way for Depot Sites.
7. Clause 10.2.3(a): Licence and Right of Way for Depot Sites.
8. Clause 12.6.2: Construction of Funded Works.
9. Clause 17.14(6): Construction of Funded Works.
10. Clause 17.14(7): Construction of Funded Works.
11. Clause 22.4.1: Annual Assured Kilometre.
12. Clause 39.2: Conciliation.
13. Article 43: Definition Clause: (c) “Total Project Cost”.

D. Schedules with Footnotes, square parenthesis and asterisks

1. Schedule A: Annex – I, Annex – II, Annex – III
2. Schedule F: Annex – I List of Designs and Drawings
3. Schedule H: Para 2 Schedule for Tests
4. Schedule H: Annex – I Type Tests
5. Schedule H: Annex – II Routine Tests
6. Schedule J: Deployment Plan (Fn. 5).
7. Schedule M: Para 5.3 Communications and notices
8. Schedule M: Para 6.1.1 Authority Default
9. Schedule M: Para 6.1.2 Operator Default
10. Schedule M: Para 7.2 Substitution of Escrow Account
11. Schedule M: Para 9.2 Notice and contest of claims
12. Schedule M: Para 11.7.2 Survival
13. Schedule O: Staffing Qualification
14. Schedule Q: Data Monitoring System Annex – I
15. Schedule Q: On Board Devices Annex – II