



REQUEST FOR PROPOSAL [RFP]  
FOR SELECTION OF BUS OPERATOR  
FOR OPERATION, MANAGING AND  
MAINTENANCE OF 16 NUMBER OF CITY  
BUSES ON NET COST CONTRACT BASIS  
(SAARTHI BUS SEWA) FOR DAMAN & DIU  
AND DADRA & NAGAR HAVELI.

**Omnibus Industrial Development Corporation  
of Daman & Diu and Dadra & Nagar Haveli**

**(OIDC Ltd.)**

**(A Govt. Undertaking)**

Corporate Office, Plot No. 35, Somnath, Nani  
Daman – 396210, Daman (U.T).

## DATA SHEET

Sr. No.	Documents, Enclosures with Tender	Attached / Not Applicable
01	Technical Proposal should be clearly marked "Technical Proposal" for <b>“Selection of bus operator for Operation, Managing and Maintenance of 16 number of City Buses on Net Cost Contract basis (Saarhi Bus Sewa) for Daman &amp; Diu and Dadra &amp; Nagar Haveli”</b> for a minimum contract period of 03 +3 (1+1+1) years.	
02	EMD of <b>Rs. 16,00,000/- (Rupees Sixteen Lakhs Only)</b> in Form of FDR in favor of OI DC Ltd, Daman for any Nationalized/Scheduled Bank and kept with the Technical Proposal.	
03	Price Bid in physical format shall not be accepted in any case. Financial Bid is to be submitted online only on <a href="http://www.oidc.nprocure.com">www.oidc.nprocure.com</a>	
04	Cost of Bidding & RFP document for Rs. 2000/- by crossed demand draft drawn in favor of OI DC Ltd, Daman payable at Daman of any scheduled bank has to be deposit along with hard copy of Technical Bid.	
05	Copy of Pan card, service tax Reg. No, etc to be enclosed with the Technical Proposal.	
06	Detailed financial statements balance sheets, Profit & Loss A/c schedule note on accounts to be enclosed with the Technical Proposal.	
07	ITR of Last three accounting years to be enclosed with the Technical Proposal. <b>(2014-15, 2015-16 &amp; 2016-17)</b>	

**REQUEST FOR PROPOSAL [RFP] FOR SELECTION OF  
BUS OPERATOR FOR OPERATION, MANAGING AND MAINTENANCE  
OF 16 NUMBERS OF CITY BUSES ON NET COST CONTRACT BASIS  
(SAARTHI BUS SEWA) FOR DAMAN & DIU AND DADRA & NAGAR HAVELI.**

RFP Number & Date	OIDC/DMN/SBS/RFP/2017-2018/680 Dt.31.08.2017.
Cost of RFP documents	INR 2,000/- (Rs. Two Thousand Only)
EMD	INR 16,00,000/- (Rupees Sixteen Lakhs Only)
RFP floated by	OIDC Ltd., Daman
Address	OIDC, Corporate Office, Plot No. 35, Somanth, Nani Daman – 396 210, Daman (UT)
Contact details	0260-2241120,2241150,2244731
E-mail	<a href="mailto:mt-oidc-dd@gov.in">mt-oidc-dd@gov.in</a>
Web site address	<a href="http://www.oidc.nic.in">www.oidc.nic.in</a>

## **CONTENTS OF RFP DOCUMENT**

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

<b>SR. NO.</b>	<b>PARTICULARS</b>	<b>PAGE NO.</b>
Part – I	Disclaimer	6
Part – II	Notice Inviting E – Tenders (NIT) and Schedule of Tendering Process with key details.	7-8
Part – III	Definitions and Abbreviations	9-11
<b>1.</b>	<b>Introduction</b>	12
1.1	Background / Brief Overview	12-13
1.2	Scope of work for O&M of Bus Services	13-15
1.3	Brief description of the bidding process	15-16
1.4	Due Diligence	16
1.5	Acknowledgement by bidder	16
1.6	Cost of Bid	17
1.7	RFP Fee	17
1.8	Schedule of Selection/Bidding Process	17
1.9	Communication	17
<b>2.</b>	<b>General</b>	18
2.1	Bid validity	18
2.2	Number of Bids by Bidder	18
2.3	Governing Law and Jurisdiction	18
2.4	Authority's Right to Accept and Reject any Bids or All Bids	18-19
2.5	Earnest Money Deposit (EMD)/Bid Security	19-20
<b>3</b>	<b>Documents and Pre-Bid Conference</b>	20
3.1	Content of RFP	20-21
3.2	Clarification to RFP Documents	21
3.3	Pre-Bid Meeting	21-22
3.4	Amendment of Bidding Documents	22
<b>4.</b>	<b>Preparation and Submission of Bid</b>	22
4.1	Language of Bid	22
4.2	Bid Currency	22
4.3	Format and Signing of Bid	22-23
4.4	Sealing and Marking of Bids	23-24
4.5	Bid Due Date	24
4.6	Contents of Bids	24

4.7	Modification and Withdrawal of Bids	25
<b>5</b>	<b>Evaluation Criteria</b>	25
5.1	Eligibility Criteria	25
5.2	Qualification Criteria	26-27
5.3	Evaluation of Price Bid	27
<b>6.</b>	<b>Evaluation Process</b>	27
6.1	Opening of Technical Bid	27
6.2	Evaluation of Technical Bid	27-29
6.3	Opening of Price Bids	29
6.4	Clarification of Bids and Request for additional/missing information	29
6.5	Verification and Disqualification	29-31
6.6	Correspondence with Bidder	31
6.7	Confidentiality	32
<b>7.</b>	<b>Appointment of Operator and Signing of Contract</b>	32
7.1	Selection of Bidder	32
7.2	Notification of Award	32-33
7.3	Signing of Bus Operator Agreement	33
7.4	Performance Security	33-34
7.5	Annulment of Award	34
<b>8.</b>	<b>Fraud and Corrupt Practices</b>	35-37
<b>9</b>	<b>Conflict of Interest</b>	37-39
<b>10</b>	<b>Miscellaneous</b>	39
<b>11</b>	<b>Special Conditions &amp; Notes</b>	40
	<b>Annexure:</b>	
	Annexure – 1 Cover Letter	41-42
	Annexure – 2 General Information of Bidder	43
	Annexure – 3 Financial capability statement	44
	Annexure – 4 Undertaking for Vehicle Ownership or Operational Experience	45
	Annexure – 5 Quality Proposal Submissions	46
	Annexure – 6 Anti Blacklisting Certificate	47
	Annexure – 7 Format of Power of Attorney	48-49
	Annexure – 08 Format for Bank Guarantee for towards performance guarantee/security	50-52
	Annexure – 09 Letter of Award	53-56
	Annexure – 10 Bus Operator Agreement	57
	Annexure – 11 Details of Contracted Buses and the Indicative Delivery Schedule of Contracted Buses	58
	Annexure – 12 Indicative Route Plan and Fleet Deployment Plan	59-62
	Annexure – 13 Indicative Format for Monthly Report	63

Note: The RFP Document, if purchased by the Tenderer is not transferable.

**PART - I: DISCLAIMER**

This RFP is being issued by Omnibus Industrial Development Corporation of Daman & Diu and Dadra & Nagar Haveli Ltd., (OIDC) Daman for inviting tenders for **“Selection of Bus Operator for Operation, Managing and Maintenance of 16 Number of City Buses on Net Cost Contract basis (Saarhi Bus Sewa) for Daman & Diu and Dadra & Nagar Haveli”** at Daman & Diu and Dadra & Nagar Haveli in and for the Union Territory of DD&DNH.

It is hereby clarified that this RFP is not an agreement and is not an offer or invitation by OIDC to any party hereunder. The purpose of this RFP is to provide the Tenderer(s) with information to assist in the formulation of their proposal submission. This RFP document does not purport to contain all the information Tenderers may require. This RFP document may not be appropriate for all persons, and it is not possible for OIDC to consider particular needs of each Tenderer. Each Tenderer should conduct its own investigation and analysis, and should check the accuracy, reliability and completeness of information in this RFP document and obtain independent advice from appropriate sources. OIDC 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.

OIDC accepts no liability of any nature whether resulting from negligence or otherwise however caused arising from reliance of any Applicant upon the statements contained in this RFP. OIDC may in their absolute discretion, but without being under any obligation to do so, update, amend or supplement the information in this RFP document.

The issue of this RFP does not imply that the OIDC is bound to select an applicant or to appoint the Selected Applicant, as the case may be, for the Services and the OIDC reserves the right to reject all or any of the proposals without assigning any reasons whatsoever.

## PART - II

### Notice Inviting E -Tender & Schedule of Tendering Process with Key Details

Omnibus Industrial Development Corporation of Daman & Diu and Dadra & Nagar Haveli (OIDC Ltd.)  
(A Govt. Undertaking)  
Corporate Office, Plot No. 35, Somnath, Nani Daman – 396210.

#### **E – TENDER NOTICE**

**Tender No.: OI DC/DMN/SBS/RFP/2017-2018/680**

**Dt. 31.08.2017.**

General Manager, OI DC on behalf of Omnibus Industrial Development Corporation of Daman & Diu and Dadra & Nagar Haveli Ltd., (OIDC) invites On-line tender on <https://www.oidc.nprocure.com> from eligible bidders.

Description	Tender form cost	EMD
Selection of Bus Operators for Operation, Managing and Maintenance of 16 Number of City Buses (SBS) for DD&DNH on Net Cost Contract Basis for Eicher Make 32 Seater BS-III types of buses:	Rs. 2,000/- (Rupees Two thousand only) In form of DD	Rs. 16,00,000/- (Rupees Sixteen Lakhs only)
Tender download starting date	01.09.2017 at 16.00 hrs.	
Last date for online submission of tender	29.09.2017 upto 16.00 hrs.	
Physical submission of Technical document as per RFP	29.09.2017 upto 16.00 hrs.	
Online opening of Technical Bid	02.10.2017 at 11.30 hrs.	
Opening of Financial Bid	To be intimated later	
Pre-Bid meeting	On 15.09.2017 at 11.30 a.m. at Conference Hall, OIDC Ltd., Corporate Office, Plot No. 35, Somnath, Nani Daman, Contact details: 0260 - 2241120, 2241150, 2244731, Fax: 0260-2241108, E-mail: mt-oidc-dd@gov.in.	

The tender document & other details will be available on <https://www.oidc.nprocure.com>. Tender notice can also be seen at website [www.daman.nic.in](http://www.daman.nic.in) & [www.oidc.nic.in](http://www.oidc.nic.in). Bidders have to submit price bid in electronic format only on [www.oidc.nprocure.com](https://www.oidc.nprocure.com) till the last date and time for submission. Price bid in physical format shall not be accepted in any case.

Submission of tender fees in form of DD & EMD in form FDR, valid copy of Service Tax registration number with certificate, PAN number etc: These are the mandatory documents required to be submitted to the tender inviting

authority by RPAD/Speed post/Courier/by hand however, tender inviting authority shall not be responsible for any postal delay. Incomplete & conditional tenders are liable to be rejected. The tender inviting authority reserves the right to accept/reject any or all tenders without assigning any reasons thereof. Bidder shall have to post their queries on e-mail address: mt-oidc-dd@gov.in. on or before 13/09/2017 upto 11.30 hrs. In case bidder needs any clarification or if training required for participating in online tender they can contact the following office: (n)Code Solution – A division GNFC Ltd., 403, GNFC Info Tower, Bodakdev, Ahmedabad – 380 054, Gujarat (India), Fax : +917926857321, website: www.nprocure.com.

Sd/-  
General Manager  
OIDC Ltd.



### **PART III : DEFINITIONS & ABBREVIATIONS**

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

**“AUTHORITY”** means the OI DC or its Authorized Representatives who has invited Bids from competent and interested parties for Operation and Maintenance of Buses on Net Cost Contract Basis.

**“Applicable Law”** means all the laws, acts, ordinances, rules, regulations, notifications, guidelines or byelaws, in force and effect, as of the date hereof and which may be promulgated or brought into force and effect hereinafter in India, including judgments, decrees, injunctions, writs or orders of any court of record, as may be in force and effect during the subsistence of this Contract, and applicable to the Project.

**“Authorised Signatory”** shall have a meaning specified in clause 4.3 (c) of this RFP.

**“Assured Fleet Availability”** shall have a meaning specified in clause 1.2 (l) of this RFP.

**“Bid Validity Period”** shall have a meaning specified in clause 2.1 (a) of this RFP.

**“Bus”** means a Passenger Bus unit or units handed over to the Operator as part of the Contract for the purposes of operation and maintenance as per the terms of Contract. In relation to this, “Contracted Buses” shall mean all the Buses for the operation and maintenance of which the Operator has been contracted through this Contract.

**“Bus Service”** means the service of operating and maintaining the Buses as part of the City Bus Services on Net Cost Contract basis, in accordance with this Contract/Agreement, including providing public carriage in accordance with the performance standards stipulated by Authority.

**“Bus Depot”** The developed space/area equipped with facilities, equipments, gadgets etc for general management, repair and maintenance, washing and cleaning, besides parking etc of buses and for preparing them for operations as per schedules, routes, trips etc in mass public transport services in addition to other activities related thereto.

**“Bid”** means the proposals submitted by the Bidder(s) in response to this RFP in accordance with the provisions hereof including, Technical Bid and Price Bid along with all other documents forming part and in support thereof.

**“Bidder”** means any firm, including a sole proprietor or a partnership firm or a company, who submits a Bid along with Bid Security and RFP Fees under this RFP within the stipulated time for submission of Bids.

**“Selection Process/ 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.

**“Bid Security” or “Earnest Money Deposit (EMD)”** means Security furnished by the Bidder as part of detailed Bid in accordance to clause 2.5 of RFP.

**“Bus Operator Agreement”** means the Agreement including, without limitation, any and all Annexure/Schedule thereto which will be entered into between Authority and the Successful Bidder through which Authority shall grant the rights to the Successful Bidder to operate and maintain the buses during the Contract Period against payment of consideration. The Detailed meaning of Bus Operator Agreement is defined in Bus Operator Agreement attached as **Annexure- 10** of this RFP document.

**“Contracted Buses”** means one or more of the passenger bus units handed over to the Operator by the Authority from time to time for the purposes of operation and maintenance in the Bus Service Area defined in Bus Operator Agreement in accordance with the terms of this Agreement.

**“Conflict of Interest”** shall have a meaning specified in clause 9 of this RFP

**“Eligible and Qualified Bidders/Bids”** shall have a meaning specified in clause 6.2 (C ) of this RFP

**“Execution Date”** shall mean and refer to the date of execution of this Agreement.

**“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.

**“Fleet”** means the total number of Buses that are Contracted to Operator for operation and maintenance in accordance with the provisions of this Document.

**“Fleet Deployment Plan”** Shall have a meaning specified in clause 1.2 (I) of this RFP.

**“Letter of Acceptance” or “LOA”** means the letter issued by Authority to the Successful Bidder to provide buses under the Bus Operator Agreement for the City Bus Services in conformity with the terms and conditions.

**“Operator”** means the successful bidder selected under this RFP with whom Authority has entered into a Bus Operator Agreement.

**“Preferred Bidder”** shall mean the Bidder who qualifies the technical bid stage (meeting Eligibility and Qualification Criteria and whose Bid is responsive as per

clause 6.2 of RFP) and price bid turned out to be Highest and Responsive as per clause 5.3 of RFP.

**Performance Security** shall mean the deposit furnished by a successful Bidder for punctual and due performance of its duties as per terms and conditions of this RFP. Details of Performance Security are specified in clause no. 7.4 of RFP. “Project” shall have a meaning that the Authority has now decided to undertake a competitive bidding process for selection of a competent Bus Operator (the “Operator”) for operation and maintenance of Bus Services on terms and conditions specified in this RFP Document (“Project/Work”).

**“Routes”** means the routes within the Bus Service Area determined exclusively and notified by the Authority from time to time, and the Contracted Buses under this Agreement shall operate only on such Routes.

**“RFP” and / or “RFP Document”** means this RFP document along with Annexure attached issued for the purpose of selecting an Operator for the Project.

**RTA” or “RTO”** means the Regional Transport Authority/ Regional Transport Office of [the respective Urban Area].

**The terms “Successful Bidder”, “L1 Bidder”,** “shall mean the Bidder who qualifies the technical bid stage (meeting Eligibility and Qualification Criteria whose Bid is responsive as per clause 6.2 of RFP) and price bid turned out to be Highest and Responsive as per clause 5.3 of RFP and to whom a Letter of Acceptance is consequently issued by Authority .

**“Scope of Project/Work”** shall have a meaning specified in clause 1.2 of this RFP.

**“System Management Fee”** means the monthly fee quoted by the Selected Bidder during the Bidding stage, to be paid by the Operator to the Authority in consideration of being granted the right to operate the Bus Service in the Bus Service Area in accordance with the terms of terms of this Contract.

**“Total Contract Period”** shall have a meaning specified in clause 1.2(a) of this RFP

## 1. INSTRUCTION TO BIDDERS:

### 1.1 Introduction of DD & DNH

Population of Daman: 2,42,911

Population of Diu: 21,576

Population of Dadra & Nagar Haveli: 3,42,853

Sr. No.	Place	Area in sq. km.	Population
1	Daman	102	2,42,911
2	Diu	40	52,074
3	Dadra and Nagar Haveli	487	3,42,853
4	Total	629	6,37,838

Daman & Diu and Dadra & Nagar Haveli are tourists' cantered places known for its Forts, Beaches, Gardens and Churches etc. The traditional culture of the Portuguese still exists. Daman & Diu and Dadra & Nagar Haveli are also industrial places as they are connected to Mumbai and Gujarat.

Transport plays a vital role in economic and social development of the region. Road transports are a predominant mode with a network spread over entire area. Road transport is the most important mode for inter-city and inter-regional movement and forms the backbone of passenger mobility system. It is also the most economic and convenient mode for short and medium haul traffic. Passenger transport systems that are available for general public in DD&DNH are buses operated by OI DC & by private operators (POs) who along with standard buses operate mini buses, etc. OI DC & POs collectively provide inter-state, intra-state, urban and rural Transport Services in DD&DNH, using various types and categories of buses.

Currently Buses constitute the main mode of transport for nearly 10,95,000 passengers annually. In addition, a large number of passengers travel by other modes of road transport. With the completion of the proposed, travel demand for public transport system is expected to register further increase.

In Daman & Diu and Dadra & Nagar Haveli (DD&DNH), OI DC provides public Transport services by deploying a bus fleet of 16 buses supplied by Eicher Motors Limited (EML), model Starline10.75H bus with a capacity of 32+1 seats. Bus fleet is distributed amongst the three places Daman (06 buses), Diu (04 buses) and Dadra & Nagar Haveli (06 buses).

These buses generally provide public transport services in respective municipal areas as also inter-areas in Daman, Diu and DNH.

OIDC has developed its own independent depots with workshops at two places i.e. Daman and Silvassa (Diu workshops is under consideration) along with provision of a few tools and equipment. These depots have adequate space for idle parking of buses and their repair and maintenance activities.

## **1.2 Scope of Work for O&M of Bus Services**

The scope of the Project will broadly include the followings (the “Scope of the Project/Work”).

- a. The Operator shall operate and maintain the Contracted Buses on Routes defined by the Authority during the Total Contract Period. The Total Contract Period means, in reference to Contracted Buses, a Period of 3 years beginning from “**Commercial Operations Date**” (COD) of the Contracted Buses which may/may not be extended further for maximum 3 years solely on the decision of Authority (the “Total Contract Period”). The term of the contract is specified clause - 3 of Agreement.
- b. The Authority shall hand over possession of Contracted Buses which already are in possession of the Authority within [15 (fifteen) days] from the date of execution of Agreement (the “Execution Date”). The Operator shall commence Bus Services of Contracted Buses handed over as above, no later than [15 (fifteen) days] from the date of handover of Contracted Buses, or any extended period as may be agreed upon the Parties in writing (“**Commercial Operations Date**” or “**COD**”). Failure in achieving COD for Bus, for reasons not attributable to the Authority or to a Force Majeure Event, and which in the opinion of the Authority can be attributable to the Operator, the Operator shall pay liquidated damages of Rs. 1,000/- (Rupees One Thousand Only) each bus per day.
- c. The Operator to provide sufficient number of trained and duly licensed drivers to achieve Commercial Operation Date (COD) to ensure the continued and uninterrupted Bus Service in accordance with the terms contained herein and as per Applicable Law.
- d. The Operator ensure continued and due operation of the Fleet and each of the Buses as per the service quality levels specified in **ANNEXURE –1** of Agreement. The Operator shall ensure that each driver is provided the required training as per Good Industry Practice on driving, safety, behaviour and hygiene aspects as well as other aspects if any specified in Agreement. Additionally, the Operator shall provide specific training for any other aspects indicated by the Authority.

- e. The Operator to ensure the Bus Service complies with and meets the service quality levels specified in **ANNEXURE - 1** of Bus Operator Agreement.
- f. Operator, at his own cost and expenses procure and maintain all Operator Clearances in accordance with **ANNEXURE – 7** of Agreement for the purposes of providing Bus Services as per the terms of the Agreement.
- g. The operator to maintain the Contracted Buses in good operational conditions in accordance with Good Industry Practices and Operation and Maintenance Requirements set forth in the Agreement.
- h. The Operator to ensure that safety and security of passengers and any third person on the Contracted Buses are maintained at all times.
- i. Operator to bear all taxes as may be levied under Applicable Law in relation to the Bus Services except those taxes which are the responsibility of the Authority as per the terms of this Agreement and Applicable Law.
- j. Subject to prior written approval of the Authority, Operator to develop and establish a facility for the purposes of maintenance of the Contracted Buses at its own cost and expense, with trained professionals for the purposes of maintenance of Contracted Buses.
- k. Operator to ensure that any equipment installed on the Contracted Buses or within the Bus Depot including any monitoring device or equipment that is installed by the Authority is not tampered in any manner; and that the Authority and its authorised personnel, are allowed to inspect the equipment installed on the Contracted Buses and the Bus Depots at any time without any notice in this regard.
- l. The Operator shall have to adhere to the Fleet Deployment Plan prepared by the Authority. Such Fleet Deployment shall contain details including but not limited to number and type of Contracted Buses, details of the Assured Fleet Availability, Operating Plan, Routes, frequency, stoppage plan and table of schedule providing bus headways based on peak and off peak hour and other requirements (the “ Fleet Deployment Plan”). Indicative route plan and Fleet Deployment Plan at this stage are specified in **ANNEXURE – 12** of this RFP. During the Contract Period, the Operator may choose to change the approved timetable. The Operator shall submit a written request for change in timetable after completion of six months along with the reasons for such change(s) to the Authority. The Authority shall review such request and may grant approval provided it meets the minimum frequency and headway.
- m. In the event, of the Operator makes any unscheduled or unauthorized trip outside operation hours and beyond the Routes or in violation of any requirement of the Fleet Deployment Plan or without specific instructions of

the Authority in relation thereof, Operator shall be liable for payment of Penalty decided by authority.

- n. The Operator shall make available Buses at prescribed locations as per the Fleet Deployment Plan.
- o. Operator to ensure that all Applicable Laws including but not limited to the Minimum Wages Act, 1948 are complied with in relation to appointment, hire, recruitment, of any personnel (whether on temporary, contractual or permanent basis) required in relation to the operation and maintenance of Bus Service.
- p. Provide Regular monthly reports to the Authority as per the format of reports stipulated **ANNEXURE - 13** of this RFP and as may be instructed by Authority from time to time.
- q. Carry out all activities necessary for the effective implementation of the provisions of Agreement specified in **ANNEXURE - 10** of this RFP.
- r. The Operator to establish a maintenance facility at the Depot provided by the Authority as per terms specified in Agreement with trained professionals to maintain the Bus Fleet.
- s. The Operator to ensure due maintenance of the Buses and Depot and bear all expenses towards maintenance of the Fleet and Depot throughout the Total Contract Period and not claim any additional expenses/reimbursement.
- t. The Authority shall transfer the title and ownership of Contracted Buses to Operator upon expiry of Total Contract Period. Detailed provisions with regards are provided in Clause 29.1 of Agreement.

Detailed scope, rights, obligations and all other terms and conditions are specified in Bus Operator Agreement specified in **Annexure - 10** of this RFP:

### **1.3. Brief Description of the Bidding Process**

- a. The Authority invites proposal through online tendering system in a Single Stage and Two-part Bid System, each for Technical Bid and Price Bid with evaluation as per the RFP (the "Operator Selection Process/ Bidding Process") for selection of competent and interested Bidder for Operation and Maintenance of Buses through transparent and competitive bidding process.
- b. Complete bid (separately for Technical bid & for Price bid strictly only on electronic media) in the prescribed forms should be submitted on or before the time and date fixed for submission of bid ("Bid Due Date"). Bid delivered after Bid Due Date will be rejected.

- c. The Bidders need to offer its bid which conforms to the draft Bus Operator Agreement provided as part of this RFP Document.
- d. In a first step, evaluation of Technical bids will be carried out as specified in Clause 6.2. Based on Technical evaluation, the Price Bids of only Bidders who have Technically qualified shall be opened.
- e. The bidders are required to quote rate in electronic format separately. Bids of those bidders who quote more than one rate for same type of bus, conditional offers/rates for same type of bus, on any account will not be accepted and such bids shall be rejected as non-responsive. Evaluation of Price Bid shall be carried out as per Clause 5.3. The Bidder whose Price Bid determined to be highest for particular and shall be considered as Preferred Bidder.
- f. Authority reserves the right to split the Contract and appoint one or more than one operator for the Buses.

#### **1.4. Due Diligence**

The Bidders are encouraged to examine and familiarize themselves fully about the nature of assignment, all instructions, forms, terms and conditions of RFP, local condition and any other matters considered relevant by them before submitting the Bid by paying a visit to the site, sending written queries to the Authority, and attending a Pre-Bid meeting.

#### **1.5. Acknowledgement by Bidder**

- a. It shall be deemed that by submitting the Bid, the Bidder has:
  - 1) Made a complete and careful examination of the RFP and all Annexures including Agreements
  - 2) Received all relevant information requested from the Authority
  - 3) Accepted the risk of inadequacy, error or mistake in the information provided in the RFP or furnished by or on behalf of the Authority relating to any of the matters referred to in **Clause 1.4 above** and
  - 4) Acknowledged that it does not have a Conflict of Interest as specified in Clause – 9 of RFP.
  - 5) Agreed to be bound by the undertakings provided by it under and in terms hereof.
- b. The Authority shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the RFP or the Bidding Process, including any error or mistake therein or in any information or data given by the Authority.



## 1.6. Cost of Bid

The Bidders shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the Bid Process. The Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

## 1.7. RFP fee

RFP document can be downloaded from the website [www.daman.nic.in/www.oidc.nic.in](http://www.daman.nic.in/www.oidc.nic.in) and payment of a fee of Rs. 2,000/- (Rupees Two Thousand Only) which is payable (through DD). Bids that are not accompanied by the RFP fees in acceptable amount and form shall be considered non-responsive and shall be summarily rejected.

## 1.8. Schedule of Selection/Bidding Process

The Authority shall endeavour to adhere to the following schedule

Sr. No.	Events Description	Dates
01	Tender download starting date	01.09.2017 at 16:00 Hrs
02	Last date for online submission of tender	29.09.2017 before 16:00 Hrs
03	Physical submission of Technical document as per RFP	29.09.2017 upto 16.00 Hrs.
04	Online Opening of Technical Bid	02.10.2017 at 11.30 hrs.
05	Opening of Financial Bid	To be intimated later
06	Pre-Bid meeting	On 15.09.2017 at 11.30 at Conference Hal, OIDC Ltd., Corporate Office, Plot NO. 35, Somanth, Nani Daman.

## 1.9. Communication

All communications including the submission of Proposal should be addressed to:

### Address:

The General Manager (Transport), O IDC, Corporate Office, Plot No. 35, Somnath, Nani Daman, Daman – 396 210 (UT)

Phone: 0260-2241120/2244731 Fax: 2241108 Email: [mt-oidc-dd@gov.in](mailto:mt-oidc-dd@gov.in)

## **2. General**

### **2.1 Bid validity**

- a. Bids shall remain valid for a period of not less than 120 days (one hundred and twenty) from the Bid Due Date (the “Bid Validity Period”). The Bid of the Bidder shall be considered non-responsive if such Bid is valid for a period less the Bid Validity Period.
- b. In exceptional circumstances, prior to expiry of the original Bid Validity Period, Authority may request the Bidders to extend the period of validity for a specified additional period. The request and the responses thereto shall be made in writing. A Bidder may refuse the request without forfeiting his Bid Security/EMD. A Bidder agreeing to the request will not be required or permitted to modify his bid but will be required to extend the validity of his Bid Security/EMD for the period of the extension, and in compliance with Clause 2.5 in all respects.

### **2.2 Number of Bids By Bidder**

No Bidder shall submit more than one Bid pursuant to this RFP. A Bidder applying individually shall not be entitled to submit another Bid. If a Bidder submits or participates in more than one proposal, such proposals shall be disqualified.

### **2.3 Governing Law and Jurisdiction**

The Bidding Process shall be governed by, and construed in accordance with, the Laws of India and the Courts at Daman shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.

### **2.4 Authority’s Right to Accept and Reject Any Bids or All Bids**

Notwithstanding anything contained in this RFP, the Authority reserves the right to accept or reject any Bid and to annul the Bid Process /Bid Evaluation Process and reject all Bids, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof. The Authority reserves the right to cancel the bid after issuance of work order and signing of Agreement under exceptional circumstances.

- a. It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Authority, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or

arising from the exercise of any rights and/ or performance of any obligations hereunder, pursuant hereto and/ or in connection with the Bidding Process and waives, to the fullest extent permitted by applicable laws, any and all rights and/or claims it may have in this respect, whether actual or contingent, whether present or in future.

- b. Without prejudice to the generality of Clause (a) and (b) above, the Authority reserves the right to reject any Bid if:
  - i. at any time, a material misrepresentation is made or discovered, or
  - ii. the Bidder does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Proposal.
  - iii. Bidder submitted conditional Bid

## **2.5 Earnest Money Deposit (EMD)/ Bid Security**

- a. The bidder shall furnish as part of its Bid, a separate Bid Security (also referred to as "Earnest Money Deposit" (EMD)/ Bid Security") for Captioned work as part of his bid as per the given format. An Earnest Money Deposit of Rs 16,00,000/- (Rupees Sixteen Lakhs Only) shall be furnished in form of FDR of any Nationalized/Scheduled Bank.
- b. Cheque/Cash will not be accepted for bid submission process. The bidder should submit EMD as specified in the RFP.
- c. Any bid not accompanied with valid Earnest Money Deposit in the acceptable amount and form will be summarily rejected by the Authority as being non-responsive and bids of such Bidder shall not be evaluated further.
- d. The Authority shall not be liable to pay any interest on the EMD deposit so made and the same shall be interest free. The EMD shall be furnished in Indian Rupees only.
- e. The Bid Security of unsuccessful Bidders will be returned by the Authority, without any Interest, as promptly as possible on acceptance of the Bid of the Preferred Bidder or when the Authority cancels the Bidding Process.
- f. The Preferred Bidder's EMD will be returned, without any interest, upon the Preferred Bidder signing the Agreement and furnishing the Performance Security in accordance with the provision thereof.

- g. The Authority shall be entitled to forfeit and appropriate the Bid Security as Damages inter alia in any of the events specified in Clause 2.5 (h) herein below. The Bidder, by submitting its Bid pursuant to this RFP, shall be deemed to have acknowledged and confirmed that the Authority will suffer loss and damage on account of withdrawal of its Bid or for any other default by the Bidder during the period of Bid validity as specified in this RFP. No relaxation of any kind on Bid Security shall be given to any Bidder.
- h. The EMD/Bid Security shall be forfeited and appropriated by the Authority as damages without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise, under the following conditions:
  - i. If a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Clause 8 of this RFP;
  - j. If a Bidder withdraws its Bid during the period of Bid validity Period as specified in this RFP and as extended by mutual consent of the respective Bidder(s) and the Authority;
  - k. In the case of Successful Bidder, if it fails within the specified time limit –
    - i. to sign and return the duplicate copy of LOA
    - ii. to sign the Agreement within the time period specified by the Authority
    - iii. to furnish the Performance Security within the period prescribed therefore in the Concession Agreement; or
    - iv. In case the Successful Bidder, having signed the Contract, commits any breach thereof prior to furnishing the Performance Security.
    - v. Successful Bidder fails to furnish the required amount towards Upfront amount as specified in Clause – 7 of the Agreement.

### **3. Documents and Pre-Bid Conference**

#### **Content of RFP**

This RFP comprises the Disclaimer set forth hereinabove and the contents as listed below, and will additionally include any Addendum / Amendment issued in accordance with Clause 3.94.

- i. Disclaimer
- ii. Notice Inviting Tenders

- iii. Definition and Abbreviation
- iv. Instructions to Bidders
- v. Annexure specifying Bid Form / other Formats
- vi. The Bus Operator Agreement attached as Annexure - 10 and its Schedules 7. Any Modifications/ Amendments made by Authority in any RFP and Agreement Conditions.

### **3.2. Clarification to RFP Documents**

- a. Bidders requiring any clarification on the RFP may notify the Authority in writing or by fax or email at the address provided in clause 1.9. They should send in their queries on or before the date mentioned in the Schedule of Bidding Process specified in Clause 1.8 in order to enable Authority to have adequate notice of the said queries so that the same may be addressed at the Pre-Bid Meeting. The Authority shall endeavour to respond to the queries in short span of time prior to Bid Due Date. The responses will be uploaded in the website [www.daman.nic.in/www.oidc.nic.in](http://www.daman.nic.in/www.oidc.nic.in).
- b. The Authority shall endeavour to respond to the questions raised or clarifications sought by the Bidders. However, the Authority reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring the Authority to respond to any question or to provide any clarification.
- c. The Authority may also on its own, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by the Authority shall be deemed to be part of the Bidding Documents. Verbal clarifications and information given by Authority or its employees or representatives shall not in any way or manner be binding on the Authority.

### **3.3. Pre-Bid Meeting**

- a. A pre-bid meeting shall be held at time and venue specified in clause 1.8 and Clause 1.9 respectively. Bidders shall bear their own cost for attending the pre-bid conference.
- b. During the course of pre-bid conference(s), the Bidders will be free to seek clarifications and make suggestions for consideration of the Authority. The Authority shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.

- c. Non-attendance at the pre-bid conference shall not be a cause for disqualification of a Bidder. However, terms and conditions of the Addendum(s) shall be legally binding on all the Bidders irrespective of their attendance at the Pre-Bid Conference.

### **3.4. Amendment of Bidding Documents**

- a. At any time prior to the Bid Due Date, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP by the issuance of Corrigendum.
- b. Any Corrigendum issued hereunder will be in writing and shall be uploaded on the Authority's website [www.oidc.nic.in](http://www.oidc.nic.in) /[www.daman.nic.in](http://www.daman.nic.in).
- c. In order to afford the Bidders a reasonable time for taking a Corrigendum into account, or for any other reason, the Authority may, in its sole discretion, extend the Bid Due Date.

## **4. Preparation and Submission of Bid**

### **4.1 Language of Bid**

- a. The Bid and all related correspondence and documents in relation to the Bidding Process shall be in English language. All supporting documents and printed literature furnished by the Bidders with the Bid shall be in the English language, duly authenticated and certified by the Bidder.
- b. The Bidders shall ensure that any number mentioned in the Bid shall be followed by words in relation to such numerical format of the number, and in the event, there is a conflict in the numerical and the word format of the number, the number provided in words shall prevail.

### **4.2 Bid Currency**

All prices quoted in the Bid shall be quoted in Indian National Rupee(s) (INR).

### **4.3. Format and Signing of Bid**

- a. The Bidder shall provide all the information sought under this RFP. The Authority will evaluate only those Bids that are received in the required formats and complete in all respects.
- b. The Bidder shall submit one Technical Bid.
- c. The Bid must be properly signed by the Authorized Signatory (the "Authorized Signatory") as detailed below:

- i. By the proprietor, in case Bidder is a proprietary firm; or
  - ii. By a duly authorized person holding the Power of Attorney, in case Bidder is either a Limited Company or a corporation or a Partnership firm
- d. In case of the Bidder being Company incorporated under Indian Companies Act 1956/2013, the Power of Attorney shall be supported by a Board Resolution in favour of the person vesting power to the person signing the Bid. The same should be uploaded as part of Technical Bid for online tendering process.
- e. All prices and other information having a bearing on Price shall be written both in figures and words. In case of discrepancy, price given in words shall be considered.

#### 4.4 Sealing and Marking of Bids

The Bidders shall submit the bid as follows;

Titled as	Annexure to be inserted	Documented to be uploaded.
Technical Bid	<b>EMD</b>	<b>PART 1A RFP Fees and EMD</b> <ul style="list-style-type: none"> <li>• RFP Fee</li> <li>• EMD</li> </ul>
	<b>Annexure - 1 to 7</b>	<b>Part 1B: Technical Bid</b> <ul style="list-style-type: none"> <li>• RFP document, Agreement &amp; Corrigendum, if any, signed sealed by the Authorized Representative.</li> <li>• Cover letter as per <b>Annexure-1</b>.</li> <li>• General information of bidder as per <b>Annexure – 2</b> along with bidder’s constituting documents such as MOA, AOA, Certificate of Incorporation, Sales Tax/Service Tax Registration, partnership deed as may be applicable and as specified in <b>Annexure – 2</b>.</li> <li>• Financial capability statement as per <b>Annexure – 3</b> along with audited annual accounts for last three years and any other document specified in <b>Annexure – 3</b>.</li> <li>• Undertaking for Bus ownership/operations as per <b>Annexure – 4</b> along with documentary ownership/operational</li> </ul>

		<p>experience evidences RTO registration books and operation contracts etc as per clause 5.2(b)</p> <ul style="list-style-type: none"> <li>• Quality proposal submission as per <b>Annexure – 5.</b></li> <li>• Anti-black listing certificate as per <b>Annexure – 6.</b></li> <li>• Authorization in terms of Power of Attorney (POA) / Board or Partner Resolution as per <b>Annexure – 7.</b></li> <li>• Any other documents required as per the RFP terms.</li> </ul> <p>(Price Bid should not be mentioned anywhere in Technical Bid.)</p>
--	--	--

**NOTE:** Bidder has to submit price bid in electronic format only on [www.oidc.nprocure.com](http://www.oidc.nprocure.com) within the due date and time for submission as specified in RFP. Price bid in physical format shall not be accepted in any case.

#### 4.5. Bid Due Date

- a. The last date and time of submission of the Bids online (“the “Bid Due Date”) is specified in table given in Clause 1.8 above.
- b. Bids should be submitted on or before Bid Due Date on the website <https://www.oidc.nprocure.com>.
- c. The Authority may, in its sole discretion, extend the Bid Due Date by issuing a Corrigendum uniformly for all Bidders as per Clause 3.4. In such event, all rights and obligations of Authority and Bidders previously subject to the earlier deadline will thereafter be subject to the Bid Due Date as extended. Any such change in the Bid shall be notified to the bidder through a corrigendum published on the website [www.oidc.nic.in/www.daman.nic.in](http://www.oidc.nic.in/www.daman.nic.in).

#### 4.6. Contents of Bids

- a. The contents of the Bid and the opening of Bids and acceptance thereof shall be substantially in accordance with this RFP.
- b. The Bidder shall specify (in Indian Rupees) Royalty Fees to undertake the Project in accordance with this RFP and the provisions of the Agreement.
- c. The proposed Bus Operator Agreement shall be deemed to be part of the Bid.



#### **4.7. Modification and Withdrawal of Bids**

- a. Bidder shall not be allowed to modify any part of its Bid after the Bid submission due date.
- b. In order to avoid forfeiture of Bid Security, a Bidder may withdraw his Bid after submission thereof, provided that Authority receives written notice of such withdrawal before the expiration of Due Date for Submission of Bids and Time.
- c. No Bid shall be modified, substituted or withdrawn by the Bidder on or after the Bid Due Date and Time.
- d. The e-tendering norms as given on <https://www.oidc.nic.in/www.daman.nic.in> will be applicable for any modification, substitution or withdrawal of the bids.
- e. Any alteration/ modification in the Bid or additional information supplied by the bidder subsequent to the Bid Due Date, unless the same has been expressly sought for by the Authority, shall be disregarded.

#### **5. Evaluation Criteria**

- a. To be considered eligible and qualified, each Bidder should meet Eligibility Criteria and Qualification Criteria specified hereunder.

##### **5.1. Eligibility Criteria**

- a. The Bidder may be a single entity/Partnership Firm or a Company registered under the Companies Act 1956/2013. Joint venture and consortium are not allowed.
- b. The Bidder shall be legally competent to enter into a contract as per prevailing Indian law, and must be either: (i) a company incorporated under the Companies Act, 1956 (as amended or re-enacted or restated, and including the Companies Act, 2013 as notified from time to time), (Copy of Certificate of Incorporation, Memorandum and Article of the association of the bidder should be submitted) or (ii) Partnership firm registered under The Indian Partnership Act (Copy of registered Partnership Deed should be submitted) or a (iii) registered proprietary firm (Copy of sales tax/service tax registration, EPF registration, Shop registration certificate, as may be applicable, should be submitted).
- c. A Bidder shall not have a conflict of interest (the "Conflict of Interest") that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. Conflict of Interest is specified / defined in Clause no 9.

## 5.2. Qualification Criteria

The Bids of the Bidder meeting Eligibility Criteria shall be considered for assessment of Qualification Criteria. To be considered qualified, each Bidder should meet Qualification Criteria specified hereunder. The bids of bidders not meeting these criteria will be declared disqualified and not be processed further.

### a. Financial Capability Criteria

- i. The Bidder shall have Net worth equivalent to at least INR 2.5 Crore in the financial year immediately preceding the Bid due date.

For the purposes of this RFP, net worth (the "Net Worth") shall mean the sum of subscribed and paid up equity and reserves from which shall be deducted the sum of revaluation reserves, miscellaneous expenditure not written off and reserves not available for distribution to equity shareholders.

- ii. **Documentary evidences:** 1) Statement from the statutory auditor as prescribed in the **Annexure - 3** certifying/ specifying Net Worth of the Bidder, and also specifying that the methodology adopted for calculating net worth conforms to the provisions of this RFP.

- b. **Technical Capability Criteria** The Bidder's technical capability is proposed to be established by the following parameters.

### c. Ownership and or Operational Experience and;

- i. Ownership and Operational Experience for at least three years immediately preceding the Bid Due Date. The bidder should own atleast 15 to 20 buses in India.

- d. **Operational Experience must include** Planning, managing and monitoring of day to day bus operations and maintenance. Such experience must be demonstrated through an explicit contract/concession Agreement of operations with a public-sector entity/Government or semi Government Department or a private sector organisation of repute and which has been in successful operation for a period on at least one year.

- i. Ownership experience of buses by the bidder shall have to be demonstrated through RTO books/RTO Bus Ownership certificate or

other verifiable proof of ownership for all the required no. of Buses, clearly showing ownership of the bidder.

### **5.3. Evaluation of Price Bid**

- a. The Price Bid of the Bidder who qualify in accordance with Clause 6.2, and declared “Eligible and Qualified Bidders”, shall be opened. The Price Bid opening process is specified in clause 6.3.
- b. Bidders are required to quote ROYALTY FEES (and taxes as applicable) as per Price Bid format provided in electronic format only on [www.oidc.nprocure.com](http://www.oidc.nprocure.com) in respect of cost payable by such Bidder to Authority towards the contract. All prices shall be in Indian Rupees. If there is a discrepancy between words and figures, the amount in words shall prevail. All the taxes applicable payable by the bidder.
- c. The Authority shall determine the responsiveness of Price Bid of Highest Bidder.

## **6. Evaluation Process**

### **6.1. Opening of Technical Bid**

- a. The Authority shall open the Technical Bids received to this RFP, at time and date specified in Clause 1.8, and in the presence of the Bidders who choose to attend. The Bidders’ representatives who are present at such opening shall sign a register evidencing their attendance as a witness to the Bids opening process.
- b. Applications for which a notice of withdrawal has been submitted in accordance with Clause 4.7 shall not be opened.
- c. The Bidder’s names, the presence or absence of requisite RFP Fees, Bid Security and such other details as Authority in its sole discretion may consider appropriate, shall be announced at the opening of Technical Bid.
- d. The Authority will subsequently examine and evaluate Technical Bids in accordance with the provisions set out hereunder in clause 6.2.

### **6.2. Evaluation of Technical Bid**

The Bidders shall be required to submit documents as listed in this RFP document as per Clause 4.4 along with supporting documents. The Authority shall examine and evaluate the Technical Bids as per the evaluation steps specified below.

- a. Test of Responsiveness for EMD, Tender Fee, Timely and proper Submission
- i. Prior to evaluation of Eligibility and Qualification of Bids, the Authority shall determine whether each Bid is responsive to the requirements of the RFP. A Bid shall be considered responsive only if:
    - it is received as per the format specified in RFP;
    - it is signed, sealed, and marked scanned version as specified in Clause 4.4
    - it contains all the information, Annexures, documents and Authorizations in accordance with Clause 4.4
    - it contains separate sections for Technical bid
    - it contains the RFP Fee and EMD as per the amount and in formats specified in RFP.
    - it does not contain any condition or qualification; and
    - it is not non-responsive in terms hereof and any other conditions specified elsewhere in RFP.
  - ii. The Authority reserves the right to reject any Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Authority in respect of such Bid.
  - iii. Evaluation of Eligibility Criteria and document checks of only those Bidders shall be carried out whose Bids determined to be responsive.

**b. Assessment of Eligibility Criteria**

- i. The Authority shall examine and evaluate the eligibility of each Technical Bid upon determining its responsiveness as per sub Clause (a) above.
- ii. The Bidder must meet Eligibility Criteria specified in Clause 5.1 and have submitted all documents as per Clause 4.4 in order to qualify for next stage of assessment.
- iii. Assessment of Qualification Criteria of only those Bidders shall be carried out whose Bids are meeting Eligibility Criteria and submitted all required documents as specified in the RFP.

**c. Assessment of Qualification Criteria**

- i. The Authority shall examine and evaluate the qualification of each Technical Bid upon determining its eligibility as per sub clause (b) above.

- ii. The Bidder must meet Qualification Criteria specified in Clause 5.2 in order to qualify for next stage of Price Bid opening.
- iii. The Bids of the Bidder determined to be responsive, meeting Eligibility and Qualification Criteria as per Clause 6.2, 5.1 and 5.2 shall be declared Eligible and Qualified Bids (the “Eligible and Qualified Bids”/ “Eligible and Qualified Bidder”).
- iv. The Price Bid of only Eligible and Qualified Bids shall be opened.

### **6.3. Opening of Price Bids**

- i. The Price Bid shall be uploaded by the Bidder online in the format as specified in the electronic format to this RFP. All prices shall be in Indian Rupees.
- ii. The Price Bid of only the Bidder who qualify in accordance with Clause 6.2, and is declared “Eligible and Qualified Bidders”, shall be opened in the presence of such of the Bidders and/or their authorized representatives who choose to attend.

The time and date of opening of Price Bid shall be informed to the Bidders who are declared as Eligible and Qualified Bidders in advance. The Bidders’ authorized representatives who are present shall be required to sign and record their attendance. The name of Bidder, Bid rates, etc. will be announced at such opening.

- iii. The Authority shall evaluate Price Bid in accordance with the provision set forth in Clause 5.3.

### **6.4. Clarification of Bids and Request for additional/ missing information**

To facilitate evaluation of Bids, the Authority may, at its sole discretion, seek clarifications/documents/missing information in writing from any Bidder regarding its Bid. The request for clarification or submission of information and the response shall be in writing. If the response from the bidder is not received by the Authority before the expiration of the deadline prescribed in the written request, the Authority reserves the right to proceed with evaluation process at the total risk and cost of the Bidder.

### **6.5. Verification and Disqualification**

- a. The Authority reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFP and the Bidder

shall, when so required by the Authority, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification, by the Authority shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Authority there under.

- b.** The Authority reserves the right to reject any Bid and appropriate the EMD if:
- i.** at any time, a material misrepresentation in terms of misleading or false representation is made or uncovered, or
  - ii.** Bidder is blacklisted/barred by any Government Agency in India.
  - iii.** the Bidder does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Bid.
  - iv.** In case of fraudulent Bid and involved in fraudulent and corrupt practice as per RFP Clause 8.
  - v.** a Bidder makes an effort to influence Authority in its decisions on Evaluation process/Selection process.
  - vi.** while evaluating the Bid, if it comes To Authority's knowledge expressly or implied, that some Bidders may have compounded in any manner whatsoever or otherwise joined to form an alliance resulting in distorting competitive price discovery or delaying the processing of proposal.
  - vii.** Record of poor performance such as abandoning the work, rescinding of contract for which the reasons are attributable to the non-performance of the Bidder, consistent history of litigation awarded against the applicant or financial failure due to bankruptcy.
  - viii.** A bidder who submits or participates in more than one bid under this RFP.

- ix.** Such misrepresentation/ improper response/blacklisting/record of poor performance shall lead to the disqualification of the Bidder. If such disqualification / rejection occurs after the Bids have been opened and the Highest Bidder gets disqualified / rejected, then the Authority reserves the right to:
- invite the remaining Bidders to submit their Bids or
  - take any such measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Bidding Process.
- c.** In case it is found during the evaluation of Bids or at any time before signing of the Contract or after its execution and during the period of subsistence thereof, that one or more of the prequalification/eligibility criteria/ conditions have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Operator either by issue of the LOA or entering into of the Contract, and if the Successful Bidder has already been issued the LOA or has entered into the Contract, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority to the Successful Bidder or the Operator, as the case may be, without the Authority being liable in any manner whatsoever to the Successful Bidder or Operator. In such an event, the Authority shall be entitled to forfeit and appropriate the EMD or Performance Security, as the case may be, without prejudice to any other right or remedy that may be available to the Authority under the RFP and/or the Contract.

## **6.6. Correspondence with Bidder**

Save and except as provided in this RFP, the Authority shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Bid.

## **6.7. Confidentiality**

Information relating to the examination, clarification, evaluation and recommendation for the Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising the Authority in relation to, or matters arising out of, or concerning the Bidding Process. The Authority will treat all information, submitted as part of the Bid, in confidence and will require all those who have access to such material to treat the same in confidence. The Authority may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the Authority or as may be required by law or in connection with any legal process.

## **7. Appointment of Operator and Signing of Contract**

### **7.1. Selection of Bidder**

- a. Subject to the provisions of Clause - 5 and Clause - 6, the Bidder whose Bid is (i) adjudged as responsive in terms of Clause no 6.2 (a) (ii) meeting the Eligibility criteria and Qualification criteria as per clause 5.1 and clause 5.2 and (iii) whose Price Bid offered, on evaluation as per clause 5.3 has been determined to be the Highest (H -1) and responsive acceptable for award , shall be considered as the "Preferred Bidder for given type of bus" (the "Preferred Bidder").

### **7.2. Notification of Award**

- a. Prior to expiry of the Bid Validity Period, Authority shall notify the Preferred Bidder(s) as the Successful Bidder through letter that his/their Bid has/have been accepted (the "Successful Bidder(s)"). This letter ("Letter of Award"/"LOA") shall be issued, in duplicate and in the format specified in Annexure - 09, and shall specify the sum which the Authority shall pay to the Operator in consideration of operation and maintenance of Bus services as per terms of Contract. LOA shall also specify the number of Buses awarded to Successful Bidder (the "Contracted Buses").



- b. Successful Bidder shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Successful Bidder is not received by the stipulated date, the Authority may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Bidder as damages on account of failure of the Successful Bidder to acknowledge the LOA, and the next Eligible and Qualified Bidder may be considered.

### **7.3. Signing of Bus Operator Agreement**

- a. After acknowledgement of the LOA as aforesaid by the Successful Bidder, the Successful Bidder has to execute the Bus Operator Agreement within the period prescribed in Clause 1.8. The Successful Bidder shall not be entitled to seek any deviation, modification or amendment in the Bus Operator Agreement.
- b. The Draft copy of Bus Operator Agreement is specified in **Annexure -10**.
- c. The Successful Bidder shall get correct amount of Stamp Duty adjudicated, at Daman in accordance with applicable law, and submit the same in two copies duly stamped and executed within fifteen (15) days from the dispatch of Letter of Award. The Authority shall return one copy duly sealed and signed as a token of acceptance of the Contract. Stamp Duty, and any other charges as may be levied under applicable law, shall be paid by the Successful Bidder.

### **7.4. Performance Security**

- a. The Successful Bidder shall furnish Performance Security to Authority for securing the due and faithful performance of its obligations under the Bus Operator Agreement, on or before the date of signing of Agreement (the "Execution Date"), an unconditional and irrevocable bank guarantee for amount equivalent to Rs 16,00,000/- (Rupees Sixteen Lakhs Only) (One lakh per bus) in favour of the OI DC.

- b. The Operator shall furnish and maintain a valid and binding Performance Security for a period of three months after the expiry of the Total Contract Period (“Validity Period”).
- c. If the Bidder, fails to furnish the Performance Security, it shall be lawful for the Authority to forfeit the EMD and cancel the contract or any part thereof.
- d. The Authority shall be entitled to forfeit and appropriate the amount of the Performance Security in whole or in part subject to:
  - i. in the event the Authority requires to recover any sum due and payable to it by the Operator including but not limited to Damages; and which the Operator has failed to pay in relation thereof; and
  - ii. in relation to Operator’s Event of Default in accordance with the terms contained herein.
- e. At any time during the Validity Period, the Performance Security has either been partially or completely been encashed by the Authority in accordance with the provisions of this Agreement. The Operator shall within [15 (fifteen) days] of such encashment either replenish, or provide a fresh performance security, as the case may be, failing which the Authority shall be entitled to terminate this Agreement.
- f. On termination of this Agreement, the Performance Security shall be returned to the Operator without any interest, subject to any deductions which may be made by the Authority in respect of any outstanding dues under the terms of this Agreement.

## **7.5. Annulment of Award**

Failure of the Successful Bidder to submission of Performance Security and signing of Agreement as per RFP terms and any other requirements and /or the provisions of the Bus Operator Agreement shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security.

## **8. Fraud and Corrupt Practices**

- a.** The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the LOA and during the subsistence of the Contract. Notwithstanding anything to the contrary contained herein, or in the LOA or the Contract, the Authority may reject a Bid, withdraw the LOA, or terminate the Contract, without being liable in any manner whatsoever to the Bidder, if it determines that the Bidder or as the case may be, has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process. In such an event, the Authority shall be entitled to forfeit and appropriate the EMD or Performance Security, as the case may be, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or the Contract, or otherwise. In case of cancellation of Contract, if already awarded, Authority shall be entitled to recover from the Bidder the amount of any loss arising from such cancellation in accordance with provisions of RFP Document.
- b.** Without prejudice to the rights of the Authority under sub Clause (a) hereinabove and the rights and remedies which the Authority may have under the LOA or the Contract or otherwise if a Bidder or Contractor as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, or after the issue of the LOA or the execution of the Contract and/or otherwise, such Bidder or Contractor shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 2 (two) years from the date such Bidder or Contractor as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.

c. For the purposes of this Clause 8, the following terms shall have the meaning hereinafter respectively assigned to them:

- i. **“corrupt practice” means** (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the LOA or has dealt with matters concerning the Contract or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the Contract, any person in respect of any matter relating to the Project or the LOA or the Contract or otherwise, who at any time has been or is a legal, financial or technical adviser of the Authority in relation to any matter concerning the Project;
- ii. **“fraudulent practice” means** a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;
- iii. **“coercive practice” means** impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bidding Process;
- iv. **“undesirable practice” means** (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner

influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and

- v. **“restrictive practice”** means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

## 9. Conflict of Interest

A Bidder shall not have a conflict of interest (the “Conflict of Interest”) that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. A Bidder may be considered to have a Conflict of Interest that affects the Bidding Process, if the relationship between two Bidders is established through common holding, either directly or through Associates, of at least 25% holding of equity/profit sharing in another company/firm, or in each other.

- a. The Bidder, its Member or Associate (or any constituent thereof) and any other Bidder, its Member or Associate (or any constituent thereof) have common controlling ownership interest. Common controlling ownership interest for Company, Partnership Firm, and Proprietorship firm is defined as follows.

**i.If Bidder is a Company:** In such case, the Bidder (including its Member or Associate or any shareholder thereof of Bidder and/or its Associates) possessing over 25% of the paid up and subscribed capital in its own company, Member or Associate as the case may be, also holds:

- b. more than 25% of the paid up and subscribed equity capital in the other Bidder, its Member or Associate of such other Bidder, its Member or Associates is Company; and/or
- c. more than 25% of profit sharing in other Bidder, its Member or Associates such other Bidder, its Member or Associates is a Partnership firm. and/or
- d. Other Bidder, its Member or Associates which is a Proprietorship Firm.

- i.If Bidder is a Partnership Firm:** In such case, the Bidder or its Partners or Associate having a profit sharing of more than 25% of such Bidder or its Partners or Associate as the case may be also holds;
- e. more than 25% of the paid up and subscribed equity capital in the other Bidder, its Member or Associate of such other Bidder, its Member or Associates is Company; and/or
- f. more than 25% of profit sharing in other Bidder, its Member or Associates such other Bidder, its Member or Associates is a Partnership firm. and/or
- g. Other Bidder, its Member or Associates which is a Proprietorship Firm.
  - i. If Bidder is a Proprietorship Firm:** In such case, the Bidder or its Proprietor or Associate of such Bidder or its Proprietor or Associate as the case may be also holds;
- h. more than 25% of the paid up and subscribed equity capital in the other Bidder, its Member or Associate of such other Bidder, its Member or Associates is Company; and/or
- i. more than 25% of profit sharing in other Bidder, its Member or Associates such other Bidder, its Member or Associates is a Partnership firm. and/or
- j. Other Bidder, its Member or Associates which is a Proprietorship Firm.

It is to be noted that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in section 2(39) of the Companies Act 2013.

- i. a constituent of such Bidders is also a constituent of another Bidders; or.
- ii. such Bidders receives or has received any direct or indirect subsidy from any other Bidder/s, or has provided any such subsidy to any other Bidders; or
- iii. such Bidders has the same legal representative for purposes of this Bid as any other Bidders; or

- iv. such Bidders has a relationship with another Bidders, directly or through common third parties, that puts them in a position to have access to each other's' information about, or to influence the Bid of either or each of the other Bidders; or

## **10. Miscellaneous**

- a. The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the Courts at DAMAN shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.
- b. The Authority, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;
  - i. Suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
  - ii. consult with any Bidder in order to receive clarification or further information;
  - iii. retain any information and/ or evidence submitted to the Authority by, on behalf of, and/ or in relation to any Bidder; and/ or
  - iv. Independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder.
- c. It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Authority, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder, pursuant hereto and/ or in connection with the Bidding Process and waives, to the fullest extent permitted by applicable laws, any and all rights and/or claims it may have in this respect, whether actual or contingent, whether present or in future.

## **11. Special Conditions & Notes**

- a.** Advertisement rights of buses (Inside & Outside) will be with Operator.
- b.** Insurance of buses will be responsibility of Authority. Provided however, the Authority shall be entitled to recover from the Operator the cost towards premiums, etc. paid by it for procuring insurance through the Escrow mechanism
- c.** The rate revision of rate of contract will be calculated on revision of diesel price & as per formula of Operators Agreement. In an event fuel rate increase by more than [10% (ten percent)] within a period of 6 (six) months from the review of Passenger Fare, then under such extraordinary circumstances the Passenger Fare will be subject to review.
- d.** The period of contract will be three years & after review it will be extended for next three years (1+1+1 basis).
- e.** Authority will appoint a committee for review of performance & other observations.
- f.** Other terms & conditions of contract will be as per Operators Agreement.



## **ANNEXURE –1(Cover Letter)**

**{On bidder's letterhead - To be provided on letterhead}**

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

To,  
The General Manager (Transport)  
Omnibus Industrial Development Corporation of DD&DNH (OIDC),  
Corporate Office, Plot No. 35,  
Somnath, Nani Daman,  
Daman – 396 210. (UT).

**Subject:** Submission of Bid for RFP for “**Selection of Bus Operator for Operation, Managing and Maintenance of 16 number of City Buses on Net Cost Contract basis (Saarathi Bus Sewa) for Daman & Diu and Dadra & Nagar Haveli**”, Daman.

Dear Sir/Madam,

- a. Having examined the ‘Instructions to Bidder’ ‘ Request for proposal’ and Annexure for the above Bid, we the undersigned, offer to undertake operation and maintenance of Buses on Net Cost Contract basis and guarantee the whole of the said Scope of Work in conformity with the said conditions of RFP a for the sum mentioned in the Price Bid of the bid submitted separately.
- b. We acknowledge that this Annexure forms an integral part of the Bid. We also confirm acceptance of Proforma's/ Annexure given in the RFP Document.
- c. We undertake, if our Bid is accepted, we shall commence the Scope of Work and achieve the COD as per the terms specified in Bus Operator Agreement and to guarantee satisfactory Bus O&M service, fulfil our obligations during the Contract Period as per RFP Document.

- d. If our Bid is accepted we shall furnish a Bank Guarantee for Performance as Security for due performance of the Contract. The amount and form of such guarantee shall be in accordance with RFP provisions.
- e. We agree to bind by this Bid for a minimum period of 120 days from the Bid Due Date and it shall remain binding upon us and may be accepted at any time before the expiration of that period or any extended period mutually agreed to.
- f. This Bid, together with any further clarification/ confirmation given by us and your written acceptance thereof, shall constitute a binding contract between us.
- g. We understand that you are not bound to accept the highest or any offer you may receive against this Bid.
- h. If our Bid is accepted, we understand that we are to be held solely responsible for the due performance of the Contract.

Dated: dd/mm/yyyy

Signature \_\_\_\_\_ & Name: \_\_\_\_\_

In the capacity of \_\_\_\_\_ duly authorised to sign RFP for and on behalf of

\_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Witness: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

## **ANNEXURE – 2 (General Information of Bidder)**

**{On bidder's letterhead}**

### **1. Bidders name and contact details.**

Name of the Bidder Organization:

Nature of Entity (Company /Partnership/Proprietorship, etc.):

Address of Registered Office:

Phone:

Fax:

E-mail:

Main Line of Business with experience:

### **2. Copy of the Registration of the bidder** (Certificate of Incorporation, Memorandum of Association, Article of Association , Partnership Deed, Service Tax Registration copy, Shops and Establishment Dept. Certificate, etc. as may be applicable) (to be attached separately).

-----  
Specimen Signature of the Authorized signatory

## ANNEXURE - 3

### (Financial Capability Statement)

{On Statutory Auditor's letterhead}

I hereby declare that I have scrutinized and audited the financial statement of M/s\_\_\_\_\_ .The Net worth\* of the bidder (name of the Bidder) as on [\_\_\_\_\_ ] as per Audited statement is as follows;

Year mentioned or equivalent) *	Net worth (INR Crore)**		
	Bidder	Associate	Total

\*To be provided from latest available Audited statement

\*\* for the purpose of Net worth Calculation it is defined: Net worth\* : = Equity Capital + Reserve and Surplus - Revaluation Reserve - Accumulated losses - Intangible assets)

\_\_\_\_\_  
(Signed and Sealed by the statutory auditor)

ENCL.

1. Copy of latest available Audited annual reports for last three years as applicable or as per Financial Year/Calendar Year followed by the bidder firm.

## Annexure - 4

### (Undertaking for Vehicle Ownership or Operational Experience)

{On bidder's letterhead}

I hereby declare that our company/firm has experience of operation of following no of Buses through ownership or contractual right.

1. For Ownership experience for required no of Buses since last three years (starting from 2013-14)

Year	No. of Passenger Vehicles owned by the Bidder	Total
	Buses	

- a. Copy of RC books for owned vehicles are to be attached here with.
- b. RTO ownership certificate.
- c. Associate credit shall only be permitted in case Bidder is bidding as single entity

2. For Operation experience for required no of Buses for last three years (starting from 2013-14).

(details should be provided for same vehicle ownership mentioned in the table no. 1 above in this annexure)

No. of bus operated through contract by the bidder	Total
Details to be submitted in the table. 1. No. of buses contracted 2. Contract period 3. Contract date and number. 4. Name of the client	

- i. The copy of contract document/Letter of Award / Letter of Intent
- ii. Completion certificate / Interim Satisfaction Certificate from the client for respective contract if available
- iii. In case operation contract is held in partnership agreement copy specifying the share of each partner must be submitted.
- iv. Documentary evidences as per clause 2.3.2 (b) for Indian company.

-----  
(Signature and name of Authorized Representative)

**ANNEXURE - 5**  
**(Quality Proposal Submissions)**

Bidder is required to provide proposal/write up/documentation covering parameters specified in clause 5.2 (b)(ii)

## **ANNEXURE - 6**

### **Anti Blacklisting certificate**

**{Notarization is required}**

Format of self-certificate stating that the Entity/Promoter/s / Director/s of Entity are not blacklisted (On a Stamp Paper of relevant value)

### **Anti-Blacklisting Certificate**

M/s. .... (Name of the Bidder), (the names and addresses of the registered office) hereby certify and confirm that we or any of our Promoter/s / Director/s or our firm as well as our Associate (insert "Associate" in case Bidder is taking credit for meeting qualification criteria) as defined in clause 5.2 (C ) are not barred by State Government / any other entity of State Government or blacklisted by any State Government or Central Government / Department / Local Government agency in India from participating in Project/s, either individually for last one year from \_\_\_\_\_(Bid Due Date)

We further confirm that we are aware that our Application for the captioned Project would be liable for rejection in case any material misrepresentation is made or discovered with regard to the requirements of this RFP at any stage of the Bidding Process or thereafter during the agreement period. Dated this .....Day of ....., (Year).

Name of the Bidder

Signature of the Authorized person

Name of the Authorized Person

## **ANNEXURE - 7**

(Format of power of attorney)

(Applicable in case of bid not being signed by the person directly authorized by Board of the firm. In the latter case, please provide a copy of the relevant Board Resolution/Partner Resolution signed by Company Secretary/Director/Partner authorizing the Signatory)

{On Requisite Stamp Paper}

KNOW ALL MEN by these presents that we, ...[name of the Company/partnership firm], a company incorporated under the Companies Act 1956/2013,/ Firm having partnership deed as per partnership act and having its Registered Office/ office at ...[Address of the Company/partnership firm] (hereinafter referred to as "Company/firm"):

WHEREAS in response to the RFP for Selection of Bus Operator for Operation and Maintenance of the buses in \_\_\_\_\_ (city name) , ("Project"), as per the Scope of Work specified in RFP, the Company/ firm is submitting Bid Comprising Technical and Price Bids for the project , and is desirous of appointing an attorney for the purpose thereof.

WHEREAS the Company deems it expedient to appoint Mr. \_\_\_\_\_ son of \_\_\_\_\_ resident of \_\_\_\_\_, holding the post of \_\_\_\_\_ as the Attorney of the Company/firm.

NOW KNOW WE ALL BY THESE PRESENTS, THAT \_\_\_\_\_[name of the company/firm] do hereby nominate, constitute and appoint.....[name & designation of the person].....as its true and lawful Attorney of the Company/ firm to do and execute all or any of the following acts, deeds and things for the Company/ firm in its name and on its behalf, that is to say :

To act as the Company's/firm's official representative for submitting the Bid comprising Technical Bid and Price Bid for the said project and other relevant documents in connection therewith;

To sign all the necessary documents, papers, testimonials, applications, representations and correspondence necessary and proper for the purpose aforesaid;



To tender/bid documents, receive and make inquiries, make the necessary corrections and clarifications to the Bid and other documents, as may be necessary;  
 To do all such acts, deeds and things in the name and on behalf of the Company/Partnership firm as necessary for the purpose aforesaid.

<p>The common seal of [name of the company/Partnership firm] was here unto affixed pursuant to a resolution passed at the meeting of Committee/Board of Directors held on --- Day of -----, 20__ in the presence of [name &amp; designation of the person] and countersigned by [name &amp; designation of the person] of the Company/firm of [name of the company]</p>	<p>-----        [name &amp; designation of the person]</p> <p>-----        [name &amp; designation of the person]</p>
---	---

## ANNEXURE - 08

(Format For Bank Guarantee for towards performance guarantee/ security)

Dated: To, \_\_\_\_\_, \_\_\_\_\_,

Agreement No. .... Date .....

- i. This Deed of Guarantee made this day of \_\_\_\_\_2017\_\_\_ between Bank of \_\_\_\_\_(hereinafter called the “Bank”) on the one part, and \* \_\_\_\_\_[Authority Name] (hereinafter called “the Authority ”) of the other part.
- ii. Whereas Authority has awarded the Contract for (Description of Contract ). (hereinafter called the Contract) to: \_\_\_\_\_ (Name of Operator ) (hereinafter called the Operator).
- iii. AND WHEREAS the Operator is bound by the said Contract to submit to Authority a Performance Security for a total amount of Rs. \_\_\_\_\_ (Amount in Figures and words).
- iv. NOW, WE THE UNDERSIGNED \_\_\_\_\_(Name of Bank)\_\_\_\_\_ do hereby unconditionally and irrevocably undertake to pay to the Authority an amount not exceeding Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only) without any demur, merely on a demand in writing from the Authority stating that the amount claimed is due and payable by the Service Provider. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. We, the Bank, further undertake to pay to the Authority any money so demanded notwithstanding any dispute raised by the Operator in any manner whatsoever and our liability under these presents is absolute, unconditional, unequivocal and irrevocable.
- v. We, the Bank, further agree that the Guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said agreement.
- vi. This Guarantee is valid for a period of \_\_\_\_\_ (Duration in \_\_\_\_\_days (months) in figures and words) from the date of signing. We undertake

not to revoke this guarantee during its currency without the written consent of the Authority.

- vii. At any time during the period in which this Guarantee is still valid, if the Authority agrees to grant a time extension to the Operator or if the Operator fails to complete the works within the time of completion as stated in the Contract, or fails to discharge itself of the liability or damages or debts as stated under Para 5, above, it is understood that the Bank will extend this Guarantee under the same conditions for the required time on demand by the Authority and at the cost of the Operator.
- viii. The Guarantee herein before contained shall not be affected by any change in the Constitution of the Bank or of the Operator.
- ix. ix) The neglect or forbearance of the Authority in enforcement of payment of any moneys, the payment whereof is intended to be hereby secured or the giving of time by the Authority for the payment hereof shall in no way relieve the Bank of their liability under this deed.
- x. We, the Bank, undertake not to revoke this Guarantee except with the previous consent of the Authority in writing. This Guarantee shall be valid up to \_\_\_\_\_ and we undertake to renew/extend this Guarantee from time to time till the completion of performance by the Operator of its obligations under the Contract and/or as demanded by the Authority.
- xi. The expressions “the Authority”, “the Bank” and “the Operator” hereinbefore used shall include their respective successors and assignees. In witness whereof I/We of the Bank have signed and sealed this guarantee on the \_\_\_\_\_day of \_\_\_\_\_20\_\_\_ being herewith duly authorized.

For and on behalf of the \_\_\_\_\_Bank

Signature of authorized Bank official

Name:

Designation:

Stamp/Seal of the Bank:

Signed, sealed and delivered

For and on behalf of the Bank

by the above named \_\_\_\_\_

in the presence of:

Witness 1.

Signature

Name

Address

Witness 2.

Signature

Name

Address

## ANNEXURE - 09

### Letter of Award

Date: \_\_\_\_\_

To

\_\_\_\_\_, [Successful Bidder's Name and Address for  
..... Type of Bus] \_\_\_\_\_. [Hereinafter referred to  
as the "Successful Bidder for ..... Type of Bus"]

Kind Attn: Mr. \_\_\_\_\_

Ref:

1. Request for Proposal dated \_\_\_\_\_ for Operation and Maintenance of Buses on Net Cost Contract in \_\_\_\_\_[City Name]
2. Your Technical and Price Proposal submitted on \_\_\_\_\_[Bid Due Date] for the above RFP& Corrigendum if any

**Sub:** Letter of Award (LOA) for Operation and Maintenance of Buses on Net Cost Contract in \_\_\_\_\_[City Name] ("Contract") for ..... Buses.

Dear Sir,

1. Please have reference to
  - i. The above referred RFP issued by \_\_\_\_\_-[Authority Name] (hereinafter referred to as "Authority"), towards submission of Technical and Price Bids, in accordance with the Request for Proposal; and
  - ii. Your Technical and Price Bids dated \_\_\_\_\_ read with subsequent correspondences (collectively the "Bid") for Operation and Maintenance of ..... Buses on Net Cost Contract in \_\_\_\_\_[City Name].
2. For the avoidance of doubt, it is hereby clarified that unless otherwise referred/ defined hereunder or repugnant to the context or usage thereof, the capitalized terms used under this LOA shall have the meaning as respectively

ascribed thereto under the RFP and/or the draft Agreement, to be executed in terms of the RFP and this LOA.

3. We are pleased to inform you that, pursuant to the evaluation of the Bids received, your Firm \_\_\_\_\_ [Name of the Firm] has been identified as the Successful Bidder for ..... type of bus. Accordingly, this LOA is being issued to you by Authority, for undertaking the Contract for Operation and Maintenance of Buses on Net Cost Contract in \_\_\_\_\_ [City Name] for ..... bus, subject always & exclusively to the terms hereof, the RFP and the Agreement to be executed as per the terms of the RFP, at the Royalty Fee Charges as per Clause 5.3 , 7.1 and 7.2 of the RFP for buses as detailed below:

Bus types	Quantity (Nos.)	Quoted Rate Rs (and taxes as applicable)
Eicher make 31+1 seater BSIII buses	16	

It is hereby clarified that all tax in respect of the above as statutorily applicable, would be paid as per actual at prevailing at the time of payment by the Operator.

1. Further, as per Clause 7.5 of the RFP, you are required to furnish unconditional and irrevocable Bank Guarantee (BG) of INR Rs \_\_\_\_\_/- ( \_\_\_\_\_), in favor of \_\_\_\_\_ [Authority Name], from a Nationalized/Scheduled Bank, payable and enforceable at \_\_\_\_\_ [CITY NAME], towards the Performance Security, in the format prescribed as part of the RFP. The BG shall be submitted prior to Execution of Agreement as per RFP terms.
2. You are further requested to execute with Authority, within \_\_\_\_\_ ( \_\_\_\_\_) days from the date of LOA, the Agreement, in the form set forth in the **Annexure - 10** of this RFP.
3. It may also be noted that in the event of any failure to comply with any of the terms and conditions mentioned in this LOA and/or the RFP document within the time and in accordance with the manner prescribed therefore, including without limitation the acknowledgement of this LOA, Authority

shall, in addition to all other rights and remedies that may be available to it under the provisions of the RFP, this LOA, law and equity or otherwise, at its absolute discretion be entitled to treat your Bid as rejected and unilaterally cancel/revoke this LOA and deal with the captioned Contract as it may deem fit in its sole and absolute discretion.

In such an event the Successful Bidder (or any person claiming under it) shall have no claim or demand against Authority, of any nature whatsoever. Further, under any circumstances, Authority, shall not be liable or responsible to the Successful Bidder or to any other entity whomsoever, for any loss of business, business competition, loss of investment, or any other loss or damage, costs or expenses, for any reason whatsoever. The Successful Bidder (or any person claiming under it) shall not be entitled to claim any direct or indirect damages, costs, expenses for loss of business, loss of investment etc., upon rejection of its Bid or cancellation/revocation of this LOA, howsoever and whatsoever caused.

4. It may additionally be noted that this LOA is only intended to convey Authority's acceptance of your Bid, subject to the terms & conditions specified hereinabove and in the RFP and as reiterated in the Agreement, and it does not by itself create any rights or contractual relationship with Authority or casts any corresponding obligation with respect to the Contract or otherwise on Authority. Any such right or relationship shall come into effect only upon your compliance with terms and conditions set out herein and the execution of Agreement as per term hereof and the RFP.
5. Without prejudice to anything stated in this LOA and/or the RFP, you are hereby requested to return the duplicate copy of this LOA within \_\_\_\_\_ days from the date of this Letter of Award, as a token of the receipt & acknowledgement of this LOA as well as an absolute, unconditional & unqualified acceptance and compliance of the conditions mentioned hereunder.

Thanking You

---

For & on behalf of Authority



Annexure -10

**(Bus Operator Agreement)**

Please find the Draft Agreement as a separate document

## ANNEXURE - 11

### **Details of Contracted Buses and the Indicative Delivery Schedule of Contracted Buses**

#### **A. Details of Buses:**

<b>Sr. No.</b>	<b>Manufacturer &amp; Bus Type</b>	<b>Model No.</b>	<b>Registration</b>	<b>Date of handover to operator</b>
01	Eicher Make	Eicher 10.75H Starline	02 <sup>nd</sup> August 2014.	Within 15 days from signing the agreement or issuing of work order whichever is later.

#### **B. Bus Specification:**

4 Cylinder, Water Cooled, Turbo charged, Intercooled DI Diesel engine 3298 cc	70 KW output power, Single Dry Plat Type (31 + 1 +1 ) seating capacity
---	--

## **ANNEXURE - 12**

### **Indicative Route Plan and Fleet Deployment Plan**

#### **OIDC Transport Division** **Saarthi Bus Sewa, Daman**

##### **Bus No.1 (Route No.1)**

###### **Nani Daman to Zari via Patlara Magarwada**

Nani Daman Bus Stand - Rajiv Gandhi Setu Moti Daman Junction - Ambawadi Near School - Patlara Near Talav Falia Junction (School) - Patlara-Magarwada, Tin Rasta 66KV Junction - Magarwada Bhim Talao - Magarwada Panchayat Ghar - Thana Pardi School - Bamanpuja Zari Asharam Shalla - Zari Communtiy Center - Zari Patel Falia - Zari Chaya Bar

##### **Bus No.2 (Route No.2)**

###### **Nani Daman to Bamanpuja via Jampore**

Nani Daman Bus Stand - Rajiv Gandhi Setu Moti Daman Junction - Football Gorund - Hati Bag - DMC Market Moti Daman - Bhitwadi near Mandir Collectorate Dholar Char Rasta Bariawad Dholar-Prathna Mandir - Kaazan - Jampore Junction - Jampore sagarwad - Paryari High School - Paryari Community Centre - Deva Pardi - Naila Pardi Near School - Bamanpuja Tin Rasta (Circle)

##### **Bus No.3 (Route No.2)**

###### **Bamanpuja to Nani Daman via Jampore**

Bamanpuja Tin Rasta (Circle) - Naila Pardi Near School - Deva Pardi - Paryari Community Centre - Paryari High School - Jampore sagarwad - Jampore Junction - Kaazan - Bariawad Dholar Prathna Mandir - Dholar Char Rasta - Collectorate - Bhitwadi near Mandir - DMC Market Moti Daman - Hati Bag - Football Gorund - Rajiv Gandhi Setu Moti Daman Junction - Nani Daman Bus Stand

##### **Bus No.4 (Route No.3)**

###### **Nani Daman to Pataliya via Coastal Highway**

Nani Daman Bus Stand – Sagar Petrol Pump - Mashal Chowk - Dunetha - Care & Cure / Jog Hospital - Dunes Residency - Govt. Sarvotam High School, Dunetha - Jawahar Navodaya Vidyalaya School - AVI Global Industry - Supreme Teves - Polycab Teen Rasta - Schott Kaisha - Bhimpore Panchal Jn. - Mold Tek (Zobel Ltd) - Sheetal Petrol Pump(Blossom) - Pataliya Check Post

##### **Bus No.5 (Route No.4)**

###### **Nani Daman to Atiyawad Check Post via Somnath**

Nani Daman Bus Stand - Khariwad Suruchi Hotel Junction - Vad Chowky Junction - Varkund Junction - Varkund Polytechnic - Ringanwada Tin Rasta - Kalariya - Somnath Junction - Amaliya - Panchayat - Atiyawad Char Rasta - Near Canal - Atiyawad Check Post

Bus No.6 (Route No.5)

**Nani Daman to Kachigam Checkpost via Dhabel**

Nani Daman Bus Stand – Khariwad Suruchi Hotel Junction – Vad Chowky Junction – Varkund Junction – Varkund Polytechnic – Ringanwada Tin Rasta – Kalariya – Somnath Junction – Amaliya – Dhabhel Check Post – Amaliya – Somnath Junction – Somnath Temple – Somnath Dairy Farm – Kachigam PHC – Kachigam Char Rasta – Kachigam Check Post

OIDC Transport Division  
Saarthi Bus Sewa, DNH

Bus No.1 (Route No.1)

**Pipariya Garden to Madhuban Dam Poin Karad via Fire Station**

Pipariya Garden - Fire Station – Amli Fountain Junction – Opp. Jalaram Hosptital - Bal Udhiyan – Local Bus Stop – Court Building – Samarvani Tempo Stand – Masat Junction. - Boraj Hospital – Bhilosa Company – Rakholi Junction. - Polytechnic / IHM – Madhuban Colony – Madhuban Dam Point Karad.

Bus No.2 (Route No.1)

**Madhuban Dam Poin Karad to Pipariya Garden via Fire Station**

Madhuban Dam Point Karad - Madhuban Colony - Polytechnic / IHM – Rakholi Junction. - Bhilosa Company – Boraj Hospital – Masat Junction. - Samarvani Tempo Stand – Court Building – Local Bus Stop – Bal Udhiyan – Opp. Jalaram Hosptital - Amli Fountain Junction – Fire Station – Pipariya Garden.

Bus No.3 (Route No.2)

**Local Bus Stop to Bavisa Falia**

Local Bus Stop – Panchayat Market – Jalaram Hospital – Amli Cross Road – Opp. Fire Station – Pipariya Bridge – Pipariya Outpost – DRO/Elect. Office – Amli Char Rasta – Prabhat School – Yogi Hospital – Kilvani Naka – Cinemax Point – Bavisa Faliya Junction – Govinda Junction. - Hanuman Temple – Dandul Faliya Char Rasta and back – Hanuman Temple – Govinda Complex – Bavisa Faliya Junction – Cinemax Point – Kilvani Naka – Godse Point – Mini Bus Stop.

Bus No.4 (Route No.3)

**Bavisa Falia to Local Bus Stop**

Mini Bus Stop - Godse Point – Kilvani Naka – Cinemax Point – Bavisa Faliya Junction – Govinda Complex – Hanuman Temple – Dandul Faliya Char Rasta and back – Hanuman Temple – Govinda Junction. - Bavisa Faliya Junction – Cinemax Point – Kilvani Naka – Yogi Hospital – Prabhat School – Amlī Char Rasta – DRO/Elect. Office – Pipariya Outpost – Pipariya Bridge – Opp. Fire Station – Amlī Cross Road – Jalaram Hospital – Panchayat Market – Local Bus Stop.

Bus No.5 (Route No.4)

**Local Bus Stop to Kharadpada to Naroli and Back**

Local Bus Stop – Opp. DCB Bank – Opp. Pramukh Vihar – Swaminarayan Temple – Athal Fatak – Opp. Ipca Lab – Luhari Fatak – Kharadpada School – Reliance Gate – Limda Chowk – Naroli Mori Falia – Near PHC Naroli – Near Char Rasta – Opp. Sheetal Bar – Athal Fatak – Swaminarayan Temple – Pramukh Vihar – DCB Bank – Local Bus Stop

Bus No.6 (Route No.5)

**Local Bus Stop to Govt. College Naroli**

Local Bus Stop – Opp.DCB Bank – Opp. Pramukh Vihar – Hotel Vanraj – Opp. Swaminarayan Temple – Athal Fatak – kakad Faliya Junction – Naroli Char Rasta – Govt. College Naroli

OIDC Ltd., Transport Division  
Saarthi Bus Sewa, Diu

Bus No.1 (Route No .1)

**Vanakbara to Jethibhai Bus stop**

**Vanakbara Bus Depot 10** – Dholawadi/SBI Bank – Saudwadi – Vachhadwadi – Betawadi – Dagachi – Patelwadi – Bucharwada Panchayat – Bucharwada Bus Depot – Jholawadi – Dangarwadi – Kevdi – Malala Circle – fudam/KV school – Gandhipara – Saibaba Temple/Japa – **Jethibai Bus Stand 10** – G.H.S.School – **Nirmalamata School.**

Bus No.2 (Route No .1)

**Jethibhai Bus stop to Vanakbara**

**Nirmalamata School.-** G.H.S.School- **Jethibai Bus Stand 10** – Saibaba Temple/Japa - Gandhipara -Fudam/KV school – Malala Circle – Kevdi – Dangarwadi – Jholawadi – Bucharwada Bus Depot – Bucharwada Panchayat – Patelwadi – Dagachi – Betawadi – Vachhadwadi – Saudwadi – Dholawadi/SBI Bank – **Vanakbara Bus Depot 10**

Bus No.4 (Route No .2)

**I.T.I. GHOGHLA to FORT DIU**

**I.T.I. Ghoghla** – Hotel Premalay, Ghoghla – Panjrapore Girls School – Ghoghla Bus Depot – Paninu Parab – Mithabavono Chorah – Bungali Chowk – Kajimam – Jethibai Bus Stand – Bunder Chowk – Collector office – PWD, Diu – **Fort Diu.**

## **ANNEXURE - 13**

### **Indicative Format for Monthly Report**

Indicative Monthly Report Format is provided. Monthly Report shall cover the points specified below. Authority may make changes during the course of Contract as per Performance Measurement Requirement.

1. No of Monthly Breakdown of Contracted Buses.
2. Damage found to the any vehicle tracking equipment or any Intelligent Transit Management System installed by the Authority.
3. No of days in Months in which Buses are cleaned and Washed.
4. Damage found to passenger seat/passenger door.
5. No of Monthly Accidents (Including injuries/Damages to Buses and Third Party assets/ Fatalities etc.)
6. Route wise Trip Efficiency ( i.e Scheduled Trips achieved)
7. Punctuality: bus will be punctual/on time if its depart from scheduled departure point within Applicable limits (+ OR – 5 MIN) from defined schedule.
8. No of Times followings were Found
  - a. Skipping of designated stops.
  - b. The driver is not carrying a proper driving license
  - c. Non operating, of passenger information system, gadgets, devices etc

## Draft Operator Agreement for NCC

### Table of Contents

Sr. No.	Contents	Page no.
01	DEFINITIONS AND INTERPRETATION	66-71
02	APPOINTMENT OF THE OPERATOR	72
03	TERM OF THE AGREEMENT	72
04	CONDITIONS PRECEDENT	72-74
05	SCOPE OF WORK	75-76
06	PERFORMANCE SECURITY	76-77
07	OPERATOR'S CONTRIBUTION IN THE BUS COST (Upfront Price)	77
08	HANDOVER AND DEPLOYMENT OF CONTRACTED BUSES	77-78
09	OWNERSHIP OF CONTRACTED BUSES	78
10	HANDOVER OF PARKING SPACE AND BUS DEPOT	78-79
11	FLEET DEPLOYMENT PLAN	80
12	ROUTES AND SCHEDULES	80
13	FARE AND FARE COLLECTION	81
14	ADVERTISEMENT ON THE BUSES	81-82
15	PAYMENTS	82-83
16	TAXES AND STATUTORY LEVIES	83-84
17	ESCROW ACCOUNT	84-86
18	OPERATION AND MAINTENANCE STANDARDS	86-87
19	ROLES, RESPONSIBILITIES AND OBLIGATIONS OF THE OPERATOR AND THE AUTHORITY	87-97
20	INSURANCE	97-100
21	DAMAGE TO CONTRACTED BUSES DUE TO VANDALISM	100
22	LEVY OF PENALTIES	100-102
23	MONITORING	102-103
24	CONFIDENTIALITY OBLIGATIONS OF OPERATOR	103-104
25	EVENT OF DEFAULT AND TERMINATION	104-105
26	TERMINATION DUE TO EVENT OF DEFAULT	105-106
27	FORCE MAJEURE AND CHANGE OF LAW	106-108
28	CHANGE OF LAW	108-109
29	HANDBACK ON TERMINATION	109-110
30	DISPUTE RESOLUTION	110-111
31	INDEMNITY	112
32	DELAYED PAYMENTS	112
33	MISCELLANEOUS	112-114
ANNEXURE - 1:BUS SERVICE AREA		115-117
ANNEXURE - 2: DAMAGES/ PERFORMANCE REVIEW SYSTEM		118-120
ANNEXURE - 3: DETAILS OF CONTRACTED BUSES AND THE INDICATIVE DELIVERY SCHEDULE OF CONTRACTED BUSES		121
ANNEXURE - 4: DEPOT LICENSE AGREEMENT		122-131
ANNEXURE - 5: MINIMUM CIVIL INFRASTRUCTURE AND EQUIPMENTS TO BE PROVIDED IN THE BUS DEPOT BY THE		132



AUTHORITY	
ANNEXURE - 6: INDICATIVE ROUTE PLAN	133
ANNEXURE - 7: LIST OF AUTHORITY CLEARANCES AND OPERATOR CLEARANCES	134
ANNEXURE - 8: FLEET DEPLOYMENT PLAN	135
ANNEXURE - 9: DETAILS OF PARKING SPACES AND TERMINALS	136
ANNEXURE - 10: DRAFT ESCROW AGREEMENT	137-152
ANNEXURE - 11: INDICATIVE LIST OF EQUIPMENT TO BE PROVIDED BY THE OPERATOR	153

## **BUS OPERATOR AGREEMENT**

**THE OMNIBUS INDUSTRIAL DEVELOPMENT CORPORATION OF DAMAN & DIU AND DADRA & NAGAR HAVELI LTD. (OIDC)** having its principal office at OIDC, Corporate Office, Plot no. 35, Somnath, Nani Daman, Daman – 396 210. (hereinafter referred to as the “**Authority**”, which expression shall include its successors and permitted assigns);

**AND**

**[XYZ LTD.]**, a company incorporated under the [Companies Act, 1956]/[Companies Act, 2013] acting through \_\_\_\_\_ having its registered office at \_\_\_\_\_ (hereinafter referred to as the “**Operator**”, which expression shall include its successors and permitted assigns);

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

**WHEREAS**

- A. The Authority [has the power/function] to ensure the provision of public bus transport services within [the area under its jurisdiction].
- B. In order to improve/augment the bus services being presently provided in the Urban Area (as defined in Clause 1.1 below), the Authority has notified a scheme, vide whereby the stage carriage services in the Urban Area will be undertaken by a private sector partner selected through a transparent competitive bidding process (“Scheme”). After evaluating the bids received in response to its Request for Proposal dated \_\_/06/2017 (“RFP”), the Authority accepted the bid submitted by the Selected Bidder and communicated the acceptance of the Selected Bidder’s bid vide letter of award dated \_\_/06/2017 (“Letter of Award”). As required by the RFP, the Selected Bidder has incorporated the Operator as a special purpose company that will implement the Project.
- C. The Authority and the Operator are hereby entering into this Operator Agreement to implement the Project of operation and maintenance of the Bus Services Area (as defined in Clause 1.1 below).

**NOW, THEREFORE, the Parties hereto hereby agree as follows:**

### **1. DEFINITIONS AND INTERPRETATION**

- 1.1. In the Agreement, unless the context otherwise requires, the following terms and expressions, whenever used, shall have the following meanings hereinafter respectively ascribed to them:
- 1.1.1. **“Agreement”** means this agreement executed between the Authority and the Operator together with its annexure and any further correspondence, notices and conditions, in the RFP or otherwise, that the Parties signatory to this Agreement have expressly agreed to include as part of this Agreement.
- 1.1.2. **“Applicable Clearances”** means all clearances, permits, no-objection certifications, exemptions, authorizations, consents and approvals required to be obtained or maintained under Applicable Law, in connection with the Project, during the subsistence of this agreement.
- 1.1.3. **“Applicable Law”** means all the laws, acts, ordinances, rules, regulations, notifications, guidelines or bye-laws, in force and effect, as of the date hereof and which may be promulgated or brought into force and effect hereinafter in India, including judgments, decrees, injunctions, writs or orders of any court of record, as may be in force and effect during the subsistence of this Agreement, and applicable to the Project.
- 1.1.4. **“Assured Fleet Availability”** shall have the meaning as ascribed thereto in Clause 5.1(h) of the Agreement.
- 1.1.5. **“Authority”** means the OI DC or its authorized representatives.
- 1.1.6. **“Authority Clearances”** means the clearances, which are required to be procured by the Authority in accordance with Applicable Law, and which have been provided in detail in Annexure - 7 to this Agreement.
- 1.1.7. **“Bus Depot/ Maintenance Depot”** means the space, which shall have certain minimum facilities commensurate with the requirement for parking and maintaining the Buses, subject to the execution of the Depot License Agreement.
- 1.1.8. **“Bus Kilometre”** means a kilometre travelled by a Contracted Bus as per this Agreement or as directed by the Authority.
- 1.1.9. **“Bus Permit”** means the permit for operating the Contracted Buses as required under the Motor Vehicles Act, 1988 or any other Applicable Law from time to time.
- 1.1.10. **“Bus Services”** means the passenger city bus services in the Bus Service Area being implemented by the Authority in one or more phases in accordance with the terms of this Agreement.

- 1.1.11. **“Bus Service Area”** means services of operation and maintenance of Contracted Buses for transporting passengers in the Urban Area as per Annexure - 1 as specified by the Authority under the terms of this Agreement.
- 1.1.12. **“Bus Specification/Technical Specifications”** shall mean the specifications of the Contracted Buses including but not limited to design, power, GRPS, GPS and PIS and other IT equipment and other details stipulated by the Authority during the purchase of such buses.
- 1.1.13. **“Bus Stop”** means designated points as determined by the Authority, from time to time and notified to the Operator in writing, and such Bus Stops are where the Buses may stop for a short duration for passengers to embark onto the Bus or disembark from the Bus.
- 1.1.14. **“Central Control Centre”** means computerized central monitoring unit setup, audited and supervised by the Authority for supervision, monitoring and control of the Bus Service.
- 1.1.15. **“Commercial Operations Date”/“COD”** shall for Contracted Buses, be the date of deployment on the roads for operations of Contracted Buses by the Operator after submission of the requisite Performance Security.
- 1.1.16. **“Commercial Operations Date for Bus ” or “COD for Bus”** shall have the meaning specified in Clause 8.2 of this Agreement.
- 1.1.17. **“Conditions Precedent”** shall have the meaning specified in Clause 4 of this Agreement.
- 1.1.18. **“Contracted Bus(es)”** means one or more of the passenger bus units handed over to the Operator by the Authority from time to time for the purposes of operation and maintenance in the Bus Service Area in accordance with the terms of this Agreement, and which shall include but not be limited to including GRPS, GSPS and PIS and other IT equipment, and the details of such Buses such as the type, category registration number is provided in detail in Annexure - 3 to this Agreement at later stage.
- 1.1.19. **“Contract Period”** means [\_\_\_\_\_] years for each Buses from the COD of that relevant Contracted Buses.
- 1.1.20. **“Depot License Agreement”** means the agreement under which the Operator shall be given a limited right to use the Depot (as described in detail in the Depot License Agreement) as provided in Annexure - 4 to this Agreement.

- 1.1.21. **“Dispute”** shall have the meaning ascribed to it in Clause 30.1.1 of this Agreement.
- 1.1.22. **“Execution Date”** shall mean and refer to the date of execution of this Agreement.
- 1.1.23. **“Escrow Agreement”** shall have the meaning specified in Clause 17 of the Agreement and the in accordance with the format provided in Annexure - 10 of this Agreement.
- 1.1.24. **“Escrow Bank”** shall have the meaning as ascribed thereto in the Clause 17 of this Agreement.
- 1.1.25. **“Existing Lot of Contracted Buses”** means the various categories of Contracted Buses already in possession of the Authority and the details of the type and number of such buses and the lots in which they are divided are provided in detail in Annexure - 3 to this Agreement.
- 1.1.26. **“Fines”** shall have the meaning as ascribed thereto in the Clause 22.1 of this Agreement.
- 1.1.27. **“Fleet”** shall refer to the total number of Contracted Buses having achieved COD pursuant to this Agreement.
- 1.1.28. **“Fleet Deployment Plan”** means the detailed plan as developed and finalized by the Authority from time to time in accordance with Clause 11.1 read with Annexure 8 of this Agreement.
- 1.1.29. **“Global Positioning System (GPS)”** means the equipment installed on the bus to monitor its movement on the specified route during the Contract Period.
- 1.1.30. **“Government”** means the “UT Administration of Daman & Diu and Dadra & Nagar Haveli” as is relevant in the context.
- 1.1.31. **“Good Industry Practice”** shall mean the exercise of that degree of skill, diligence, prudence and foresight in compliance with the undertakings and obligations under this Agreement which would reasonably and ordinarily be expected of a skilled and an experienced person engaged in the implementation, operation and maintenance or supervision or monitoring thereof of any of them of a project similar to that of the Project.
- 1.1.32. **“LED Display”** shall mean the light emitting diode display installed on the bus which would show the name and number of the designated Route of the respective Contracted Buses and which shall be used for the public information system.

- 1.1.33. **“Letter of Award”** means the letter of award dated \_\_\_/\_\_\_/20\_\_\_ issued by the Authority to the Selected Bidder.
- 1.1.34. **“Material Breach”** means a breach of the terms and conditions of this Agreement, which has a material adverse effect on any act or event, or on the ability of either Party to perform any of its obligations under and in accordance with the provisions of this Agreement, which include but are not limited to an act or event which causes a material financial burden or loss to either Party.
- 1.1.35. **“Operation and Maintenance Standards”** means the operation and maintenance requirements which are required to be undertaken by the Operator throughout the Contract Period and have been provided at different places in the agreement.
- 1.1.36. **“Operating Plan” or “Operations Plan”** means the detailed Route plan and trip schedule for the Bus Service, which is developed and finalized by the Authority and has been provided as a part of the Fleet Deployment Plan.
- 1.1.37. **“Operator”** shall have the meaning as ascribed thereto in the array of Parties in the Recitals above.
- 1.1.38. **“Operator Clearances”** means the clearances which are required to be procured by the Operator in accordance with Applicable Law and which have been provided in detail in Annexure - 7 to this Agreement.
- 1.1.39. **“Operator’s Event of Default”** shall have the meaning as ascribed thereto in Clause 25.1 of the Agreement.
- 1.1.40. **“Passenger Fare”** shall have the meaning ascribed to it in Clause 13 of this Agreement.
- 1.1.41. **“Parking Spaces”** shall mean the spaces provided by the Authority for parking and have been described in detail in Annexure - 9 of this Agreement.
- 1.1.42. **“Performance Security”** shall have the meaning as ascribed thereto in Clause 6.1 of this Agreement.
- 1.1.43. **“Project”** means the operation, maintenance of the Contracted Buses, and Bus Services being provided in the Bus Service Area by the Operator in accordance with the terms of this Agreement.
- 1.1.44. **“RFP”** means this RFP document along with Annexure attached issued for the purpose of selecting an Operator for the Project;

- 1.1.45. **“RTA” or “RTO”** means the Regional Transport Authority/ Regional Transport Office of [the respective Urban Area].
- 1.1.46. **“Remedial Period”** shall have the meaning specified in Clause 26 of this Agreement.
- 1.1.47. **“Routes”** means the routes within the Bus Service Area determined exclusively and notified by the Authority from time to time, and the Contracted Buses under this Agreement shall operate only on such Routes.
- 1.1.48. **“Selected Bidder”** means the Bidder to whom the Authority issues the Letter of Award for undertaking the Project.
- 1.1.49. **“Terminal”** means the interchange terminals/stops (under the control of Authority) from where the Contracted Bus(es) start or end their trip(s), and/or are parked for a short duration, besides which it may provide other Passenger related amenities/facilities and facilitate transfers of Passengers amongst modes/services etc;
- 1.1.50. **“Third Party”** means any person other than the Authority and the Operator.
- 1.1.51. **“Total Contract Period”** means, in reference to each lot of Contracted Buses, a period of \_\_\_\_ years beginning from COD of the particular Lot of Contracted Buses.
- 1.1.52. **“Validity Period”** means the period for which the Performance Security has to be maintained in accordance with Clause 6.2 of this Agreement.
- 1.1.53. **“Vandalism”** shall have meaning specified in Clause 21 of this Agreement.

## 1.2. Interpretation

The following documents attached hereto shall be deemed to form an integral part of this Agreement:

- a. This Agreement along with all Annexure hereto.
- b. Request for Proposal (RFP) in its entirety including all its Volumes, Sections, Annexure, Corrigendum and Addendums thereto.
- c. Letter of Acceptance (LOA) no. \_\_\_\_\_ issued on \_\_\_/\_\_\_/2017.

1.2.3 Any relevant correspondence between the two Parties that the signatories have agreed to include as a part of the Agreement for validating and clarifying any points in the contract or by way of revised or improved understanding of any terms of the Agreement as appended herein.

## **2. APPOINTMENT OF THE OPERATOR**

### **2.1 Appointment of the Operator**

Subject to and in accordance with the provisions of this Agreement, the Authority hereby appoints, on a non-exclusive and non transferable basis, the Operator, and the Operator hereby accepts its appointment to operate and maintain the Bus Services within the Bus Service Area in accordance with the terms of this Agreement and subject to the Applicable Laws and Applicable Clearances.

### **2.2 Undertaking**

In consideration of the rights, privileges and benefits conferred upon the Operator, and other good and valuable consideration expressed herein, the Operator hereby accepts this Agreement and agrees and undertakes to perform/discharge all of its obligations in accordance with the provisions hereof, and bear and pay all costs, expenses and charges in connection with, or incidental to the performance of its obligations in accordance with the terms contained herein.

## **3. TERM OF THE AGREEMENT**

**3.1** The term of the Agreement for all Contracted Buses shall be the Total Contract Period.

**3.2** In the event of termination, the Total Contract Period shall be limited to the period commencing from the Execution Date and ending on the date on which this Agreement is terminated in accordance with the provisions contained herein.

## **4. CONDITIONS PRECEDENT**

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(“**Conditions Precedent**”).

### **4.1 The Authority’s Conditions Precedent**

**4.1.1** The Authority shall fulfil the following conditions precedents before the COD of the Contracted Buses. The Authority shall:

- a.** handover a Bus Depot subject to the execution of the Depot License Agreement in accordance with the terms contained herein;
- b.** execute the Depot License Agreement with the Operator as per the format provided in this Agreement; and
- c.** execute the Escrow Agreement as per Clause 18 of this Agreement in accordance with the format provided by the Authority.
- d.** procure water supply, sewerage and electricity connection at its own cost at the Bus Depot and/ or Parking Space (if any)within [30 (thirty)] days from the Execution Date;



- 4.1.2** The Authority shall fulfill the following conditions precedent before 10 days of handover of Contracted Bus. The Authority shall:
- a.** ensure that registration is procured from the relevant RTO;
  - b.** procure and maintain all requisite insurances under Applicable Law in accordance with Clause 18 of this Agreement; and
  - c.** obtain and maintain all Authority Clearances in accordance with the Applicable Law and the terms contained herein.

## **4.2 Operator's Conditions Precedent**

The Operator shall within period of no later than 15 fulfill the following Conditions Precedent;

- 4.2.1** The Operator shall provide the Performance Security on the Execution Date in accordance with Clause 6 of this Agreement.
- 4.2.2** The Operator shall fulfill the following conditions precedents before the COD for the Contracted Buses. The Operator shall:
- a.** Pay the Upfront Contribution in accordance with Clause 7.1 of this agreement.
  - b.** Appoint duly licensed and trained bus-drivers, supervising staff and other personnel as provided in the RFP required for the purpose of operation and maintenance of the Contracted Buses in accordance with this Agreement and in accordance with Applicable Law.
  - c.** Provide and install any necessary moveable infrastructure such as equipments and machinery in Bus Depot, Terminals, and/or Parking Space as provided in **Annexure 11** to this Agreement.
  - d.** Execute the Depot License Agreement with the Authority as per format provided in of this Agreement and
  - e.** Obtain and maintain all Operator Clearances in accordance with the terms contained herein.
- 4.3** The Parties shall make all reasonable endeavors to satisfy the Conditions Precedent as provided in Clause 4.1 and Clause 4.2 within the stipulated time period.
- 4.4** The Operator shall inform the Authority in writing at least once every [30 (thirty)] days on the progress made in satisfying the respective conditions precedent.

## **4.5 NON-FULFILMENT OF CONDITIONS PRECEDENT**

**4.5.1** In the event of non-fulfilment of any of the conditions precedent specified in Clause 4.1 and 4.2 above for reasons other than for as a result of breach of this Agreement by any Party or due to Force Majeure, any such conditions precedent may be waived or the time period for satisfaction of such Conditions Precedent may be extended, though only through the mutual consent of both Parties in writing.

### **4.5.2 Delay by the Operator**

In the event of non-fulfilment in full by the Operator of any of the Conditions Precedent contemplated in Clause 4.2 within the stipulated time period or within such extended time that the Parties have agreed upon, and provided such Conditions Precedent has not been waived through mutual agreement of the Parties, then:

- a.** the Authority shall have the right to: (A) refuse handing over of Contracted Buses, in respect of which the Conditions Precedents have not been satisfied; or (B) take over the possession of Contracted Buses in relation to such Contracted Buses which have already been handed by the Operator but in respect of which the conditions precedent have not been satisfied; until the fulfilment of the Conditions Precedent by the Authority to its satisfaction; and
- b.** the Operator shall pay to the Authority damages that shall be calculated at the rate of [0.2%] of the Performance Security for each day of delay until the fulfilment of the Conditions Precedent, subject to a maximum of [20%] of the Performance Security.

**4.5.3** In the event the Conditions Precedent are not fulfilled by the Operator and the Operator has paid damages to the Authority to the maximum of [20%] of the Performance Security as provided in Clause 4.2.1 damages to the maximum of [20%], then the Authority may terminate the Agreement in accordance with the terms contained herein.

## **5. SCOPE OF WORK**

### **5.1 The Operator shall throughout the Total Contract Period:**

- a.** operate the Contracted Buses in compliance with terms contained herein including but not limited to the routes, frequency and schedules as may be specified by the Authority from time to time;
- b.** provide duly licensed drivers to ensure the continued and uninterrupted Bus Service in accordance with the terms contained herein and as per Applicable Law;
- c.** ensure that all drivers, staff and personnel (whether appointed/employed on a permanent or temporary basis) are provided the required training on driving, safety, behavior and hygiene aspects;
- d.** at his own cost and expenses procure and maintain all Operator Clearances in accordance with Annexure 7 for the purposes of providing Bus Services as per the terms of this Agreement;
- e.** maintain the Contracted Buses in good operable conditions in accordance with Good Industry Practices and Operation and Maintenance Requirements set forth in the agreement.
- f.** ensure that safety and security of passengers and any third person on the Contracted Buses is maintained at all times;
- g.** bear all taxes as may be levied under Applicable Law in relation to the Bus Services, save and except those taxes which are the responsibility of the Authority as per the terms of this Agreement and Applicable Law;
- h.** subject to prior written approval of the Authority, develop and establish a facility for the purposes of maintenance of the Contracted Buses at its own cost and expense, and staff it with trained professionals for the purposes of maintenance of Contracted Buses;
- i.** ensure any equipment installed on the Contracted Buses or within the Bus Depot including any monitoring device or equipment that is installed by the Authority is not tampered with in any manner; and that the Authority and its authorized personnel, are allowed to inspect the equipment installed on the Contracted Buses and the Bus Depots at any time without any notice in this regard;
- j.** subject to Applicable Law in relation to display of advertisements in public, the Operator shall have the right to display advertisements on the Contracted Buses and collect and appropriate revenue from the same. The Operator shall ensure that such advertisements are aesthetically placed with proper considerations with regard to passenger signage, cleanliness, lack of clutter, and consistency with bus design, in accordance with Applicable Law and any instructions issued by the

Authority from time to time. The Authority shall have the right to instruct the Operator to re-organize/re-design the advertisement displays or to remove them altogether at any time throughout the Total Contract Period;

- k. ensure that all Applicable Laws including but not limited to the Minimum Wages Act, 1948 are complied with in relation to appointment, hire, recruitment, of any personnel (whether on temporary, contractual or permanent basis) required in relation to the operation and maintenance of Bus Service;
- l. Provide regular monthly reports to the Authority as per the format of reports stipulated in the RFP and as may be instructed by Authority from time to time; and
- m. To carry out all activities necessary for the effective implementation of the provisions of this Agreement.

## **6. PERFORMANCE SECURITY**

- 6.1 For securing the due and faithful performance of the obligations of the Operator under this Agreement, the Operator, shall submit to the Authority, on the Execution Date an unconditional and irrevocable bank guarantee for amount equivalent to Rs. 16,00,000/- (Rupees Sixteen Lakhs only) in favor of the OI DC Ltd. payable at Daman from a Nationalized Bank, in India as per format provided in respect thereof in the RFP (“**Performance Security**”).
- 6.2 The Operator shall maintain a valid and binding Performance Security for a period of three months after the expiry of the Total Contract Period (“Validity Period”).
- 6.3 The Authority shall be entitled to forfeit and appropriate the amount of the Performance Security in whole or in part:
  - a. in the event the Authority requires to recover any sum due and payable to it by the Operator including but not limited to Damages; and which the Operator has failed to pay in relation thereof; and
  - b. in relation to Operator’s Event of Default in accordance with the terms contained herein.

**6.4** At any time during the Validity Period, the Performance Security has either been partially or completely been encashed by the Authority in accordance with the provisions of this Agreement. The Operator shall within [15 (fifteen) days]of such encashment either replenish, or provide a fresh performance security, as the case may be, failing which the Authority shall be entitled to terminate this Agreement.

**6.5** On termination of this Agreement, the Performance Security shall be returned to the Operator without any interest, subject to any deductions which may be made by the Authority in respect of any outstanding dues under the terms of this Agreement.

## **7. OPERATOR’S CONTRIBUTION IN THE BUS COST (Upfront Price):**

**7.1** Within a period of 15 days of Execution Date, the Operator shall provide an aggregate contribution to the Authority as follows:

<b>Sr. No.</b>	<b>Bus category</b>	<b>No. of buses</b>	<b>Rate per bus per month Rs. (36 months)</b>	<b>Total amount of 16 bus as on date. Rs.</b>
01	Eicher make 32 Seater 10.75H Starline	16	15,305/- + Interest @10%	88,16,256/- + Interest @10%

**7.2** The Operator shall submit an upfront contribution as per clause 7.1 above for each bus delivered by the Authority by the 7<sup>th</sup> Day of each month (Rs. 15,306/- x 16 buses = Rs. 2,44,896/-).

**7.3** In the event of the Operator failing to submit the Upfront Contribution to the Authority within the additional period as provided in Clause 7.1 above, it shall be considered an Operator Event of Default, and the Authority may terminate this Agreement in accordance with the terms contained herein.

## **8. HANDOVER AND DEPLOYMENT OF CONTRACTED BUSES**

**8.1** The Authority shall hand over possession of Contracted Buses which already are in possession of the Authority within [15 (fifteen) days] of Execution Date and as provided in detail in **Annexure 3** to this Agreement (“**Existing Lot of Contracted Buses**”).

**8.2** Subject to the fulfillment of the Conditions Precedent (as provided in Clause 4 to this Agreement), the Operator shall commence Bus Service for Contracted Buses handed over in Clause 7.1 above, no later than [15 (fifteen) days]from the date of handover of Contracted Buses, or any extended period as may be agreed upon

the Parties in writing (“**Commercial Operations Date for Bus**” or “**COD for Bus**”)

- 8.3** In the event the Operator is not able to start operations of Contracted Buses as per Clause 8.2, for reasons not attributable to the Authority or to a Force Majeure Event, and which in the opinion of the Authority can be attributable to the Operator, the Operator shall pay liquidated damages of Rs.1000/- per each bus comprising for every day of delay till COD is achieved.

It is hereby clarified that non compliance of any bus specifications and design shall not be acceptable as a reason for delayed or non-deployment of the Contracted Buses by the Operator.

## **9. OWNERSHIP OF CONTRACTED BUSES**

- 9.1** Subject to the terms of Clause 29, the ownership of the Contracted Buses shall at all times remain solely vested with the Authority during the Total Contracted Period.

- 9.2** All the Contracted Buses shall be registered in the name of Authority, and at no time during the Total Contract Period shall any right, title, or interest over any of the Contracted Buses vest in the Operator.

## **10. HANDOVER OF PARKING SPACE AND BUS DEPOT**

- 10.1** For the purposes of maintenance, cleaning and parking of Contracted Buses, subject to the execution of a Depot License Agreement as provided in **Annexure 4** to this Agreement, the Authority shall provide a Bus Depot.

It is hereby clarified that the Operator shall only have a limited right to way and right to use the Bus Depot subject to the terms of the Bus Depot License Agreement and the terms contained herein.

- 10.2** In addition to the Bus Depot the Authority may also provide: (i) Workshop and (ii) Parking Spaces to enable the Operator to park the Contracted Buses for short duration and carry out maintenance activities in accordance with the terms contained herein. The Authority shall require separate license agreements to be executed in respect of Workshop and/or Parking Spaces as and when provided to the Operator.

- 10.3** The Bus Depot/workshop shall be equipped with basic civil infrastructure including but not limited to the minimum facilities as specified in **Annexure 5** with area commensurate with requirement for parking and maintaining the Contracted Buses.

- 10.4** The Operator shall at his own cost and expenses bring any such moveable equipment and/or machinery and appoint skilled personnel and supervisor for regular upkeep, maintenance, cleaning and safekeeping of the Contracted Buses in accordance with the terms contained herein.
- 10.5** Notwithstanding the foregoing, the Operator shall be obligated to allow the buses of other bus operators, as may be identified by the Authority from time to time, to share infrastructure provided by the Authority to the Operator such as the Bus Depot or Parking Spaces.
- 10.6** It is hereby clarified that the ownership of the Bus Depot, Parking Spaces and/or workshop shall remain vested solely with the Authority at all times. The Operator shall only be provided the limited right of way and right to use the Bus Depot, Parking Spaces and/or Terminals, and on Termination, the Operator shall vacate and hand back such Bus Depot, Parking Spaces and/or workshop as per the terms contained herein. Upon termination, the Operator shall not remove any permanent structure created by him to fulfil the obligations as per the terms of this Agreement.
- 10.7** The Operator shall not have any right to display advertisement in the Bus Depot, Parking Spaces and/or Terminals or any part thereof.

**10.8 The Operator shall:**

- a. at his own cost and expense maintain the area of the Bus Depot, Parking Space and workshop provided to it under the terms of the license agreement and the terms contained herein in good working condition;
- b. not cause any damage in the area of the Bus Depot, Parking Space and workshop provided to it under the terms of the license agreement and the terms contained herein or do any act which will in any way be prejudicial to the rights of Authority or other users/occupants of the same.

only be responsible to maintain the area of the Bus Depot, Terminal and Parking Spaces which has been specifically allocated and handed over to him by the Authority under the relevant license agreement.

- 10.9** The Operator shall also be liable to pay all taxes/ bills for utilities such as electricity, water, gas etc. on actual basis. Provided, however, the Operator shall be liable to pay bills for the actual consumption of utilities only on a pro-rata basis in relation to the area of the Bus Depot, Terminal and Parking Space allotted to the Operator.

## **11. FLEET DEPLOYMENT PLAN**

- 11.1** The Authority shall develop a plan which shall contain details including but not limited to number and type of Contracted Buses, details of the Assured Fleet Availability, Operating Plan, Routes, frequency, stoppage plan and table of schedule providing bus headways based on peak and off peak hour requirements (“**Fleet Deployment Plan**”).
- 11.2** The Authority may develop the Fleet Deployment Plan in consultation with the Operator. Provided however, the suggestions made by the Operator shall not be binding on the Authority.
- 11.3** The Authority reserves the right at its own sole discretion to make changes to the Fleet Deployment Plan from time to time and shall notify the same to the Operator.

## **12. ROUTES AND SCHEDULES**

- 12.1** The Authority shall have the exclusive authority to determine Routes, frequency and schedules of the Contracted Buses as a part of the Fleet Deployment Plan throughout the Total Contract Period.
- 12.2** The Operator shall ensure that the Contracted Buses are operated on the said Routes, frequency and schedules and other requirements as specified in the Fleet Deployment Plan and as specified by the Authority from time to time in accordance with the operation and maintenance standards specified herein.
- 12.3** The Authority may at any time make changes to the Routes, frequency, schedules of Contracted Buses due to any reason whatsoever including but not limited to special circumstances, festivals, and seasonal requirements.
- 12.4** In the event the Authority makes changes as specified in Clause 12.3 above, it shall notify the Operator in writing [seven (7) days] prior to the date of implementation of such change.
- 12.5** In the event the Operator makes any unscheduled or unauthorized trip outside operation hours and beyond the Routes or in violation of any requirement of the Fleet Deployment Plan or specific instructions notified by the Authority in relation thereof, it shall be liable for the penalty set forth in this Agreement.



## **13. FARE AND FARE COLLECTION**

### **13.1 Passenger Fare Determination**

The quantum/rate of Passenger Fare that will be charged from time to time during the Contract Period, from the users/passengers of the Buses or persons who avail the Bus Service shall be determined by the Authority.

### **13.2 Passenger Fare Collection**

- a. The Operator shall collect Passenger Fare at the specified rates, from the passengers travelling in the Buses.
- b. The Operator shall procure, install, operate and maintain ticketing equipment and issue and collect Passenger Fare from passengers;
- c. The Authority shall not directly or indirectly collect Passenger Fare or any portion thereof.
- d. The Operator shall charge and collect Passenger Fare as per the fare structure. The Operator agrees and confirms that the Authority alone shall have the right to determine the rate of Passenger Fare; the Operator shall have no right to increase/ decrease the same on its own any time during the Contract Period;
- e. The Passenger Fare collected from sale of tickets under the Project shall be deposited by the Operator in the Escrow Account at the end of every working day, during the Operations Period.

## **14. ADVERTISEMENT ON THE BUSES**

- 14.1 Subject to Applicable Law, the Authority may permit the Operator to display advertisements on the Contracted Buses.
- 14.2 In the event the Operator is permitted to display advertisements on the Contracted Buses, it shall submit a proposal in relation thereof including but not limited to details such as the content of the advertisements, dimensions and material used for advertisement posters and the places on/in buses where advertisements are proposed to be displayed for the approval of the Authority.
- 14.3 The Operator shall display advertisements on the Contracted Buses in accordance with:(i) the approved proposal as provided in sub-clause 14.2 above, (ii) any instructions issued by the Authority in regard thereof, and (iii) provisions of Applicable Law.
- 14.4 The Parties agree that no display of negative content or advertisement shall be permitted on the Contracted Buses irrespective of the time of the day and scale of the advertisement. Such negative content/ advertisement includes but is not limited to:

- a. advertisements prohibited by the Applicable Law and/or the Advertisement Council of India;
- b. advertisements of goods or services which are prohibited by Applicable Law;
- c. advertisements of political parties or religious groups;
- d. advertisements of any kind of prohibited drugs, alcohol and all kind of tobacco products for smoking;
- e. advertisements containing pornographic contents and/ or an “indecent representation of women” within the meaning of the Indecent Representation of Women (Prohibition) Act, 1986;
- f. advertisements containing sexual overtone and/ or nudity;
- g. advertisements glorifying exploitation of women or child;
- h. advertisements showing violence and cruelty to either human being or any kind of plant or animal;
- i. advertisements showing racial abuse to any caste or community or propagating ethnic differences;
- j. any other advertisement policy or regulation as may be notified by the [State/Central] Government from time to time; and
- k. any other advertisement found inappropriate by the Authority.

**14.5** Notwithstanding the provisions of Clause 14.1, the Operator shall at all times ensure that no part of the Contracted Buses including but not limited to the external and internal colour, body of the Contracted Buses or any part thereof are damaged due to advertisement stickers or any other form of displays.

**14.6** The Operator shall not display advertisements in a manner which may obstruct partially or completely the visibility from inside and outside the Contracted Buses including on the windows of the Contracted Buses.

**14.7** Subject to Applicable Laws, the Operator shall be entitled to appropriate revenue generated from the advertisement on Contracted Buses. The revenue so generated shall be deposited by the Operator into the Escrow Accounts within 2 (two) days from the end of the preceding month.

## **15. PAYMENTS:**

### **15.1 System Management Fee (Royalty Fee):**

- a. In consideration of the award of the Contract, the Operator shall, commencing from the COD of Buses, pay to the Authority, the

System Management Fee for an amount of [Rs..... (insert in Rupees as per the Bid) (Rupees in words) per month. The System Management Fee shall be reviewed annually, and shall change at the same rate as change in Passenger Fare in accordance with the procedure specified;

- b. The System Management Fee shall be payable by the Operator to the Authority on 7<sup>th</sup> day of each month of the Operations Period through the Escrow mechanism. In the event of delay in payment, interest at the rate of Bank Rate plus 2% for each day's delay shall be levied on the delayed amount of System Management Fee, subject to a maximum of 30 (thirty) days beyond which it shall tantamount to Operator Event of Default thereby entitling the Authority to terminate the Contract.
- c. In the event, the first and last month of the Operations Period falls short of a complete month, then, the System Management Fee in respect of actual shorter period shall be paid on a pro-rata basis, and for the remaining months of the Operations Period, the System Management Fee shall be paid in respect of the complete month. The System Management Fee shall be paid by the Operator within a period of 7 (seven) days from the end of each month of the Operation Period;
- d. The Parties expressly agree that the liability on account of Goods and Service Tax shall be borne by the Operator

## **15.2 Liabilities arising from negligent driving and accidents**

Any damages arising due to negligent driving, or accidents of the Contracted Buses or any reason whatsoever street shall be the liability of the Operator.

## **15.3 Fines and Compensation**

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

## **16. TAXES AND STATUTORY LEVIES**

- 16.1** The responsibility to pay taxes and statutory charges related to Bus Services would be divided between the Authority and the Operator as mentioned in the responsibility matrix provided in the table below:

<b>Sr. No.</b>	<b>Taxes and Charges</b>	<b>Parties responsible for payment</b>
1	Vehicle Registration Charges	Authority
2	Insurance premium for the Buses and	Authority

	other assets owned by the Authority	
3	Motor Vehicle tax within Municipal limit	Authority
4	Motor Vehicle tax outside Municipal limit	Authority
5	Passenger Tax	Authority
6	Stage Carriage Permit	Authority
7	Goods & Service Tax	Payable by the Operator

However, operator will reimburse the taxes and statutory charges related to bus services.

## **17. ESCROW ACCOUNT**

**17.1** The Operator shall within 15 days from the Execution Date open and establish an account (the “Escrow Account”) with a Bank (the “Escrow Bank”) in accordance with this Contract read with the Escrow Agreement;

**17.2** For the purpose of opening and operating an Escrow Account, the Operator shall enter into an agreement with the Authority and the Escrow Bank (“the Escrow 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;

**17.3** The Operator shall at all times throughout the Contract Period maintain in the Escrow Account, a balance of at least an amount equivalent to {2 (two)} month’s System Management Fee payable to the Authority and for this purpose, the Operator shall replenish with its own resources, any deficit that may arise in maintaining such balance of funds.

### **17.4 DEPOSIT IN ESCROW ACCOUNT**

**17.4.1** The Operator shall deposit or cause to be deposited the following inflows and receipts into the Escrow Account:

- a.** all the revenues generated and all the income accruing from the Project including but not limited to the Passenger Fare, any deposits by the Operator from its own resources [in order to maintain an amount equivalent to {2 (two)} month’s System Management Fee in the Escrow Account];
- b.** all amounts collected by way of penalizing the passengers commuting without ticket;
- c.** revenue generated from the display of advertisement on the Buses and Bus Depot;
- d.** cost towards insurance premium(s)
- e.** any other revenue or capital receipts from or in respect of the Project;

**17.4.2** The Authority shall deposit or cause to be deposited the following in the Escrow Account:

- a. all payments by the Authority including insurance claims if any received and payable to the Operator;
- b. amount due towards Termination Payment to the Operator, if any, payable in terms of the Contract.

## **17.5 WITHDRAWAL DURING CONTRACT PERIOD**

The Operator shall, at the time of opening the Escrow Account, give irrevocable instructions, by way of an Escrow Agreement, to the Escrow Bank instructing, inter alia, that deposits in the Escrow Account shall be appropriated in the following order every month, or at shorter intervals as necessary, and if not due in a month then appropriated proportionately in such month and retained in the Escrow Account and paid out therefrom in the month when due:

- a. All payment towards taxes and other statutory levies, as applicable to the Operator in respect of the Project;
- b. All payments to the Authority towards [System Management Fee/Royalty Fee], cost towards insurance premium(s) and any other payment due to the Authority;
- c. All payments towards Penalty and Damages certified by the Authority as due and payable to it by the Operator;
- d. Costs and expenses incurred by the Operator for operation and maintenance of the Project Facilities in accordance with the provisions of this Contract, including payment of staff salary, administrative expenses, payment to sub-contractors, etc.;
- e. Balance funds to flow to the Operator, [subject to the maintenance of balance of an amount equivalent to {2 (two) months} estimated System Management Fee to the Authority].

Provided however, if at any time during the Contract Period, adequate amount is not available in the Escrow Account for meeting any payments due to the Authority under Clause 17.5 (b) & (c), then in such an event the Operator shall pay the amount in question to the Authority from its own financial sources. In the event of failure on the part of the Operator to make the payment either through the funds available in the Escrow Account or through its own financial sources, the Authority shall be entitled to recover the amount due by invoking the Performance Security of the Operator.

## **17.6 WITHDRAWAL UPON TERMINATION**

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

- a. All payment towards taxes and other statutory levies, as applicable to the Operator in respect of the Project;

- b. All payments to the Authority towards outstanding [System Management Fee/Royalty Fee], cost outstanding towards insurance premium(s) and any other payment due to the Authority;
- c. All payments towards Penalty and Damages certified by the Authority as due and payable to it by the Operator;
- d. Costs and expenses incurred by the Operator for operation and maintenance of the Project Facilities in accordance with the provisions of this Contract, including payment of staff salary, administrative expenses, payment to subcontractors, etc.;
- e. Any other payment required to be made under this Contract; and
- f. However, in case of any dispute, decision of Authority will be final in above matter.

## **18. OPERATION AND MAINTENANCE STANDARDS**

- 18.1** The Operator shall observe the minimum service standards for operations and maintenance of Contracted Buses as provided in the Agreement.
- 18.2** The Operator shall operate and maintain the Contracted Buses in accordance with the Fleet Deployment Plan, and shall at all times ensure that the frequency is maintained as specified under the Fleet Deployment Plan or as per the instructions of the Authority from time to time.
- 18.3** The Operator shall ensure that the following activities are undertaken as part of the maintenance activity of the Contracted Buses without causing any disruption to the frequency or the availability of the Contracted Buses in accordance with the terms contained herein:
  - a. Fueling
  - b. Water topping of radiators
  - c. Checking and topping of engine oils
  - d. Checking of tyres
  - e. Cleaning, sweeping and washing of buses including soap washing every week.
  - f. Attending to defects reported by drivers.
- 18.4** In addition to the Operator Clearances, the Operator shall ensure that he procures and maintains a valid certificate of fitness and a pollution control certificate from the relevant authorities for all the Contracted Buses from time to time.
- 18.5** In the event the Operator fails to maintain the security of the Contracted Buses and there is any theft or damage of bus component/spare parts/hardware/software/instrument, then the Operator shall reinstall/re-instate such bus component/spare parts/hardware/software/instrument of the same or equivalent quality and specification after giving prior written notice to the Authority.

- 18.6** The Authority or representative of the Authority shall monitor the replacement or re-installation done by the Operator and shall determine whether the replaced or re-installed bus component/spare parts/hardware/software/instrument is the same or equivalent quality as originally provided or installed in the Contracted Bus. In the event that the Authority or representative of the Authority determines that the replaced or re-installed bus component/spare parts/hardware/software/instrument is of an inferior quality then the Authority shall consider this an Operator's Event of Default and decision of Authority regarding Penal Provision will be final.
- 18.7** In the event of such breach in security, the Operator shall extend all co-operation to the Authority including but not limited to filing complaints to the police and or any other investigation undertaken in relation thereof.

## **19. ROLES, RESPONSIBILITIES AND OBLIGATIONS OF THE OPERATOR AND THE AUTHORITY**

### **19.1 OBLIGATIONS OF THE OPERATOR**

In addition to the terms and conditions of this Agreement, the Operator shall perform the following obligations. The Operator shall:

#### **19.1.1 OPERATION AND MAINTENANCE OF CONTRACTED BUSES:**

The operator shall;

- a.** take possession of the Contracted Buses for the purposes of operating and maintaining the Bus Service in accordance with the Fleet Deployment Plan and the terms contained herein;
- b.** operate and maintain the Contracted Buses in accordance with the Operation and Maintenance Standards;
- c.** use the Contracted Buses only for the purpose of providing Bus Services in accordance with this Agreement and shall not use the Contracted Buses for any other purposes;
- d.** allow access to the Contracted Buses to all members of the public without any prejudice or discrimination;
- e.** Make drivers and technicians undergo orientation / familiarization training programme. Operator would also arrange for space, the training bus, fuel etc for said training programme at his cost.
- f.** The training program shall be organised by the Operator on periodic basis as an ongoing activity of providing primary training to newly recruited drivers and technicians as well as updatation training to existing manpower.

- g.** ensure the highest standards of cleanliness both inside and outside the Contracted Bus at the time of reporting for the first shift of operations of the bus service of the day;
- h.** ensure safety and security of the passengers, personnel and any third party using the Contracted Buses. The Authority may impose penalties/damages for breach of safety, maintenance and operating requirements;
- i.** in an event of an accident involving one of the Buses, the Operator shall coordinate with the relevant medical authorities, police, etc. to ensure timely medical help and treatment for the injured passengers and expeditious removal of the damaged Bus from the site of accident;
- j.** procure ticketing equipment and/or fare collection system and install, operate, and maintain the ticketing equipment and/or fare collection system in each Bus. The Operator shall on best effort basis, endeavor to implement common ticketing system and partner with the Authority and other operators to develop mechanism for Passenger Fare collection, validation, post-transaction processing, reimbursement and/or settlement;
- k.** collect Passenger Fare from every passenger or validate the travel document as the case may be, travelling in the Bus through the ticketing equipment or fare collection system installed and deposit the same into the Escrow Account;
- l.** ensure that an accurate and complete record of the tickets issued and the amount of Passenger Fare collected is maintained for each Bus separately;
- m.** ensure safety and security of the Contracted Buses against theft or other forms of damage;
- n.** pay all amounts due and payable including but not limited to damages and/or fines to the Authority as per terms of Agreement without any delays;
- o.** ensure that the Contracted Buses stop to pick up and allow the passenger to get off at the nominated bus stations;
- p.** provide and maintain (and keep up to date) first aid box in each Contracted Bus during Contract Period;
- q.** make adequate arrangement either in-house or outsourced for overhauling of bus aggregates, repair and retreading of



tyres, repair of bus bodies, repair of accidental buses, etc to the satisfaction of the Authority.

- r. make adequate arrangement either in-house or outsourced for attending to road calls on-line, towing of failed vehicles if required, clearance of bus ways, etc in least possible time.
- s. shall not tamper or interfere with any equipment, instrument or system including the GPS tracking facilities and CCTV surveillance and any other IT and Contracted Bus monitoring devices provided in the Contracted Buses and the Project to enable provision of safer Bus Services to the passengers.
- t. All provisions of this document would be applicable, mutatis mutandis, for providing buses for operation during night shift if so required and or full complement of buses required on festival days / special occasions etc as decided by Authority.
- u. ensure at its own cost and expense and keep available at all times, any and all equipment, fuel, consumable, machine or material that is required for the uninterrupted and continuous operation, management and maintenance of the Bus Service and the implementation of this Agreement. It is clarified that all the costs, including costs relating to the equipment, material and consumables shall be solely borne by the Operator.
- v. submit the copy of the Employee State Insurance and Provident Fund challans to the Authority every month; and
- w. agree to comply with all Applicable Laws including labor and local laws, pertaining to the employment of labor, staff and personnel engaged by it for implementing the Project, that are now or may in the future become applicable to Operator's management, operation and maintenance of the Project, and personnel/ drivers, engaged in such operations covered by this Agreement or accruing out of the performance of Bus Services and operations contemplated hereunder. The Operator shall be solely responsible and liable for compliance with all Applicable Laws, including labor and local laws, pertaining to the employment of labor, staff and personnel engaged by it for implementing the Project and will be liable to all taxes and penalties if any.

### **19.1.2 OPERATIONS AND MAINTENANCE OF BUS DEPOT AND PARKING SPACE (IF ANY)**

**The Operator shall:**

- a.** maintain Bus Depot and/ or Parking Space (if any) including maintenance of facilities, equipment, installations there at and ensure availability of skilled personnel and supervisor for regular upkeep, maintenance, cleaning and safe-keeping of Buses, in accordance with the provisions of this Contract and the Bus Depot License Agreement;
- b.** bear expenses including costs relating to materials, consumables etc. that may be required from time to time throughout the Contract Period at the Bus Depot and to ensure that the Bus Depot is exclusively used for the maintenance of the Buses being operated by the Operator under this Contract;
- c.** operate and maintain the equipment installed by the Operator at the Control Centre to monitor the movement of Buses.
- d.** Any failure on the part of the Operator to meet its aforesaid obligation shall make the Operator liable to payment of Damages as stipulated in this Contract.

### **19.1.3 CO-OPERATION WITH THE AUTHORITY**

**The Operator shall:**

- a.** cooperate with the Authority and/or any third party appointed by Authority for the purposes of establishing or operating any equipment, instruments or systems in the Contracted Buses or Bus Depots, workshop and/or Parking Spaces (if any);
- b.** make adequate communication arrangements / develop communication facilities / Centre for effective and efficient, timely communication of all incidents/ accidents/ breakdowns etc. to relevant authorities / persons / officials.
- c.** cooperate with the Authority, its personnel, and authorized contractors who shall have complete access to the records of the Passenger Fare collected by the Operator and shall not be

in any manner obstructed by the Operator, its personnel, or contractors in carrying out such duty;

- d.** Cooperate with the Authority for the purposes of monitoring and supervision of the quality, efficiency and adherence of the Operator to other contractual arrangements pertaining to Project.
- e.** Maintain log books, bus wise, and all maintenance work / activities pertaining to each bus shall be entered there-in on regular basis. Authority shall be free to inspect logbooks at all times and the Operator shall make log books available to Authority or it's representative and answer all queries to it's satisfaction.
- f.** respond to all notices letters communications received from Authority within the given time frame;
- g.** abide by all directions issued and/ or answer all queries raised by statutory national and sub-national level government bodies concerning the Project;
- h.** provide all information, data, records, documents or information as may be required by Authority or Project Management Consultant, from time to time; and
- i.** participate in all the meetings, discussions as directed by the Authority from time to time.

#### **19.1.4 COMPLIANCE WITH THE TERMS OF THE WARRANTY AND GOOD INDUSTRY PRACTICE**

##### **The Operator shall**

- a.** comply with all terms of Warranty and instructions that are provided as a part of the purchase order with each Contracted Bus;
- b.** undertake all preventive and corrective maintenance in compliance with terms of the Warranty standards and instructions as may be notified by the Authority from time to time and in accordance with Good Industry Practice;
- c.** carry out major overhauls of the Contracted Buses according to the number of kilometers travelled as per terms of the warranty/purchase order.
- d.** comply with all the literature provided by the Authority as received from bus manufacturer in terms of manuals,

operating, and maintenance and safety instructions/manual to the Operator. The Operator shall be responsible for understanding the working of Contracted Buses allotted to it in all aspects specified above including safety features. Operator shall abide by the instructions specified in the operating, and maintenance and safety instructions/manual all times during the Contract Period. The inspection procedures for the frequency and type of the inspection for each technical condition criteria as specified therein for Contracted Buses shall be complied by the Operator;

#### **19.1.5 ANNUAL MAINTENANCE CONTRACT:**

**The Operator shall**

procure and maintain an annual maintenance contract with the Contracted Bus manufacturer or his authorized dealer or through his own or other well equipped workshops for the purpose of ensuring regular servicing and preventive maintenance activities in relation to the Contracted Buses.

#### **19.1.6 RECORD AND REPORTING REQUIREMENTS**

**The Operator shall**

- a. maintain record of all preventive maintenance activities shall be kept in the bus maintenance log book and duly authenticated by the person in charge of carrying out Contracted Bus maintenance. The Operator shall submit the log books for inspection by Authority staff as and when demanded;
- b. submit to the Authority in a format as specified by the Authority from time to time:
  - i. a monthly report which shall include but not be limited to:
    - Progress reports
    - Status of all risks and issues.
    - Status of readiness the skilled staff to operate Contracted Buses and supervise Contracted Bus operation.
    - Status of Contracted Buses with regards to roadworthiness and compliance with highest

maintenance standards/manufacturer's manual or instruction.

- ii. report on an immediate basis reporting incidents requiring urgent attention of the Authority such as accidents, theft, etc.
- iii. submit a summary of all the complaints on a monthly basis to Authority.

#### **19.1.7 INSPECTION:**

- a. The operator shall make available Contracted Buses to the Authority or its authorized personnel for inspection as and when required/instructed by Authority for assessment of compliance with maintenance and roadworthiness.
- b. Upon such inspections, any suggestions/ instruction/s received from the Authority with regard to any corrective actions, maintenance requirements, part replacement requirement, etc. required to be taken by the Operator, shall be implemented by the Operator at its own cost within [15 (fifteen)] days or within such reasonable time period as specified by the Authority. In case of non-rectification of /non-action upon such suggestions/ instruction(s) within stipulated time period, the Authority may replace or rectify such defect(s) at the risk and cost of the Operator. In addition, the Authority may impose Penalty in accordance with the terms contained in this Contract. The Authority shall have the right and the Operator hereby expressly grants to the Authority the right to recover such costs directly from the Escrow Account, and for that purpose, the Operator hereby agrees to give irrevocable instructions to the Escrow Bank to make payment from the Escrow Account in accordance with the instructions of the Authority and debit the same to the operation and maintenance expenses of the Operator;
- c. It is hereby clarified that the Authority at its sole discretion, if it determines that such events are occurring on regular basis or are causing undue interference with the Bus Services, may: (i) impose fines and/or damages in accordance with the terms contained herein; and/or (ii) terminate this Agreement.

#### **19.1.8 REPAIR AND REPLACEMENT**

Subject to obtaining prior written permission of the Authority and any instructions/specifications issued by the Authority, the Operator may if need so arises, replace or install any equipment or accessory for beyond the specifications inside or on the outside of the Contracted Buses. In the event the Operator replaces or installs any equipment or accessory in accordance with this provision, it shall ensure that such additional equipment or accessory is compatible with the existing bus components, parts, software, accessories, or equipment.

### **19.1.9 APPOINTMENT OF DRIVERS AND STAFF**

a. appoint: (i) drivers holding a valid licence for a period of [3 (three)] years before the Execution Date in accordance with the Motor Vehicles Act, 1988; and submit the license of all appointed drivers to the Authority before deployment of the Contracted Buses; (ii) has passed his matriculation examination from any recognized board; (iii) driver should not have been blacklisted from operation of a heavy commercial vehicle and or a transport vehicle; (iv) should not have any pending cases related to fatal accidents or traffic fines due; and (v) appoint either on a temporary, permanent or contractual basis trained and skilled staff for operation, maintenance, and supervision of the Contracted Buses and other facilities related thereto at his cost for services as per the Agreement.

Provided however, the Authority may require the Operator, to remove any person employed for the Bus Services, who in the opinion of the Authority:

- persists in any misconduct,
- is incompetent or negligent in the performance of his duties,
- fails to conform with any provisions of this Agreement, or
- persists in any conduct which is prejudicial to safety, health, or the protection of the general public / environment.

be solely and exclusively responsible for all drivers, employees, workmen, personnel and staff employed for

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

Provided, however the Authority shall not be liable for any payment or claim or compensation (including but not limited to compensation on account of death/injury/termination) of any nature to such foregoing persons at any point of time during tenure of this Agreement or thereafter and the Operator shall keep the Authority indemnified in this regard

- b.** hold periodic training sessions for drivers, staff and all personnel (temporary or on contractual or permanent basis) so as to ensure the implementation of Bus Services efficiently.
- c.** The Operator shall ensure that all Drivers, Conductors, personnel and staff wear uniform as approved by the Authority and are always well behaved and courteous with passengers and officials of the Authority. The Operator shall at its own cost and expense provide uniforms and shall ensure that clean uniforms are worn by Drivers, Conductors and any other personnel and staff employed by it at all times when they are on duty or doing any act in relation to the Project under this Contract;
- d.** be responsible for all the costs and expenses of maintenance, operation, employment of drivers and other personnel including but not limited to travel, training of its employees, and vendors engaged by the Operator in connection with the implementation of this Agreement.
- e.** make efforts to maintain harmony and good industrial relations among the labor and personnel employed in connection with the performance of the Operator's obligations under this Agreement and shall at all times be the principal employer in respect of such labor and personnel.

#### **19.1.10. PAYMENT OF TAXES AND DUTIES**

Subject to Clause 16, make timely payment of all taxes and duties due and payable under Applicable Law.

### **19.1.11. PAYMENT OF FINES**

Shall ensure that it promptly pays any fines or damages that may be imposed for any defaults in compliance with traffic rules or other Applicable Laws in relation to the operation of the Bus Service.

### **19.1.12. NO ALTERATIONS OR MODIFICATIONS OF THE CONTRACTED BUSES**

- a. ensure that there no alterations in the Contracted Buses or any part thereof made at any point of time including the colour of such Contracted Buses without the prior written approval of the Authority.
- b. ensure that no additional or new equipment, hardware or software is installed or used in the Contracted Buses without prior approval of Authority.
- c. shall not tamper or interfere with any equipment, instrument or system including the GPS tracking facilities and CCTV surveillance and any other equipment or monitoring devices provided in the Contracted Buses

### **19.1.13. COMPLAINTS REDRESSAL**

- a. maintain a complaint register on every Contracted Bus, and shall ensure that the Complaint Register is not tampered with in any manner at any point of time.
- b. take appropriate action as per the instructions notified by the Authority in relation to any complaint made by the passenger or user of the Contracted Bus or any third person in relation to the Bus Service.

## **19.2 RIGHTS OF THE OPERATOR**

The Operator shall have right to:

- 19.2.1** receive Contracted Bus(es) from the Authority for providing Bus Services as per the terms of this Agreement;
- 19.2.2** receive support for obtaining required permits and sanctions from the government, or local body and to obtain assistance and support in dutifully carrying out the obligations as provided for in this Agreement as may be within the purview and general jurisdiction of the Authority;
- 19.2.3** use Bus Depot subject to the terms of the Bus Depot Agreement and the terms provided herein; and



**19.2.4** operate and maintain the Contracted Buses on the Routes as per conditions set forth in the Agreement.

### **19.3 AUTHORITY'S RIGHTS AND RESPONSIBILITIES**

In addition to the terms and conditions of this Agreement, the Authority shall:

**19.3.1** Provide Contracted Buses for the purposes of the implementation of this Project and hand over the possession of the same to the Operator for the limited purpose of enabling it to operate and maintain the Bus Services as per this Agreement;

**19.3.2** provide adequate water and electric supply to the Depot during the Agreement Period;

**19.3.3** provide to the Operator the Bus Depot right to use to the Operator in accordance with the terms of this Agreement and Depot License Agreement

**19.3.4** obtain, at its own cost, Route licenses (stage carriage permits) from the relevant RTA/RTO, and allow the Operator to operate the buses on its behalf under these Licenses;

**19.3.5** provide assistance, on a best effort basis, in obtaining the Operator Clearances, provided the Operator has made the applications for such permits/ clearances to the concerned government authorities and is otherwise in compliance with the terms applicable for grant of the same;

**19.3.6** conduct regular inspections of Contracted Buses and the Project at any time during the Contract Period.

**19.3.7** Provide the right of use and right of way to the Operator, in respect of the space for parking of Contracted Buses/ maintenance depot, together with the right to use and right of way for such space only for the purposes set forth in this Agreement;

**19.3.8** have the right to levy damages and or fines as provided in this Agreement and in the event the Operator fails to make payments of such fines, the Authority shall have the right to deduct the same from the payments and / or Performance Security

**19.3.9** have the right to issue operating instructions and any other advisory or instruction as deemed necessary to maintain highest standards of Bus Services including safety, functionality and operationality of the Bus Services.

## **20. INSURANCE**

### **20.1 INSURANCE TO BE TAKEN OUT BY THE AUTHORITY**

- 20.1.1** The Authority shall, with effect from the COD of Contracted Buses, at its own cost and expense, effect, purchase and maintain all/any insurances on behalf of and in the name of the Authority in respect of Contracted Buses as per Applicable Laws including but not limited to Motor Vehicles Act, 1988 and Rules made thereunder, from time to time.
- 20.1.2** The Authority shall procure and maintain any additional insurances as may be reasonably considered necessary and prudent in accordance with good industry practices, during the Total Contract Period, including but not limited to the following:
- 20.1.3** A comprehensive third party insurance cover as per the Motor Vehicles Act, 1988 and any amendments thereof for any incident resulting in the death of the users of the Contracted Buses or to any third party due to accident, for unlimited occurrences. Liability of passenger insurance shall be limited to the approved passenger capacity of the vehicle by RTA/RTO.
- 20.1.4** Any other insurance that may be necessary to protect the buses, passengers and the personnel on board against loss, damage or destruction at replacement value including all Force Majeure Events that are insurable and not otherwise covered in above clauses with the Authority as beneficiary/co-beneficiary.
- 20.1.5** Standard fire and perils policies as per market practices for any loss and damages to the extent possible to Bus Depot, Terminal(s) and Parking Space(s) handed over to the Operator
- 20.1.6** Provided however, the Authority shall be entitled to recover from the Operator the cost towards premiums, etc. paid by it for procuring insurance, through the Escrow mechanism.
- 20.1.7** The Authority shall be responsible to pay the premium regularly and maintain the insurance policies specified in sub clause (1) and (2) of Clause 20.1 above at all time during the Total Contract Period.

## **20.2 INSURANCES TO BE TAKEN OUT BY THE OPERATOR**

- 20.2.1** The Operator shall at his own expense, procure and maintain the following insurances-Insurance of employee compensation and other liability as per Workmen's Compensation Act, 1923 for its personnel employed for fulfillment of Project requirement.
- 20.2.2** In the event that the Operator fails to effect and keep in force the insurance for which it is responsible pursuant hereto, the Authority shall have the option to take or keep in force any such

insurance and pay such premium and recover all costs thereof from Operator.

### **20.3 EVIDENCE OF INSURANCE COVER**

**20.3.1** The Authority and the Operator shall, from time to time, and in no case later than [15 (fifteen)] days from receiving any insurance policy certificate, share with each other copies of all insurance policies (or appropriate endorsements, certifications or other satisfactory evidence of insurance) obtained by it as provided in the Agreement.

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

### **20.4 PROCESS OF CLAIMING INSURANCE AND APPLICATION OF INSURANCE PROCEEDS**

**20.4.1** For the purpose of claiming insurance against any insurance policies taken out by the Authority in fulfillment of its obligations under this Agreement, the Operator shall raise an insurance claim in an applicable format as may be notified by the Authority from time to time, after getting the same approved and signed by the Authority.

**20.4.2** Subject to the provisions of this Agreement for insurance policies where the Authority is the beneficiary and where it received the insurance proceeds, only such sums as are required from the insurance proceeds for restoration, repair and renovation of the Contracted Buses, shall be released by the Authority to the Operator within [7 (seven) days] of receipt towards repair or renovation or restoration or substitution of the Contracted Buses based on such proof that such Contracted Buses or any equipment/part have been damaged or required repair/modification.

**20.4.3** In the event of breakdown/accident of a Contracted Bus leading to the complete destruction, such that the Contracted Bus cannot be repaired and operated in normal circumstances, and is rendered inoperable, the Operator will be required to replace the damaged bus with another new bus of make and model acceptable to the Authority at his own cost. The Authority will pass on any insurance proceeds received by it towards damage of the Contracted Bus in question to the Operator for contributing to the purchase of the bus, subject to such proceeds not

exceeding the cost of the new Contracted Bus. The Operator will bear all the remaining cost of replacement of the Contracted Bus to the extent not covered by the insurance proceeds. Such replaced Contracted Bus will be owned by the Authority and shall form part of the Contracted Buses and shall be operated and transferred under similar contract conditions as the other Contracted Buses during the remaining Contract Period. The Operator will cause the scrap of the damaged/destroyed Contracted Bus to be delivered to the location specified by the Authority at his own cost, where from the Authority will take its complete possession and control and dispose as it pleases without any compensation / payment to the Operator. The period of contract for such replaced bus shall be concurrent with the Contracted Bus it has replaced.

## **21. DAMAGE TO CONTRACTED BUSES DUE TO VANDALISM**

**21.1** In the event that any damages or need for repairs to the Contracted Buses, Bus Depot, Terminals, and/or Parking Spaces or any other asset provided by the Authority arises during the Total Contract Period on account of Vandalism, the Operator shall be required to make good the damages and repair the Contracted Buses to the original conditions at the cost of Authority.

**21.2** The Operator may claim re-imbusement of the cost less of insurance proceeds for such repair and rectification calculated at mutual agreed terms between Authority and the Operator.

For the purpose of this clause, “**Vandalism**” is defined as destroying or damaging Contracted Buses, deliberately and/or for no reasons attributable to omission of act or breach of obligation of the Operator by the persons other than the employee or sub-contractor of the Operator.

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

## **22. LEVY OF PENALTIES**

### **22.1 Penalty on account of Non-Performance**

- a. The Operator shall be liable to pay Penalty every month during the Operation Period to the Authority in respect of the infractions provided in Annexure - 2 of this Contract.
- b. Infractions have been segregated into 2 (two) main categories for application of Penalties for different infractions as detailed in Annexure - 2. Amount of Penalties recoverable for various categories of infractions is specified in Annexure - 2. Time for resolution of each infraction is 1 (one) day with an extreme limit of 3 (three) days.
- c. Operator shall be required to rectify infractions noted/ intimated by the Authority through a written notice, within the time period, as indicated in Annexure - 2 or within the number of days indicated by the Authority for any infraction in its notice failing which, the Operator shall have to take such Buses suffering from infractions, out of Bus Services at its risk and cost. In addition, pre-estimated Penalty towards non-availability of Bus for Bus Services as indicated in Annexure - 2 shall be payable by the Operator.
- d. In the event of a Bus being held up on account of any infraction, the cause/ reason thereof needs to be recorded and maintained by the Authority and the same shall also be noted by the Operator's Representative before any Penalty is imposed on this account.
- e. If the Operator infringes any of the obligations of operating and maintaining Buses and/ or the equipment installed in the Buses and/ or at the Bus Depot, in accordance with the condition or as per the specifications prescribed herein and/ or by the Bus Manufacturer, the Authority shall have the right to impose a Penalty as prescribed in the Agreement.
- f. If the Operator infringes any of the provisions related to quality of service for passengers, particularly when Operator's conduct infringes/ disregards the respect and dignity of the users/ passengers, then for each parameter infringed, the Authority may impose a Penalty.
- g. The Authority may identify and individualize the conducts, leading to user service Penalty, by means of a manual for user service and quality regulation or any other manual or regulation issued or to be issued, taking account of complaints and claims it receives from passengers, and the conduct of the Operator, its employees, representatives or agents, which may affect the degree of passenger satisfaction.
- h. In the event, a Driver engages in any of the infractions specified in Annexure - 2, Authority may impose a sanction of temporary suspension of the Driver for the day or direct the Operator to relieve him of duty with immediate effect besides imposing Penalty as indicated in Annexure - 2. In such event, the Operator shall be obligated to make provision for his replacement with immediate effect.
- i. The Authority shall verify compliance of all parameters, requirements, obligations and responsibilities enforceable against the Operator by virtue of the provisions of this Contract. If the Operator fails to comply with any of the requirements assigned to it under this Contract, the Authority may impose corresponding Penalty in accordance with the provisions of this Contract, without requiring any statement by any judicial or quasi-judicial authority of any kind.

- j. Upon execution of this Contract, Authority and the Operator agree that causes and amounts of Penalty provided for under this Contract may be modified, new Penalty may be added and existing Penalty may be eliminated. In order to modify and alter conducts or situations which generate Penalty, recommendations from a designated committee, constituted by the Authority, will be taken into account where Operator's submissions will be heard and considered before taking the final decision.
- k. Verification of conduct which led to infraction related to the conditions of the Bus or Bus Depot will be subject to procedures of visual and mechanical reviews performed by the Authority. Visual and mechanical reviews will be made by technical inspectors designated by the Authority, either on a regular or periodic basis, either through visits to the Bus Depot, workshops and garages commonly used by the Operator, or to the Bus during service hours.
- l. If any infraction persists for more than 3 (three) days after occurrence of infraction which led to levy of Penalty, then per day Penalty payable will be doubled till the time such infraction persists. However, if the infraction is not rectified within a period of 45 (forty five) days from the occurrence of infraction which led to the Penalty then it will amount to Operator Event of Default.
- m. If any infraction related to administrative, institutional, MIS etc. aspects persists for 7 (seven) days, the Authority may direct the Operator that the employee responsible for such administrative and other infractions to be replaced, and this point will also be stipulated in the regulations or operation manuals of the Operator.

**22.2** The Authority and Operator's Representatives shall meet every 2 (two) weeks to discuss and sort out any persisting infractions, and ways to find early resolution.

**22.3** The Authority shall issue written warning for infractions classified as unacceptable in accordance with **Annexure - 2**. The Operator on receiving such warning in written shall take immediate steps to rectify such infractions.

**22.4 Calculation of Penalty**

The Penalty shall be calculated in the manner as specified in **Annexure - 2**.

- a. The Authority may impose all applicable Penalty until compliance, if according to the nature of the infraction its restoration or compliance is possible.
- b. If the maximum amount of Penalty on account of infractions per Bus exceeds \_\_\_\_\_ on an average for the immediately preceding 2 months then the contract may be liable to be terminated as specified in the agreement.

**23. MONITORING**

**23.1 Evaluation of Performance of Operator**

**23.1.1** The Authority shall review the performance of the Operator, based on three sets of parameters, indicated broadly as follows;

<b>Sr. No.</b>	<b>Performance Parameter</b>	<b>Appraisal Time Period</b>	<b>Mode of appraisal</b>
01	Bus Maintenance	Monthly & Random Checking	Physical checking
02	Bus Operations	Daily basis	Through GPS system connected with Central control Centre and Operations registers to be maintained by the Operator and inspected by the Authority.
03	Staff Behavior	Through random checking	Physical checking during operation hours, complaint call and letters from passengers.

**23.1.2** In the event the Operator fails to perform any parameter as highlighted in sub-clause (i) above it shall be liable to pay damages to the Authority for such non performance in accordance with **Annexure 2** to this Agreement.

**23.1.3** In the event the Operator fails to pay the damages and/or fines for non-performance in accordance with the terms contained hereof, such fines and/or damages shall be deducted from the Operation Payment to be made by the Authority against the Invoice raised by the Operator.

## **24. CONFIDENTIALITY OBLIGATIONS OF OPERATOR**

### **24.1 PROTECTION OF CONFIDENTIAL INFORMATION**

The Operator shall not without Authority's prior written consent use, copy or remove any Confidential Information from Authority's premises, except to the extent necessary to carry out Operator's obligations hereunder. Upon completion or termination of each assignment hereunder, Operator shall return to Authority all documents or other materials containing Authority's Confidential Information and shall destroy all copies thereof.

For the purpose of this Clause, the term "Confidential Information" means the information or document which is specifically marked by the issuer/provider of information as confidential or otherwise clearly marked as confidential or proprietary, and shall include any

proprietary or confidential information of Authority relating to the Bus Services provided under the Agreement in relation thereto and information relating to Authority's business or operations.

Confidential Information shall not include information which:

- a. Is or becomes generally available to the public without any act or commission of Operator;
- b. Was in Operator's possession prior to the time it was received from Authority or came into Operator's possession thereafter, in each case lawfully obtained from a source other than Authority and not subject to any obligation of confidentiality or restriction on use;
- c. Is required to be disclosed by court order or operation of law; in such event, Operator shall so notify Authority before such disclosure; and
- d. Is independently developed by or for Operator by persons not having exposure to Authority's Confidential Information.

**24.2** The Operator is under an obligation to protect Confidential Information as per this agreement for a period of three (3) years after the expiry or termination of this Agreement.

## **25. EVENT OF DEFAULT AND TERMINATION**

### **25.1 OPERATOR'S EVENT OF DEFAULT**

Any of the following events shall constitute an Event of Default by the Operator ("**Operator's Event of Default**") unless such event has occurred as a result of a Force Majeure Event:

- 25.1.1** Operator is in breach of any of its obligations under this Agreement and the same has not been remedied for more than [60 (sixty)] days;
- 25.1.2** Any petition for winding up of Operator has been admitted and liquidator or provisional liquidator has been appointed or Operator has been ordered to be wound up by Court of competent jurisdiction, except for the purpose of amalgamation or reconstruction, provided that, as part of such amalgamation or reconstruction the amalgamated or reconstructed entity has unconditionally assumed all surviving obligations of the Operator under this Agreement;



- 25.1.3** Operator fails to comply with the Applicable laws, rules and regulations.
- 25.1.4** Any representation made or warranties given by the Operator under this Agreement or under the RFP document is found to be false or misleading.
- 25.1.5** Operator fails to maintain/ refurbish/ replenish the Performance security as per terms of this Agreement.
- 25.1.6** Operator suspends or abandons the operations of Contracted Buses without the prior consent of Authority, provided that the Operator shall be deemed not to have suspended/ abandoned operation if such suspension/ abandonment was (i) as a result of Force Majeure Event and is only for the period such Force Majeure is continuing, or (ii) is on account of a breach of its obligations under this Agreement by the Authority.
- 25.1.7** The Operator repudiates this Agreement or otherwise evidences an intention not to be bound by this Agreement.
- 25.1.8** The Operator failed to make any payments/damages/damages due to Authority within period specified in this Agreement or indicated by Authority without any valid reason.
- 25.1.9** The Operator failed to perform any of the Operator's obligations, which has a Material Adverse Effect on the Agreement
- 25.1.10** Operator creates an Encumbrance over the Contracted Buses, Bus Depot, Terminals or Parking Spaces.
- 25.1.11** Operator fails to adhere to the timelines set forth in the Agreement for performance of Operator's obligations there under; and reason thereof damages as provided in agreement exceeds value of Performance Security;
- 25.1.12** Repeated occurrence of breach of Operator's obligations specified in this Agreement and which shall not be remedied in Remedial Period specified by Authority; and
- 25.1.13** Any other default/breach of its obligation by the Operator, for which default/breach termination has been prescribed in terms of this Agreement.

## **26. TERMINATION DUE TO EVENT OF DEFAULT**

### **26.1 Termination for Operator's Event of Default**

- a. Without prejudice to any other rights or remedies, which the Authority may have under this Agreement, upon occurrence of an Operator Event of 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] or such other reasonable period as the Authority deems fit at its sole discretion to the Operator to remedy the default (“**Remedial Period**”) and/or make representations, and may after the expiry of such Remedial Period on non remedy of breach/default to the satisfaction of the Authority, whether or not it is in receipt of such representation, issue Termination Notice and then terminate the Agreement.
- b. In the event of termination for an Operator Event of Default, the Authority shall:
  - i. Be entitled to invoke and retain the Performance Security amount in full;
  - ii. Takeover peaceful possession without any Encumbrance of all Contracted Buses, Bus Depots, Terminals, and/or Parking provided to the Operator.

## **27. FORCE MAJEURE AND CHANGE OF LAW**

### **27.1 FORCE MAJEURE**

**27.1.1** For the purposes of this Agreement the expression “Force Majeure” or “Force Majeure Event” includes acts of God, war, revolutions, hostility, civil commotions, strikes, fires, floods, earthquake, epidemics, quarantine restrictions, freight embargoes or explosions and 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: (i) is beyond the reasonable control of the Affected Party, and (ii) the Affected Party could not have prevented or overcome by exercise of due diligence and following Good Industry Practice, and (iii) has Material Adverse Effect on the Affected Party.

**27.1.2** A soon as practicable and in any case within [seven(7) days] of the date of occurrence of a Force Majeure Event or the date of

knowledge thereof, the Affected Party shall notify the other Party, inter alia, the following in reasonable detail:

- 27.1.2.1.1** the nature and extent of the Force Majeure Event;
- 27.1.2.1.2** the estimated duration of the Force Majeure Event;
- 27.1.2.1.3** the nature of and the extent to which, performance or any of its obligations under this Agreement is affected by the Force Majeure Event;
- 27.1.2.1.4** the measures which the Affected Party has taken or proposes to take to alleviate / mitigate the impact of the Force Majeure Event and to resume performances of such of its obligations affected thereby; and
- 27.1.2.1.5** any other relevant information concerning the Force Majeure Event, and / or the rights and obligations of the Parties under this Agreement.

**27.1.3** As soon as practicable and in any case within [5 (five) days] of notification by the Affected Party in accordance with the preceding sub-clause (a), the Parties shall, hold discussions in good faith in order to:

- a.** assess the impact of the underlying Force Majeure Event;
- b.** to determine the likely duration of Force Majeure Period; and
- c.** to formulate damage mitigation measures and steps to be undertaken by the Parties for resumption of obligations the performance of which shall have been affected by the underlying Force Majeure Event;

**27.1.4** The Affected Party shall during the Force Majeure Period provide to the other Party representative regular (which shall not be less than weekly) reports concerning the matters set out in the preceding sub-clause (b) as also any information, details or document, which the other Party may reasonably require.

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

- a.** due notice of the Force Majeure Event has been given as required in accordance with the terms contained herein;
- b.** the excuse from performance shall be of no greater scope and of no longer duration than is necessitated by the Force Majeure Event;
- c.** the Affected Party has taken all reasonable efforts to avoid, prevent, mitigate and limit damage, if any, caused or likely to be caused to the Project as a result of the Force Majeure Event and to restore the Bus Services affected as a result of

the Force Majeure Event in accordance with the Good Industry Practice and its obligations under this Agreement;

- d. when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party written notice to that effect, and shall promptly resume performance of its obligations hereunder the non-issue of such notice being no excuse for any delay in resuming such performance;
- e. the Affected Party shall continue to perform such of its obligations which are not affected by the Force Majeure Event, and which are capable of being performed in accordance with the Agreement; and
- f. any insurance proceeds received shall be, subject to the provisions of Financing Documents, entirely applied to repair, replace or restore the assets damaged on account of the Force Majeure Event, or in accordance with Good Industry Practice.

**27.1.6** If the inability on account of Force Majeure to perform continues for period of more than [three (3) months], each Party shall have the right to be released from further performance of the Agreement, in which case, neither Party shall have the right to claim damages from the other. All prior performance shall be subject to the terms of this Agreement.

**27.1.7** Upon Termination of this Agreement on account of a Force Majeure Event, the Operator shall be entitled to receive;

- a. The refund/ release of Performance Security in full provided there are no outstanding dues off the Authority on the Operator.
- b. Any payments due in full on account of Payment of Kilometer Charge
- c. Collect any other payments due in respect of services undertaken in terms of the Agreement to the satisfaction of the Authority till date of such termination

## **28. CHANGE OF LAW**

**28.1** Change in Law shall mean the occurrence or coming into force of any of the following, after the date of execution of this Agreement:

**28.1.1** The enactment of any new law;

**28.1.2** The repeal, modification or re-enactment of any existing law;

- 28.1.3 A change in the interpretation or application of any law by a court of record;
- 28.1.4 Any order, decision or direction of a court of record; and
- 28.1.5 Any change in the rate of any of the taxes that have direct effect on the Agreement;

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

- a. Coming into effect, after the Execution Date, of any provision or statute which is already in place as of the date of execution of this Agreement;
- b. Any new law or any change in the existing law under the active consideration of or in the contemplation of any government as of the Effective Date which is a matter of public knowledge;
- c. Any change in taxes, duties, levies, cess or any other form of charges;
- d. Non-availability of any spare part, equipment, component due to price escalation or otherwise

28.2 Upon occurrence of a Change in Law, the Operator shall notify the Authority of the following:

- a. The nature and the impact of Change in Law on the Agreement and Project; and
- b. Upon receipt of the notice of Change in Law issued by Operator pursuant to preceding sub-clause, the Authority and the Operator shall hold discussions in relation thereof.
- c. If any financial impact is there due to change in law will be borne by operator.

## 29. HANDBACK ON TERMINATION

### 29.1 CONTRACTED BUSES, BUS DEPOTS, TERMINALS, PARKING SPACES, AND OTHER ASSETS TO BE HANDED BACK TO THE AUTHORITY

- 29.1.1 The Authority shall retain at all times the title and ownership of Contracted Buses provided by the Authority to Operator under this Agreement.
- 29.1.2 Upon expiry of this Agreement or in case of any early termination of the Agreement for whatever reason, the Operator shall

handover in good working condition and free from Encumbrances the peaceful possession of all Contracted Buses and Bus Depots, Parking Spaces, Terminals and any other assets handed over or used by the Operator including without limitation any and all hardware, software, firmware, deliverables on board except the equipment, machinery and tools brought in by the Operator for the operation and maintenance of the Contracted Buses, in sound condition, subject to normal wear and tear.

- 29.1.3** Any immovable infrastructure, which may be constructed by the Operator at the Bus Depot shall be transferred by the Operator.

## **30. DISPUTE RESOLUTION**

### **30.1 AMICABLE RESOLUTION**

**30.1.1** Save where expressly stated otherwise in this Agreement, any dispute, difference or controversy of whatever nature howsoever arising under, out of or in relation to this Agreement including non-completion of the Agreement between the Parties and so notified in writing by either Party to the other (the “Dispute”) in the first instance shall be attempted to be resolved amicably by the Parties and failing such resolution of the same, in accordance with the procedure set forth below.

**30.1.2** Either Party may require the Dispute to be referred to the Managing Director/Other Designated Officers, Authority for amicable settlement. Upon such reference, both the Parties and the MD/ Other Designated Officers or his nominee (who can be an employee of Authority dealing the Authority functions or otherwise) shall meet at the earliest mutual convenience and in any event within [15(fifteen)] days of such reference to discuss and attempt to amicably resolve the dispute. If the Dispute is not amicably resolved within [15(fifteen)] days of such meeting, either Party may refer the Dispute to arbitration in accordance with the provisions of Agreement.

### **30.2 ARBITRATION**

#### **30.2.1 ARBITRATOR**

In the event of any dispute arising between the Parties in relation to or under this Contract, the same shall be settled by arbitration

conducted by an arbitration tribunal consisting of three arbitrators, one to be appointed by each Party and the third arbitrator being appointed by the two arbitrators so appointed. The decision of the arbitration tribunal shall be final and binding.

### **30.2.2 Place of Arbitration**

The place of arbitration shall be DAMAN.

### **30.2.3 LANGUAGE**

The request for arbitration, the answer to the request, the terms of reference, any written submissions, any orders and rulings shall be in English and, if oral hearings take place, English shall be the language to be used in the hearings.

### **30.2.4 Procedure**

The procedure to be followed within the arbitration/arbitral tribunal and the rules of evidence which are to apply shall be in accordance with the Arbitration and Conciliation Act, 1996.

### **30.2.5 ENFORCEMENT OF AWARD**

Any decision or award resulting from arbitration shall be final and binding upon the Parties. The Parties hereto agree that the arbitral award may be enforced against the Parties to the arbitration proceedings or their assets wherever they may be found and that a judgment upon the arbitral award may be entered in any Court having jurisdiction thereof.

### **30.2.6 FEES AND EXPENSES**

The fees and expenses of the arbitrators and all other expenses of the arbitration shall be initially borne and paid by respective Parties equally subject to determination by the arbitrators. The arbitrators may provide in the arbitral award for the reimbursement to the prevailing Party of its costs and expenses in bringing or defending the arbitration claim, including legal fees and expenses incurred by the said Party.

### **30.2.7 PERFORMANCE DURING ARBITRATION**

Pending the submission of and/or decision on a Dispute, difference or claim or until the arbitral award is published; the Parties shall continue to perform all of their obligations under this Agreement without prejudice to a final adjustment in accordance with such award.

## **31. INDEMNITY**

The Operator shall at all times, i.e. during the Total Contract Period and at any time thereafter, defend, indemnify and hold the Authority harmless from and against all claims (including without limitation claims for infringement of intellectual property, breach of contract, death or injury to person or injury to property, or other tort claims) and expenses (including costs incurred in defending itself in court proceedings) arising out of or relating to the breach by Operator of any covenant representation or warranty or from any act or omission of the Operator or his agents, employees or sub-contractors.

## **32. DELAYED PAYMENTS**

Any payments due under any clause of this Agreement to either Party by the other Party which is delayed beyond the time stipulated in this Agreement, and for which payment for any extended time has not been permitted through mutual agreement in writing between the Parties, shall be paid along with interest at the rate of [SBI Prime Lending Rate + 2%] pa on the delayed amount for the delayed time.

## **33. MISCELLANEOUS**

### **33.1 GOVERNING LAW AND JURISDICTION**

**33.2** This Agreement shall be governed and interpreted in accordance with the laws of India.

**33.3** The Courts of Daman alone shall have exclusive jurisdiction over all matters arising out of or in respect of the Agreement.

### **33.4 NO WAIVER OF RIGHTS AND CLAIMS**

**33.5** Any forbearance, toleration or delay in invoking any of the rights or claims accruing in favour of any party under the terms of this Agreement shown or made by such a party in whose favour such rights or claims might have vested by virtue of this Agreement shall neither constitute nor be construed to be a waiver of such rights or claims accruing in respect of such a party.

### **33.6 SCHEDULES AND ANNEXURE**

**33.7** All schedules and annexures and other explanatory details attached to this Agreement shall be deemed to be a part of this Agreement.

### **33.8 SUPERSESSION OF EARLIER AGREEMENTS**

**33.9** This Agreement represents the entire Agreement between the Authority and the Operator, and all agreements, correspondence, notes or any other

**33.10** document submitted or understandings made or reached by and between the Parties inter se in respect of the subject matter of these presents prior to the date hereof shall be deemed to have been superseded and revoked on the execution of this Agreement.

### **33.11 NOTICES**



Unless otherwise stated, notices to be given under this Agreement shall be in writing and shall be given by hand delivery/ recognized international courier, mail, telex or facsimile and delivered or transmitted to the Parties at their respective addresses set forth below:

If to Authority .....

If to the Operator

All notices under this Agreement shall be in English.

### **33.12 COUNTERPARTS**

This Agreement may be executed in two counterparts, each of which when executed and delivered shall constitute an original of this Agreement but shall together constitute one and only one Agreement.

### **33.13 ASSIGNMENT**

No assignment of this Agreement, or any rights or duties hereunder shall be made in whole or in part by any Party at any point of time during the Total Contract Period.

Provided, however, the Operator may sub-contract part of the operation and maintenance of the Bus Services with the prior approval of the Authority.

Provided, further that, under no circumstances shall the Operator be absolved of his rights, duties, obligations under the terms and conditions of this Agreement, and the Operator shall be solely and exclusively responsible for the implementation of this Agreement.

### **33.14 NO PARTNERSHIP**

Nothing herein contained shall be construed to constitute a partnership between Authority and the Operator, or to constitute either party as the agent of the other and neither party shall hold itself out as such.

### **33.15 SEVERABILITY**

If any provision of this Agreement shall be declared illegal, void or unenforceable, the same shall not affect the other provisions herein which shall be considered severable from such provision and shall remain in full force and effect.

### **33.16 REPRESENTATION AND WARRANTIES**

### **33.17 REPRESENTATION AND WARRANTIES OF THE AUTHORITY**

**33.18** The Authority hereby represents, assures, confirms and undertakes to the Operator as follows:

**33.19** That it is duly incorporated under the laws of India and has the power to conduct its business as presently conducted, and to enter into this Agreement;

**33.20** That it has full power, capacity and authority to execute, deliver and perform this Agreement and has taken all necessary sanctions and approvals and followed all the procedure required to authorize the execution, delivery and performance of this Agreement;

**33.21** Nothing in this Agreement conflicts with its constitutional authority, mandate, or any law or any other agreement, understanding or arrangement or any judgment, decree or order or any statute, rule or regulation applicable to it; and

**33.22** All approvals and permissions as are necessary for the execution of this Agreement have been obtained, all the required procedure for the due execution of this Agreement have been adhered to, and this Agreement will be valid, legal and binding against it under the Applicable Law.

**33.23 REPRESENTATION AND WARRANTIES OF THE CONCESSIONAIRE**

**33.24** The Operator hereby represents, assures, confirms and undertakes to the Authority as follows:

**33.25** That it is duly incorporated under the laws of India, and has the power to conduct its business as presently conducted and to enter into this Agreement;

**33.26** That it has full power, capacity and authority to execute, deliver and perform this Agreement, and has taken all necessary sanctions and approvals (corporate, statutory or otherwise) to authorize the execution, delivery and performance of this Agreement;

**33.27** Nothing in this Agreement conflicts with its Memorandum and Articles of Association or any other agreement, understanding or arrangement or any judgment, decree or order or any statute, rule or regulation applicable to it; and

this Agreement will be valid, legal and binding against it under the Applicable Law.

**33.28 EXCLUSION OF CONSEQUENTIAL LOSSES**

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

IN WITNESS WHEREOF the Parties hereto have placed their respective hands and seals hereto on the day and year first herein above mentioned.

SIGNED, SEALED AND DELIVERED BY:

## ANNEXURE 1: BUS SERVICE AREA

### OIDC Transport Division Saarthi Bus Sewa, Daman

#### Bus No.1 (Route No.1)

##### **Nani Daman to Zari via Patlara Magarwada**

Nani Daman Bus Stand - Rajiv Gandhi Setu Moti Daman Junction - Ambawadi Near School - Patlara Near Talav Falia Junction (School) - Patlara-Magarwada, Tin Rasta 66KV Junction - Magarwada Bhim Talao - Magarwada Panchayat Ghar - Thana Pardi School - Bamanpuja Zari Asharam Shalla - Zari Communtiy Center - Zari Patel Falia - Zari Chaya Bar

#### Bus No.2 (Route No.2)

##### **Nani Daman to Bamanpuja via Jampore**

Nani Daman Bus Stand - Rajiv Gandhi Setu Moti Daman Junction - Football Gorund - Hati Bag - DMC Market Moti Daman - Bhitwadi near Mandir Collectorate Dholar Char Rasta Bariawad Dholar-Prathna Mandir - Kaazan - Jampore Junction - Jampore sagarwad - Paryari High School - Paryari Community Centre - Deva Pardi - Naila Pardi Near School - Bamanpuja Tin Rasta (Circle)

#### Bus No.3 (Route No.2)

##### **Bamanpuja to Nani Daman via Jampore**

Bamanpuja Tin Rasta (Circle) - Naila Pardi Near School - Deva Pardi - Paryari Community Centre - Paryari High School - Jampore sagarwad - Jampore Junction - Kaazan - Bariawad Dholar Prathna Mandir - Dholar Char Rasta - Collectorate - Bhitwadi near Mandir - DMC Market Moti Daman - Hati Bag - Football Gorund - Rajiv Gandhi Setu Moti Daman Junction - Nani Daman Bus Stand

#### Bus No.4 (Route No.3)

##### **Nani Daman to Pataliya via Coastal Highway**

Nani Daman Bus Stand – Sagar Petrol Pump - Mashal Chowk - Dunetha - Care & Cure / Jog Hospital - Dunes Residency - Govt. Sarvotam High School, Dunetha - Jawahar Navodaya Vidyalaya School - AVI Global Industry - Supreme Teves - Polycab Teen Rasta - Schott Kaisha - Bhimpore Panchal Jn. - Mold Tek (Zobel Ltd) - Sheetal Petrol Pump(Blossom) - Pataliya Check Post

#### Bus No.5 (Route No.4)

##### **Nani Daman to Atiyawad Check Post via Somnath**

Nani Daman Bus Stand - Khariwad Suruchi Hotel Junction - Vad Chowky Junction - Varkund Junction - Varkund Polytechnic - Ringanwada Tin Rasta - Kalariya - Somnath Junction - Amaliya - Panchayat - Atiyawad Char Rasta - Near Canal - Atiyawad Check Post

#### Bus No.6 (Route No.5)

##### **Nani Daman to Kachigam Checkpost via Dhabel**

Nani Daman Bus Stand – Khariwad Suruchi Hotel Junction – Vad Chowky Junction – Varkund Junction – Varkund Polytechnic – Ringanwada Tin Rasta – Kalariya – Somnath Junction – Amaliya – Dhabhel Check Post – Amaliya – Somnath Junction – Somnath Temple – Somnath Dairy Farm – Kachigam PHC – Kachigam Char Rasta – Kachigam Check Post

OIDC Transport Division  
Saarthi Bus Sewa, DNH

Bus No.1 (Route No.1)

**Pipariya Garden to Madhuban Dam Poin Karad via Fire Station**

Pipariya Garden - Fire Station – Amlī Fountain Junction – Opp. Jalaram Hosptital - Bal Udhiyan – Local Bus Stop – Court Building – Samarvani Tempo Stand – Masat Junction. - Bhoraj Hospital – Bhilosa Company – Rakholi Junction. - Polytechnic / IHM – Madhuban Colony – Madhuban Dam Point Karad.

Bus No.2 (Route No.1)

**Madhuban Dam Poin Karad to Pipariya Garden via Fire Station**

Madhuban Dam Point Karad - Madhuban Colony - Polytechnic / IHM – Rakholi Junction. - Bhilosa Company – Bhoraj Hospital – Masat Junction. - Samarvani Tempo Stand – Court Building – Local Bus Stop – Bal Udhiyan – Opp. Jalaram Hosptital - Amlī Fountain Junction – Fire Station – Pipariya Garden.

Bus No.3 (Route No.2)

**Local Bus Stop to Bavisa Falia**

Local Bus Stop – Panchayat Market – Jalaram Hospital – Amlī Cross Road – Opp. Fire Station – Pipariya Bridge – Pipariya Outpost – DRO/Elect. Office – Amlī Char Rasta – Prabhat School – Yogi Hospital – Kilvani Naka – Cinemax Point – Bavisa Faliya Junction – Govinda Junction. - Hanuman Temple – Dandul Faliya Char Rasta and back – Hanuman Temple – Govinda Complex – Bavisa Faliya Junction – Cinemax Point – Kilvani Naka – Godse Point – Mini Bus Stop.

Bus No.4 (Route No.3)

**Bavisa Falia to Local Bus Stop**

Mini Bus Stop - Godse Point – Kilvani Naka – Cinemax Point – Bavisa Faliya Junction – Govinda Complex – Hanuman Temple – Dandul Faliya Char Rasta and back – Hanuman Temple – Govinda Junction. - Bavisa Faliya Junction – Cinemax Point – Kilvani Naka – Yogi Hospital – Prabhat School – Amlī Char Rasta – DRO/Elect. Office – Pipariya Outpost – Pipariya Bridge – Opp. Fire Station – Amlī Cross Road – Jalaram Hospital – Panchayat Market – Local Bus Stop.

Bus No.5 (Route No.4)

**Local Bus Stop to Kharadpada to Naroli and Back**

Local Bus Stop – Opp. DCB Bank – Opp. Pramukh Vihar – Swaminarayan Temple – Athal Fatak – Opp. Ipca Lab – Luhari Fatak – Kharadpada School – Reliance Gate – Limda Chowk – Naroli Mori Falia – Near PHC Naroli – Near Char Rasta – Opp. Sheetal Bar – Athal Fatak – Swaminarayan Temple – Pramukh Vihar – DCB Bank – Local Bus Stop

Bus No.6 (Route No.5)

**Local Bus Stop to Govt. College Naroli**

Local Bus Stop – Opp.DCB Bank – Opp. Pramukh Vihar – Hotel Vanraj – Opp. Swaminarayan Temple – Athal Fatak – kakad Faliya Junction – Naroli Char Rasta – Govt. College Naroli

OIDC Ltd., Transport Division  
Saarthi Bus Sewa, Diu

Bus No.1 (Route No .1)

**Vanakbara to Jethibhai Bus stop**

**Vanakbara Bus Depot 10** – Dholawadi/SBI Bank – Saudwadi – Vachhadwadi – Betawadi – Dagachi – Patelwadi – Bucharwada Panchayat – Bucharwada Bus Depot – Jholawadi – Dangarwadi – Kevdi – Malala Circle – fudam/KV school – Gandhipara – Saibaba Temple/Japa – **Jethibai Bus Stand 10** – G.H.S.School – **Nirmalamata School.**

Bus No.2 (Route No .1)

**Jethibhai Bus stop to Vanakbara**

**Nirmalamata School.-** G.H.S.School- **Jethibai Bus Stand 10** – Saibaba Temple/Japa - Gandhipara -Fudam/KV school – Malala Circle – Kevdi – Dangarwadi – Jholawadi – Bucharwada Bus Depot – Bucharwada Panchayat – Patelwadi – Dagachi – Betawadi – Vachhadwadi – Saudwadi – Dholawadi/SBI Bank – **Vanakbara Bus Depot 10**

Bus No.4 (Route No .2)

**I.T.I. GHOGHLA to FORT DIU**

**I.T.I. Ghoghla** – Hotel Premalay,Ghoghla – Panjrapore Girls School – Ghoghla Bus Depot – Paninu Parab – Mithabavono Chorah – Bungali Chowk – Kajimam – Jethibai Bus Stand – Bunder Chowk – Collector office – PWD,Diu – **Fort Diu.**

## ANNEXURE – 2 : DAMAGES/ PERFORMANCE REVIEW SYSTEM

### 1. Fines to be calculated per month basis

Sr. No.	Quality Parameters	Specified service quality levels	Fine in Rs.
1	Break down per 5,000 bus kms		
2	Trip Efficiency	95%	
3	Punctuality of operations (start of trips Origins / Arrival of trips - Destinations)	95%	

### 2. Fines to be calculated on Daily basis

Sr. No.	Description of the Infractions	Fine in Rs. (Per bus per day)
<b>1</b>	<b>BUS RELATED INFRACTIONS</b>	
1.1	Flooring not swept/seats found dirty at the start of the trip	200/-
1.2	Malfunctioning passenger door	500/-
1.3	Broken/Loose/Missing Passenger Seat (per seat)	300/-
1.4	Placing any decorative article/religious figure or symbol or political symbol inside or outside the bus without prior approval of the Authority	1000/-
1.5	Damage to the any vehicle tracking equipment or any Intelligent Transit Management System installed	300/-
1.6	Damages / Missing window safety guard rails	500/-
1.7	Missing, damaged or loosely hanging rub rails, hand grab rails and handholds etc.	200/-
1.8	Modification of colours/designs of external paintwork vs original	1000/-
1.9	Damaged floor, steps, hatches or hatch covers in the bus	500/-
1.10	Visible dents that are more than 5mm in depth and or 200sq mm in area	500/-
1.11	Missing / non operative, saloon lights, indicator lights, wiper system, wiper blades, prescribed horn & any indicating instruments (per item)	300/-
1.12	Installation of additional lamps, for illumination or decoration / Defective head light / Defective front, and / or back brake lights; side marker lights	500/-
1.13	Defective operation or damage to emergency exits doors, non-availability of hammer for breaking of emergency glass	200/-
1.14	Oil spillage on wheel rims, hubs, tyres, etc.	300/-
1.15	Installation of horn(s) other than that originally fitted in bus	500/-
1.16	Non availability of specified fire extinguishers, lack of charge of same, expiry date due or no specification of expiry date	200/-
1.17	Excessive emission of visible smoke / abnormal noise of high intensity	500/-
1.18	Any other bus related infraction	500/-
<b>2</b>	<b>OPERATIONS RELATED INFRACTIONS</b>	
2.1	Parking in places other than those permitted by Authority (Per Trip)	500/-
2.2	Not stopping at earmarked station en-route as scheduled	500/-

	(Per Trip)	
2.3	Stopping at a station and/or place not earmarked for route service and or in a manner to cause obstruction to other traffic (Per Trip)	500/-
2.4	Changing the route of a service (Per Trip)	1000/-
2.5	Operating un-authorized hours or services	1000/-
2.6	Picking or setting down passengers at points other than the scheduled bus stops	200/-
2.7	Operating outside the established and designated routes (Per Trip)	1000/-
2.8	Delaying operation without cause (Per Trip)	500/-
2.9	Abandoning and/or alighting from vehicle without cause and or without informing Authority.	500/-
<b>3</b>	<b>Crew related infractions</b>	
3.1	Failure to carry on-board personal identification and / or vehicle registration book / any other vehicle identity	500/-
3.2	Refusal to provide information to authorized staff / commuters	200/-
3.3	Park bus dangerously / at away from earmarked space in depot	300/-
3.4	Carry companions in Driver work area	300/-
3.5	Cross a red light	500/-
3.6	Driving above prescribed speed limits	500/-
3.7	Invasion of zebra crossings	1000/-
3.8	Verbal or physical misbehavior with passenger	300/-
3.9	Failure to follow or acknowledge instructions of authorized staff	300/-
3.10	Delayed reporting of bus breakdowns / incidents en-route (reaction time < 15 minutes)	500/-
3.11	Non-wearing prescribed uniform / badge etc. while on-duty	200/-
3.12	Non-submission of defect / route incidents etc. reports etc. on completion of work shift but before leaving depot premises	500/-
3.13	Not carrying complaint book and or not presenting complaint book to commuters when demanded	300/-
3.14	Use of Cell phone by Driver while driving	1000/-
<b>4</b>	<b>Management Information System (MIS) and ITS related infractions.</b>	
4.1	Delayed / incomplete / erroneous submission / non-submission of any / all of the prescribed MIS reports. A few of such reports given here under:	500/-
4.1.1	Applicable operations related reports e.g. vehicle productivity data - vehicle wise, route and trip wise; Data about incidents / accidents / fatalities en-route along with cause-wise details;	500/-
4.1.2	PIS systems – serviceable / under break down repairs;	500/-
4.1.3	ITS equipment on-board and their serviceability status – daily bus wise and consolidated	500/-
4.1.4	Bus maintenance related data as per details and formats prescribed by the Authority from time to time - a few requirements given here under <ul style="list-style-type: none"> <li>➤ Bus maintenance activities completion – due and completed – daily and as per prescribed periodicity <ul style="list-style-type: none"> <li>• Preventive maintenance schedules</li> <li>• Cleaning of buses</li> </ul> </li> </ul>	500/-

	<ul style="list-style-type: none"> <li>• Washing of buses</li> <li>• Roadworthiness certification of buses</li> <li>• Pollution under control certification</li> <li>• Other maintenance activities</li> <li>• Road worthy fleet</li> <li>• Fleet Utilization</li> </ul> <ul style="list-style-type: none"> <li>➤ Fuel, oil and lubricants consumption data,</li> <li>➤ Break down related data,</li> <li>➤ Accidents related data</li> <li>➤ Pollution under control certification details</li> <li>➤ Noise checking data</li> </ul> <p>Data related to average life of aggregates</p>	
<b>5</b>	<b>Administration related infractions as related to applicable contract(s)</b>	
5.1	Preparation of and submission of all reports / information as required by the Authority from time to time. A few of such reports / information are given here-under	500/-
5.1.1	Compliance with all statutes, rules, regulations, obligations, responsibilities as applicable to bus operations and all its constituents and sub systems and or as prescribed by law and or by Authority	1000/-
5.1.2	Capacity building of Public Transport operations related crew / staff – quantitative (person days) and operational field related as agreed / indicated by Authority and/or with the training plan.	500/-
5.1.3	Failure to make timely payments of dues / penalties/damages etc. to Authority	1000/-
5.1.4	Violation of business days, working hours per day, minimum wages, etc. and any other working conditions requirements as per applicable legal / contractual provisions.	1000/-
5.1.5	Failure to comply with the corrective and preventive maintenance plan as applicable to infrastructure, plant and equipment and other facilities	1000/-
<b>6</b>	<b>Any other infraction identified and communicated to Operator by the Authority</b>	200/- to 1000/-



**ANNEXURE - 3 : DETAILS OF CONTRACTED BUSES AND THE INDICATIVE  
DELIVERY SCHEDULE OF CONTRACTED BUSES**

**Details of Buses\* and Bus Specifications**

<b>Sr. No.</b>	<b>Manufacturer and Bus Type</b>	<b>Model Number</b>	<b>Registration</b>	<b>Date of handover to Operator</b>

## ANNEXURE – 4 : DEPOT LICENSE AGREEMENT

**THE STATE TRANSPORT AUTHORITY]/[AUTHORITY]** [*description of the relevant authority*] and having its principal office at [\_\_\_\_\_], (hereinafter referred to as “The Authority” which expression shall include its successors and permitted assigns);

### AND

**OIDC** a company incorporated under the Companies Act, 1956 acting through [\_\_\_\_\_] having its registered office at [\_\_\_\_\_] (hereinafter referred to as “the Operator”, which expression shall include its successors and permitted assigns);

### AND WHEREAS

1. The Parties have entered into a Bus Operator’s Agreement dated [\_\_/\_\_/20\_\_] whereby the Authority has appointed the Operator for implementation of the Project.
2. Pursuant to the Bus Operator’s Agreement, the Authority is providing to the Operator the right to use and the right of way to the bus depot (the details of which are provided in the Schedule 1 to this Depot License Agreement) (“**Depot**”) for the limited purpose of implementation of the Project.
3. The Parties are hereby entering into this Depot License Agreement to specify the terms and conditions of the use of the Depot by the Operator.
4. The actual memorandum of handover of Depot to the Operator along with relevant Depot details is placed as Annexure to this Agreement.

### NOW THEREFORE IT IS AGREED AS FOLLOWS:

1. All capitalized words used but not defined herein shall have the meaning specified in the Bus Operator’s Agreement.
2. The Authority hereby provides on a license basis the Depot (the details of which are provided in Schedule 1 to this Agreement) and the Operator hires the Depot on the terms and conditions of this License, it being recorded that the Authority warrants that the Depot will, save for reasons

beyond its reasonable control, be fit for the purpose for which it is to be used by the Operator, namely to provide a reasonable shelter for the Contracted Buses while not in use and to facilitate the cleaning, repair and maintenance of the Contracted Buses.

Provided, however, the Operator shall have no right, title, interest or any ownership rights over the Bus Depot or any part thereof.

3. This Depot License Agreement shall come into operation on the date of execution hereof and shall terminate on the termination or cancellation of this Depot License or the Bus Operator's Agreement for whatever reason, whichever is the earlier ("**License Period**").
4. There shall be rental of Rs. \_\_\_\_\_/-per annum (Authority to specify) payable by the Operator to the Authority in respect of the License for use of the Depot, provided that the Operator discharges all of its obligations pursuant to this Depot License Agreement and the Bus Operator's Agreement.
5. The Operator shall be responsible for timely payment of the cost of all electricity and water consumed at or on the Depot, determined at prevailing municipal rates in accordance with readings of separate sub-meters. It is hereby clarified that the Operator shall be liable to pay the cost of all the utilities on actual consumption and only in relation to such area of the Bus Depot as has been provided under this Bus Depot Agreement.
6. Insurance
  - a. The Operator shall not keep or do in or about the Depot anything which is liable to increase any of the risks against which the Depot (or any part thereof) is insured for the time being to the extent that such insurance is rendered void or voidable or the premiums of such insurance are, or become liable to be, increased.
  - b. Without prejudice to any other right of action or remedy that the Authority may have arising out of a breach of the foregoing provision, the Authority may recover from the Operator on demand the full amount of any increase in insurance premiums in respect of the Depot attributable to such breach.

- c. For the purposes of the above provisions, the Operator shall be entitled to assume that the Depot is at all material times insured against such risks, on such terms, for such amounts, and at such premiums as are for the time being usual in respect of similar buildings in similar locations.
- d. The Operator shall, in accordance with its obligations pursuant to the Bus Operator's Agreement, obtain and maintain contract works insurance and public liability insurance in relation to the Depot.

7. Cession and Subletting

The Operator shall not be entitled to:

- a. cede all or any of its rights or delegate any of its obligations under this Depot License Agreement;
- b. sublet the Depot in whole or part; or
- c. give up possession and/or control of the Depot to any third party, without the Authority's prior written consent.

8. Operator's Obligations

The Operator shall:

- a. keep the Depot clean, tidy and commercially usable at all times;
- b. be responsible for the handling of all waste and effluent in accordance with the Applicable Law;
- c. not use the Depot or allow it to be used, in whole or part, for any purpose other than that of implementing the Project;
- d. not bring into the Depot any article which, by reason of its weight or other characteristics, is liable to cause damage to the Depot;
- e. not leave refuse or allow it to accumulate in or about the Depot except in the refuse bins provided;
- f. refrain from interfering with the electrical or plumbing serving the Depot, except as may be strictly necessary to enable the Operator to carry out its obligations of maintenance and repair in terms of this Agreement;
- g. not permit any person to permanently dwell in the Depot
- h. provide at the Operator's own expense all electric, fluorescent and incandescent light bulbs required in the Depot from time to time;
- i. co-operate with any other operator or third party using the Bus Depot or a part thereof as notified by the Authority from time to time; and

- j. allow for use of the Depot by one or more other bus operators at the written request of the Authority, provided that such use shall not materially adversely affect the Operator's ability to implement the Project under the Bus Operator's Agreement.

9. Maintenance and Repairs

The Operator shall at its own expense and without recourse to the Authority:

- a. throughout the License Period maintain in good order and condition the interior and exterior of the Depot and all parts thereof, including (without limitation of the generality of this obligation) all windows, doors, appurtenances, fixtures and fittings contained in the Depot;
- b. promptly and properly repair or make good all damage occurring in the interior and exterior of the Depot from time to time during the License Period, whatever the cause of such damage, and including damage to any part of the interior of the Depot or to any window, door, appurtenance, fixture or fitting, and replace all such items (as well as any keys) which have been broken, lost or destroyed (again regardless of cause); and
- c. on the termination or cancellation of this Depot License Agreement, forthwith return the Depot and all such parts thereof (including all keys) to the Authority in good order, condition and repair, normal wear and tear excepted.
- d. The Depot shall be deemed, at the commencement of this Depot License Agreement, to be in good order and condition except to the extent that the Operator notifies the Authority in writing within [15 (fifteen)] Business Days after having taken possession of the Depot of the need for any repairs to in the Depot or of the fact that any part of the Depot, including any lock, key, door, window, appurtenance, fixture or fitting, is damaged, missing, or out of order.
- e. Upon receiving a notification contemplated in sub-clause (d) above the Authority shall promptly cause the necessary repair or replacement to be effected to the Depot at the Authority's own expense.

- f. The Operator shall be responsible for the maintenance of, and for all repairs and replacements becoming necessary from time to time in or to, the Depot and all parts thereof.
  - g. In the event the Operator fail to carry out any of its obligations under this Agreement with regard to any maintenance, repair or replacement, the Authority shall be entitled, without prejudice to any of the Authority's other rights or remedies, to effect the required item of maintenance, repair or replacement and to recover from the Operator on demand, all reasonable amounts incurred by the Authority in respect thereof.
10. Alterations, additions and improvements
- a. The Operator shall not make any alterations or additions to the Depot without the Authority's prior written consent.
  - b. If the Operator does alter or add to the Depot in any way, whether in breach of sub-clause (a) or not, the Operator shall, if so required in writing by the Authority, restore the Depot on the termination or cancellation of this Agreement to the same condition as it was prior to such alteration or addition having been made, normal wear and tear excepted. Unless this Agreement is terminated or cancelled by the Authority as a result of a breach hereof by the Authority, the Authority's requirements aforementioned shall be communicated to the Operator not less than [10 (ten)] Business Days prior to the termination or cancellation. For the sake of clarity, the Parties agree that this sub-clause (b) shall not be construed as excluding any other or further remedy which the Authority may have in consequence of a breach by the Operator of sub-clause (a).
  - c. Save for any alteration or addition which is removed from the Depot as required by the Authority in terms of sub-section (b), all alterations or additions made to the Depot shall, on termination or cancellation of this Depot License Agreement, become the property of the Authority and may not be removed from the Depot at any time. Subject to any prior written agreement to the contrary between the Parties, the Operator shall not, whatever the circumstances, have any claim against the Authority for compensation for any alterations or additions to the Depot.

11. Exclusion of Liability

- a. The Operator shall have no claim against the Authority for any loss or damage suffered by the Operator by reason directly or indirectly of:
  - i. any negligent act or omission of the Authority or any agent or servant of, or contractor to, the Authority, including (without limiting the generality of the foregoing) any negligent act or omission of any cleaner, maintenance person, handyman, artisan, laborer, workman, watchman, guard or commissionaire, excluding gross negligence and/or willful default;
  - ii. any failure or suspension of, or any interruption in, the supply of water, electricity, air-conditioning, heating, or any other amenity or service to the Depot (including, without limiting the generality of the foregoing, any cleaning service), whatever the cause;
  - iii. any breakdown of, or interruption or delay in the operation of, any machinery, plant, equipment, installation, or system situated in or on, or serving, the Depot, and including (but without limiting the generality of the foregoing) any geyser, boiler, burglar alarm or security installation or system, again regardless of cause;
  - iv. any interruption of, or interference with, the enjoyment or beneficial occupation of the Depot or any parts of the common Depot caused by any building operations or other works to or in the Depot, whether by the Authority or by anybody else; or
  - v. any other event or circumstance beyond the Authority's reasonable control occurring, or failing to occur, upon, in, or about the Depot, whether or not the Authority could otherwise have been held liable for such occurrence or failure, and the Operator indemnifies the Authority and holds it harmless against any and all liability to any employee or agent of the Operator, its guests and other invitees, and all other persons who may occupy or be entitled to occupy the Depot or any parts thereof through or under the Operator.
- b. The Authority shall not, however, be excused from specific performance of any of the Authority's obligations under this Agreement, whether express or implied, and particularly (but not

only) the Authority's obligations to afford the Operator occupation and enjoyment of the Depot as contemplated by this Agreement.

12. Authority's Right of Entry and Carrying Out of Works

The Authority may at all reasonable times, without thereby giving rise to any claim or right of action on the part of the Operator or any other occupier of the Depot:

- a. enter the Depot in order to inspect it, to carry out any necessary repairs, replacements or other works, or to perform any other lawful function in the bona fide interests of the Authority; or
- b. carry out elsewhere on the Depot (or any part thereof) any necessary repairs, replacements or other works, provided that the Authority shall ensure that this right is exercised with due regard for, and a minimum of interference with, the beneficial enjoyment of the Depot by the Operator.

13. Damage to or destruction of Depot

- a. If the Depot is destroyed or so damaged that it can no longer be beneficially occupied, this Depot License Agreement shall, unless the Parties agree otherwise in writing, terminate when that happens in respect of that Depot.
- b. If the Depot is damaged but can still be beneficially occupied, this Depot License Agreement shall remain in force and the Authority shall repair the damage without undue delay.

14. Special Remedy for Breach

- a. Should the Operator be in breach of any of the terms or conditions of this Depot License Agreement or the Bus Operator's Agreement, in any way whatsoever, and fail to remedy such breach within [7 (seven)] Business Days after receiving a written demand that it be remedied, or such longer period as may reasonably be required in the circumstances and agreed upon in writing by the Parties, the Authority shall be entitled, without prejudice to any alternative or additional right of action or remedy available to the Authority under the circumstances, to terminate this Depot License Agreement with immediate effect, be repossessed of the Depot, and



recover from the Operator such damages sustained as a result of the breach and the termination of this Depot License Agreement.

- b. Nothing in sub-clause (a) above shall be construed as excluding the ordinary lawful consequences of a breach of this Depot License Agreement by either party (save any such consequences as are expressly excluded by any of the other provisions of this Depot License Agreement) and in particular any right of termination of this Depot License Agreement on the ground of a material breach of this Depot License Agreement.
- c. In the event of the Authority having terminated this Depot License Agreement or this Agreement justifiably but the Operator remaining in occupation of the Depot, with or without disputing the termination, the Operator shall be obliged to pay, all amounts which would have been due and payable by the Operator but for the termination, for so long as the Operator continues to occupy the Depot or any part thereof.

15. Right to Negotiate Renewal

If the Bus Operator's Agreement is renewed and/or extended beyond its Term, the Parties agree to negotiate in good faith for renewal of this Depot License Agreement on such terms and conditions as may be agreed between the Parties in writing prior to the expiration of this Agreement.

**IN WITNESS WHEREOF** the Parties have executed and delivered this Agreement by their duly authorised representative on the date first above written:

**SIGNED ON BEHALF OF THE  
AUTHORITY**

**SIGNED ON BEHALF OF OPERATOR**  
by the hand of its authorized  
representative

\_\_\_\_\_ (Signature) \_\_\_\_\_ (Signature)

\_\_\_\_\_ (Name) \_\_\_\_\_ (Name)

\_\_\_\_\_ (Designation) \_\_\_\_\_ (Designation)

**SIGNED ON BEHALF OF SELECTED  
BIDDER** by the hand of its authorized  
representative

\_\_\_\_\_ (Signature)

\_\_\_\_\_ (Name)

\_\_\_\_\_ (Designation)

**Schedule 1 to License Agreement: Details of Depot Infrastructure handed over to Operator during execution of Agreement**

**Depot 1:**

Date of Handover	
Address of Depot	
Area of Depot:	
Facilities	
Utilities	
Security	

We have inspected the above depot premises and are satisfied as to its condition. We undertake to maintain the above premises in good working condition as per standard practices and terms and conditions of the Agreement. We understand that the premises above are only being licensed to us for the purpose of maintenance of the Contracted Buses during the Contract Period and shall not be used for any other purpose. We confirm to return the above premises to the Authority at the end of the Contract Period in the same condition as found when we took over, subject to normal wear and tear for such premises for prescribed uses. The Authority shall not bear liabilities arising from the use of these Premises.

We have accepted the right to use the Depot on \_\_\_\_\_ (date)

For Operator

Name, Sign, Time and Place

*Details of other depots to be added as they are handed over and to form part of this Agreement.*

**ANNEXURE – 5**  
**MINIMUM CIVIL INFRASTRUCTURE AND EQUIPMENTS TO BE PROVIDED IN THE**  
**BUS DEPOT/Workshop BY THE AUTHORITY**

[Indicative requirement for 16 buses at three different locations

1. Secured space with hard standing ground
2. Bus inspection Pits with shed ( 3 )
3. Repair bays with shed ( 3 )
4. Bus washing bays with shed (3 )
5. Tyre section ( Approx area 15ft X 20 ft closed and 60ft X 60ft open )
6. Electric section (Approx area 15ft X 20 ft closed )
7. Stores of stacking spares (Approx area 30ft X 30 ft)
8. Overhauling section – For overhauling of units ( Approx area 15ft X 15ft )
9. Oil stores (10ft X 10ft)
10. Under chassis washing Ramp (3 nos.)
11. Air Compressor Rooms ( 3 no's of 8ft X 8ft )
12. Engineering office ( Approx area 20 ft X 35 ft )
13. Record room ( 8ft X 8ft)
14. Scrap bins (3 no's )
15. High mast lights (3 no's )
16. Single phase and three phase electric supply
17. Water (storage capacity of 5,000 lts. )
18. Automatic washing machine with water recycling plant (3nos)

**ANNEXURE – 6: INDICATIVE ROUTE PLAN\***

<b>Sr. No.</b>	<b>Name of the route</b>	<b>Route Length (km)</b>	<b>Peak hour Headway</b>	<b>Off-peak hour headway</b>	<b>No of buses required during peak hours</b>

**ANNEXURE - 7:**

**LIST OF AUTHORITY CLEARANCES AND OPERATOR CLEARANCES**

**[Please insert an indicative list of clearances required to be procured by the Authority and clearances required to be procured by the Operator]**

<b>Sr. No.</b>	<b>Permission / Clearance</b>	<b>Party Responsible</b>
1	Vehicle Registration	Authority
2	Insurance for Vehicle and other Authority owned assets like Depot	Authority
3	Stage Carriage Permit within Municipal Area	Authority
4	Stage Carriage Permit outside Municipal Area	Authority
5	No Objection Certificate from State Transport Department or RTA or from State Transport Undertaking as Applicable	Authority
6	Fare Notification	Authority
7	Pollution Under Control Certification	Operator
8	Road worthiness Certificate	Operator

## **ANNEXURE 8: FLEET DEPLOYMENT PLAN**

**ANNEXURE 9: DETAILS OF PARKING SPACES AND WORKSHOP**



## ANNEXURE 10: DRAFT ESCROW AGREEMENT

THIS ESCROW AGREEMENT (the “Agreement”) is made at on \_\_\_\_\_,  
by and

AMONGST:

1. [\_\_\_\_\_], [a company incorporated in India under the Companies Act, 1956 / a banking company registered under the Banking Regulation Act, 1949], with its registered office at [\_\_\_\_\_] (hereinafter referred to as the “**Escrow Bank**” which expression shall, unless it be repugnant to the subject or context thereof, include its successors and permitted assigns) of the **FIRST**

**PART:**

2. The [OIDC]/[AUTHORITY]/[Special Purpose Company for Operation of Urban Bus Services ]  
[description of \_\_\_\_\_ the relevant Authority] And having its principal Office at [\_\_\_\_\_], (hereinafter referred to as the “**Authority**” which expression shall include its successors and permitted assigns) OF THE SECOND PART;

**AND**

3. [XYZ LTD.], a company incorporated under the Companies Act, 1956 acting through [\_\_\_\_\_] having its registered office at [\_\_\_\_\_] (hereinafter referred to as the “**Operator**”, which expression shall include its successors and permitted assigns)<sup>74</sup> **OF THE THIRD PART;**

The Escrow Bank, the Authority and the Operator are hereinafter collectively referred to as the “**Parties**” and individually as the “**Party**”.

**WHEREAS:**

- (a) The Authority [has the power/function] to ensure the provision of public bus transport services within [*the area under its jurisdiction*].
- (b) The Operator was selected by the Authority under a competitive bidding process and is established, inter-alia with the objectives of providing Bus Services within the Bus Service Area.
- (c) The Authority and the Operator have entered into an Operator Agreement dated [ ] (hereinafter referred to as “Operator Agreement”), whereby the Authority has granted to the Operator a non-exclusive right to operate and maintain the Contracted Buses and provide Bus Services within the specified Bus Service Area and the Operator has agreed to undertake the Project on the terms and conditions contained therein.
- (d) Under the terms of the Operator Agreement, it has been stipulated that an escrow account shall be created into which the Operator shall deposit all the revenues generated and all the income accruing from the operation and maintenance of the Contracted Buses and provision of Bus Service within the Bus Service Area including but not limited to the Passenger Fare collected by the Authority (itself or through a third party) in the Escrow Account.
- (e) This Agreement sets forth the detailed mandates, terms and conditions and operating procedures for such escrow account.

NOW, THEREFORE, in consideration of the premises contained herein, the Parties here to agree as follows:

1. Definitions

- 1.1 For the purposes of this Agreement, unless the context otherwise requires, capitalized terms shall have the meaning set forth hereunder.

**“Beneficial Parties/Party”** means the Authority and the Operator as the case may be.

**“Business Day”** means any day of the week (excluding Saturdays, Sundays and public holidays) on which banks in \_\_\_\_\_ are generally open for business;

**“Dispute”** shall mean any dispute, difference, question or controversy between the Parties arising out of, in connection with or in relation to this Agreement.

**“Event of Default”** shall mean an event or default of the Operator under the Operator Agreement, as certified by the Authority in a written notice in this regard to the Escrow Bank.

**“Month”** shall mean a calendar month.

**“Priority Cash-now Application”** shall have the meaning ascribed to the term in Clause 3.5(B) (a) hereunder;

**“Tax”** shall mean the taxes, duties, charges, cess, levies and other such analogous payments due under Applicable Law.

Other capitalized terms used herein (and not defined herein) but defined under the Operator Agreement shall have the meaning ascribed to the term under the Operator Agreement

- 1.2 In this Agreement, unless the context otherwise requires, the rules of interpretation and construction as mentioned in Clause 1.2 of the Operator Agreement shall apply.

## 2. Establishment of Escrow Account and Declaration of Trust

### 2.1 Establishment of the Accounts

The Operator and the Escrow Bank confirm that the Escrow Bank has established, in the name of \_\_\_\_\_ at the Escrow Bank's \_\_\_\_\_branch, an account titled the “\_\_\_\_\_ **Escrow Account**”.

### 2.2 Declaration of Trust

The Authority hereby settles in trust with the Escrow Bank a sum of Rs 100 (Rupees Hundred) for the benefit or the Beneficial Parties. The Authority further declares that all the legal right, title and interest in and to the Escrow Account, including any document of title in relation thereto made from the Escrow Account shall be vested in the Escrow

Bank and held for the benefit of the Beneficial Parties in accordance with the terms of this Agreement and their respective interests are provided for herein. The Escrow Bank hereby accepts the abovementioned amount of Rs. 100 in the trust hereby declared upon the terms and conditions set forth in this Agreement and acknowledges that any amounts deposited in the Escrow Account from time to time shall be held in trust for the benefit of the Beneficial Parties in accordance with the terms and conditions of this Agreement. No Entity other than the Beneficial Parties shall have any rights hereunder as the beneficiaries of or as third party 'beneficiaries under this Agreement.

### 2.3 General Right or Withdrawal

The Escrow Bank shall not make any transfer or withdrawal other than in accordance with this

Agreement, unless the Escrow Bank has received the prior written instructions of the Beneficial Parties authorizing such use.

3. Deposits into and Withdrawals from the Escrow Account
  - 3.1 The Authority shall deposit all the revenues that it receives from Bus Operations under the terms of the Operator Agreement.
  - 3.2 The Authority shall, at the time of opening the Escrow Account, give irrevocable instructions, under the Escrow Agreement, to the Escrow Bank instructing, inter alia, that deposits in the Escrow Account shall be appropriated in the following order based on the receipt of relevant demand or instructions:
    - a. all taxes due and other statutory dues
    - b. Operator Payment after deducting any taxes/charges under Applicable Law and as specified under the Operator's Agreement.

Provided, *however*, the Escrow Account can only be operated at all times by the Authority

4. Escrow Bank Provisions
  - 4.1 Escrow Bank and the Beneficial parties
    - (a) The Beneficial Parties hereby appoint the Escrow Bank for benefit of the Beneficial Parties in connection herewith, and authorize the Escrow Bank to exercise such rights, powers, authorities and discretions as are specifically delegated to the Escrow Bank by the terms hereof together with all such rights, powers, authorities and discretions as are reasonably incidental hereto,

and the Escrow Bank accepts such appointment pursuant to the terms hereof.

- (b) The Authority hereby agrees to pay to the Escrow Bank, fees of Rs. [ ] per [ ] consideration for acting as the Escrow Bank hereunder.

4.2 Obligation of the  
Escrow Bank The  
Escrow Bank:

- (a) undertakes to perform only such duties as are specifically set forth to be performed in this Agreement. in accordance with the terms and conditions contained herein, and further undertakes to act in good faith and without negligence;
- (b) 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 Operator upon a certificate signed by or on behalf of the Operator;
- (c) may, in the absence of bad faith or gross negligence on its part, rely upon the authenticity of any communication or documents believed by it to be authentic;
- (d) shall, within [five (5)] Business Days after receipt, deliver a copy to the Authority acting through [ ]<sup>75</sup>of any notice or document received by the Escrow Bank (in its capacity as the Escrow Bank) from the Operator or any other entity;

- (e) Shall, within [five (5)] Business Days after receipt. deliver a copy to the Operator of any notice or document received by the Escrow Bank (in its capacity as the Escrow Bank) from the Authority or any entity in connection herewith; and
- (f) Shall within seven (7) Business Days prior to any date on which any payment is due to a Beneficial Party in accordance with the terms and conditions of this Agreement, provide notice to the Authority of any anticipated shortfall in the Escrow Account (or any account there under) for making any payments due in accordance with the terms and conditions of this Agreement.

5. Term and Termination

- 5.1 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 Beneficial Parties to the Escrow Bank, remain in full force and effect for the duration of the Operator Agreement
- 5.2 The Authority may, after consultation with the Operator, at any time may remove the Escrow Bank, with or without cause, and appoint a successor Escrow Bank by written notice of such action to the Operator, the Escrow Bank and the successor Escrow Bank.
- 5.3 Provided however that the Authority shall not be required to consult with the Operator (as required above) if Termination of the Contract has occurred in accordance with the terms of the contained therein.

5.4 If, at any time, the Escrow Bank or any of its associates, shall become a Beneficial Party and after such time there is an Event of Default, the Escrow Bank shall resign as Escrow Bank immediately upon the occurrence of such Event or Default, if in the sole judgment of the other Beneficial Parties (which, for this purpose, shall not include the Escrow Bank), there shall be, or be reasonably likely that there will arise, any conflict in or impediment to the Escrow Bank's performance as Escrow Bank under this Agreement.

5.5 The Escrow Bank shall be entitled to terminate its services under this Agreement if the Authority fails to comply with any of its material obligations owed to the Escrow Bank under this Agreement and fails to remedy the failure within [60 (sixty)] days after receipt of notice thereof from the Escrow Bank in relation thereof. Provided however, the Authority has arranged for the appointment of a successor Escrow Bank and arrangements are made for the transfer of amounts deposited in the Escrow Account (including any sub-accounts thereof) to new accounts established with successor Escrow Bank.

5.6 Any successor Escrow Bank appointed as provided in accordance with this Clause 5 shall execute, acknowledge and deliver to, and for the benefit of, the Beneficial Parties and to its predecessor Escrow Bank an instrument accepting such appointment, and thereupon the resignation or removal of the predecessor Escrow Bank shall become effective and such successor Escrow Bank, without any further act,



deed or conveyance, shall become vested with all the rights, powers, duties and obligations of its predecessor hereunder, as if it was originally named as Escrow Bank;

- 5.7 provided that on the written request of the Beneficial Parties or of the successor Escrow Bank, the Escrow Bank ceasing to act shall take such steps or actions as are required of it by the Beneficial Parties. Including without limitation the execution and delivery of an instrument or instruments transferring and assigning to such successor Escrow Bank (without obligation to indemnify such successor) all the rights and powers of the Escrow Bank so ceasing to act, delivery to the Beneficial Parties all documents, instruments, etc. relating to its obligations under this Agreement.
- 5.8 Upon the reasonable request of any such successor Escrow Bank, the Beneficial Parties shall execute any and all instruments in writing in order more fully and certainly to vest in and confer to such successor Escrow Bank all such rights and powers.
- 5.9 Any corporation into which the Escrow Bank may be merged or converted or with which it may be consolidated or any corporation resulting from any merger, conversion or consolidation to which the Escrow Bank shall be a party, or any corporation succeeding to the corporate Escrow Bank's rights or business or either, shall, subject to approval of the Authority, be the successor of the Escrow Bank with all rights, benefits, obligations and duties as were originally available and provided for to the transferor Escrow

Bank in relation to the merger, conversion or consolidation proceedings or process.

6. Books and records

6.1 The Escrow Bank shall be responsible for maintaining a correct and complete record of all transactions, deposits, withdrawals or transfer of funds relating to the Escrow Account (and all sub-accounts thereof).

6.2 5.7.2 The Authority shall have unrestricted access to review such books and records of the Escrow Bank in relation to the Escrow Account subject to restrictions in law. The Operator irrevocably grants the Authority access to review the books and records of the Escrow Account and irrevocably waives any right of confidentiality, which may exist in respect or such books and records.

7. Statement of Authorized Investments

Upon the request of the Authority and in any event, not later than [five (5)] Business Days after the end of any calendar Month, the Escrow Bank shall deliver to the Beneficial Parties a schedule of investments acquired or disposed of during that Month in such detail as may be reasonably required.

8. Confidentiality

The Escrow Bank agrees to keep all information (“**Information**”) (including the terms and conditions of this Agreement and the Operator’s Agreement) made available (whether before or after the date of this Agreement) by any of the Parties to the Escrow Bank concerning the Authority, Operator or the Bus Services, and hereby undertakes and covenants not to communicate any Information, or allow any Information to be communicated to any third party unless:

- a. in connection with any proceedings arising out of or in connection with this Agreement to the extent that such party may consider it necessary to protect its interest or the interests of the Escrow Bank;
- b. required to do so by an order of a court of competent jurisdiction whether or not in pursuance of any procedure for discovering documents; or
- c. pursuant to any Applicable Law in accordance with which such party is required to act;
- d. to its auditors for the purposes of enabling the auditors to complete an audit of the Escrow Bank or to its legal advisers when seeking bona fide legal advice in connection with this Agreement;
- e. in circumstances where the relevant Information has been published or announced by the Concessionaire and/or any other Beneficial Party in conditions free from confidentiality or has otherwise entered the public domain without default on the part of the relevant Party; or
- f. the Information was obtained by such Escrow Bank from an independent or third party source who was not in breach of any confidentiality obligations with the Beneficial Parties.

9. Not Acting in Individual Capacity

In accepting the trusts hereby created, the Escrow Bank acts solely in its capacity as a Escrow Bank and not in its individual capacity and all entities having any claim against the Escrow Bank by reason of the transactions contemplated by the Operator Agreement shall look only to the Authority for payment or satisfaction thereof, save and except as provided in this Agreement, other than as a result of its wilful misconduct or gross negligence.

10. Representation and warranties of the Escrow bank and the Operator

Each of the Escrow Bank and the Operator represent and warrant that it is duly organized and validly existing under the laws of India with power to enter into this Agreement and to exercise its rights and perform its obligations hereunder and has taken all corporate and other actions required for the execution of this Agreement and the performance of its obligations hereunder. The Escrow Bank represents and warrants that it shall hold all funds in the Escrow Account in trust for the benefit of the Beneficial Parties in accordance with the provisions of this Agreement and further represents and warrants that it has obtained all approvals, permits and other clearances required for the execution of this Agreement and the performance of its obligations hereunder.

11. Miscellaneous

11.1 Restriction on Assignment

Save as provided in Clause 5.2, the Operator and the Escrow Bank, shall not assign or transfer any part or their respective rights or obligations under this Agreement without the prior consent of the Authority. It is expressly agreed between the Parties that nothing in this Clause 7.1 shall prevent the Authority from assigning, novating or transferring its rights, benefits and obligations under this Agreement to any entity.

11.2 Notices

**11.2.1** All notices shall be sent to a Party hereto at its address and contact number specified hereunder , or at such other address and contact number as

in designated by such Party in a written notice to the other Parties hereto.

Addresses:

**11.2.2** All such notices and communications shall be effective (i) if sent by telex, when sent (with the correct answerback), (ii) if sent by telecopier, when sent (on receipt of a confirmation to the correct telecopier number), (iii) if sent by person, when delivered, (iv) if sent by courier, (a) one Business Day after deposit with an overnight courier if for inland delivery and (b) [5] five] Business Days after deposit with an international courier if for overseas delivery and (c) if sent by registered letter when the registered letter would, in the ordinary course of post, be delivered whether actually delivered or not.

**11.2.3** An original of each notice and communication sent by telex or telecopy shall be dispatched by person, overnight courier (if for inland delivery) or international courier (if for overseas delivery) and, if such person or courier service is not available; by registered airmail (or, if for inland delivery, registered first class mail) with postage prepaid, provided however, that the effective date of any such notice shall be determined in accordance with Clause 7.2.2, as the case may be, without regard to the dispatch of such original.

### 11.3 No Waivers; Remedies

No failure on the part of any Party to exercise, and no delay in exercising, any right, power or privilege

hereunder shall operate as a waiver thereof or a consent thereto; nor shall any single or partial exercise of any such right, power or privilege preclude any other of further exercise thereof or the exercise of any other right, power or privilege. The remedies herein provided are cumulative and not exclusive of any remedies provided by Applicable Law.

#### 11.4 Severability

Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of prohibition or unenforceability but that shall not invalidate the remaining provisions of this Agreement or affect such provision in any other jurisdiction.

#### 11.5 Amendments or Waiver

No amendment or waiver of any provision of this Agreement, nor consent to any departure by any of the Parties there from, shall in any event be effective unless the same shall be in writing and signed by the Parties hereto and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

#### 11.6 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of India.

#### 11.7 Dispute Settlement

11.7.1 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 the provisions of the Arbitration and Conciliation Act, 1996.

11.7.2 The Arbitrators shall issue a reasoned award and such award shall be final and binding on the Parties. The venue of arbitration shall be \_\_\_\_\_ and the language of arbitration shall be English.

11.7.3 This Clause 11.7 shall survive the termination or expiry of this Agreement.

#### 11.8 Regulatory Approvals

The Operator shall procure and shall thereafter maintain and comply with all regulatory approvals required for it to establish and operate the Escrow Account.

#### 11.9 Additional Rights

Any rights Conferred on the Parties pursuant to this Agreement shall be in addition to and not in substitution for or in derogation of any other rights and remedies which the Parties may at any time have under the Contract or otherwise.

IN WITNESS WHEREOF the Operator has caused its Common Seal to be affixed hereto and to a duplicate hereof on the date first above written and the Escrow Bank and Authority acting through have caused the same to be executed by the hand of an authorized official.

The signature of the authorized representative of the Operator has been affixed pursuant to the resolution of its Board of Directors dated the \_\_\_\_\_ day \_\_\_\_\_, which has hereunto been affixed in \_\_\_\_\_ presence of Shri. \_\_\_\_\_, and Shri. \_\_\_\_\_, Directors who have signed these presents in token thereof and countersigned by \_\_\_\_\_, the authorized officer/Company Secretary

SIGNED AND DELIVERED by the ESCROW BANK by the hand of \_\_\_\_\_ its authorized official.

SIGNED AND DELIVERED by Authority by the hand of \_\_\_\_\_ Mr. \_\_\_\_\_ its authorized official.

**Schedule A to Escrow Account**



**ANNEXURE - 11:**

**INDICATIVE LIST OF EQUIPMENT TO BE PROVIDED BY THE OPERATOR**

<b>Sr. No.</b>	<b>Equipment Description</b>	<b>Qty. Required in Nos.</b>
1	Air Compressors	3
2	Car Washers	3
3	Brake and clutch liner riveting Machine	3
4	Pedestal Drilling machine	3
5	Hydraulic press	3
6	Brake units testing machine	3
7	Electric Welding Machine	3
8	Tyre pressure gauges	3
9	Hub pullers	3
10	Torque wrenches	3
11	Hydraulic Jacks	3
12	Pit trolleys	3
13	Bench vices	3
14	Working tables	3
15	Greasing machine	3
16	Gas Welding machine set	3
17	Battery Chargers	3
18	Matra Jack	12
19	Electric clamp meter	3
20	Bench Grinder	3
21	Injector tester	3
22	Portable drilling machine	3
23	Wheel alignment gauge	3
24	Hot plates for tube repairing	3
25	Tool Box set	6

=====

Omnibus Industrial Development Corporation of Daman & Diu and Dadra & Nagar Haveli Ltd,  
 OIDC Corporate Office, Plot No. 35, Somanth, Nani Daman, Daman – 396210.

**FINANCIAL BID FORMAT**

Sr. No.	Category of Bus	Quoted rate (Royalty fees) per bus per month (in INR) + taxes as applicable.
01	Eicher Make Midi Non AC – 32 Seater	
Total:		
In word (Rupees _____)		