

MAHARASHTRA METRO RAIL CORPORATION LTD.

(NAGPUR METRO RAIL PROJECT)

Volume II - Draft License Agreement

For

Licensing of Advertisement Rights inside Selected Metro Stations of Reach-1,
Reach-2 and Reach-3 of Nagpur Metro Rail Project for a period of 05 years

Tender No: N1PD - 49/2022

July - 2022



MAHARASHTRA METRO RAIL CORPORATION LTD.

Metro Bhavan, Near Dikshabhoomi,
Ramdaspath, Nagpur - 440010.

Website: <http://www.metrotrainnagpur.com>

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LICENSE AGREEMENT

THIS AGREEMENT is entered into on this the day of, 20.....

BETWEEN

1. **Maharashtra Metro Rail Corporation Limited**, a company incorporated under the Companies Act, 1956/2013 bearing CIN Number - U60100MH2015SGC262054, PAN Number - AAECN8723A, having its corporate office at "**Metro Bhavan**", **Opposite to Dr. Babasaheb Ambedkar College, Near Diksha Bhoomi, Nagpur - 440010** (hereinafter referred to as "Maha-Metro" and/or the 'Authority'), which expression shall, unless it be repugnant to the subject or context thereof, include its administrators, successors and assigns)) of the ONE PART;

AND

2. a company/Partnership Firm/Proprietorship Firm/LLP incorporated / registered under the provisions of the Act, bearing registration Number PAN Number., having its registered office at, (hereinafter referred to as the "Licensee" which expression shall, unless repugnant to the context or meaning thereof, include its successors and assigns) of the Other Part.

WHEREAS:

- (A) Maha-Metro, with a view to augment its revenues through non-operating measures/earnings, had invited bids (by its Request for Proposal No.____ dated (the "Request for Proposal" or "RFP")) from the interested parties for granting the '**Licensing of Advertisement Rights inside Selected Metro Stations of Reach-1, Reach-2 and Reach-3 of Nagpur Metro Rail Project for a period of 05 years**', through open bidding process.
- (B) Based on fulfilment of eligibility criteria as laid down in RFP document, Maha-Metro has selected M/s. _____ as successful bidder (hereinafter referred to as "Licensee") has been selected for assigning the **Licensing of Advertisement Rights inside Selected Metro Stations of Reach-1, Reach-2 and Reach-3 of Nagpur Metro Rail Project for a period of 05 years**.
- (C) The Licensee shall perform the obligations and exercise the rights under the Letter of Acceptance (LOA), including the obligations to enter into the License Agreement, pursuant to the LOA for undertaking the License.
- (D) Maha-Metro has agreed to provide to the Licensee, Advertising Spaces (to be identified by the Licensee and approved by Maha-Metro) on "as is where is basis" at selected/..... Metro stations of Reach-1 and Reach-3 of Nagpur Metro Rail Project.

- (E) Therein after referred to as Advertisement Spaces, on payment of License Fee to Maha-Metro on the terms and conditions hereunder contained in this License Agreement.
- (F) The Licensee shall design, procure, manufacture, fabricate, install, commission, manage, operate, maintain, market and sell advertising spaces / opportunities inside selected Nagpur Metro stations as specified in this Agreement at its own cost. Advertisement spaces on bare / prefabricated installed sites shall be identified by the Licensee and got approved from Maha-Metro before commissioning.

NOW THEREFORE, in consideration of the mutual promise and consideration set out herein Maha-Metro and the Licensee (hereinafter collectively called "Parties") witnessed and hereby agree as follows:

- A. The following documents shall be deemed to form part and be read and construed as part of this agreement, namely:
1. Letter of Acceptance no _____ dated _____.
 2. Request for Proposal (RFP), its Addendums & Corrigendum
 3. Any other document issued by / of Maha-Metro forming part of the Bidding Process
- B. The Licensee hereby covenants as follows: -
- i. Licensee hereby assumes responsibility for "*Licensing of Advertisement Rights inside Selected Metro Stations of Reach-1, Reach-2 and Reach-3 of Nagpur Metro Rail Project for a period of 05 years on as is where is basis*". Licensee shall be responsible for design, procure, manufacture, fabricate, install, commission, manage, operate, maintain, market and sell advertising spaces / opportunities inside stations as specified in this Agreement at its own cost. All the advertising sites and formats proposed by the Licensee are subject to approval by Maha-Metro with regard to operational feasibility, aesthetics, safety and security concerns.
 - ii. The Licensee irrevocably agrees to make all payments including the applicable License Fees as per this Agreement as and when due, without delay or demur, without waiting for any formal advice from Maha-Metro in this regard.
 - iii. The Licensee confirms having examined the potential locations Inside Selected Metro Stations in detail and fully understands and comprehends the technical requirements of the advertisement insert/ media. The Licensee also confirms full satisfaction as to the business viability of licensing the advertisement spaces inside the Metro Stations and hereby voluntarily and unequivocally agrees not to seek any claim, damages,

Draft License Agreement for " Licensing of Advertisement Rights inside Selected Metro Stations of Reach-1, Reach-2 and Reach-3 of Nagpur Metro Rail Project for a period of 05 years."

compensation or any other consideration, whatsoever on this account. Licensee also confirms having made independent assessment of present and future market potential and no future claim whatsoever regarding change in market circumstances shall be used by it as an alibi and/or excuse for non-payment of License Fee and other amounts due to Maha-Metro under this License Agreement.

- C. That Maha-Metro and LICENSEE represent and warrant that they are empowered, authorized and able to make this agreement.

In Witness whereof the parties hereto have caused this agreement to be signed in their respective hands as of the day and year first before written.

<p>.....-2022</p> <p>(.....)</p> <p>Authorized Signatory</p>	<p>.....- 2022</p> <p>(.....)</p> <p>Authorized Signatory</p>
<p>FOR AND ON BEHALF OF MAHARASHTRA METRO RAIL CORPORATION LIMITED</p>	<p>FOR AND BEHALF OF LICENSEE</p>

In Witness whereof the LICENSEE and the Maha-Metro have set their hands hereunto on the day, month and year first written above in the presence of the following witnesses:

Witness No. 1	Witness No. 2

ARTICLE 1: DEFINITIONS AND INTERPRETATION

1.1. Definitions

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

"Advertisements" or **"Advertising"** means display of backlit advertisement which are not objectionable or prohibited under various statutes, codes, policies, etc as applicable from time to time.

"Administrative Charges of Local Municipal Corporation" means any amount payable to local government authorities as a result of public display of commercial messages or any other Branding campaign.

"Agreement" means this License Agreement executed between Maha-Metro and Licensee.

"Applicable Laws" means all laws, brought into force and effect by Govt. of India, State Governments, local bodies and statutory agencies and rules / regulations / notifications issued by them from time to time and applicable to this License Agreement. It also include judgments, decrees, injunctions, writs and orders of any court or judicial authority as may be in force and effected from time to time.

"As is where is basis" means the advertisement space including all installations, fittings and fixtures, to be given on 'as is where is basis'. Licensee shall be required to hand over the advertisement spaces allotted for advertisement purpose, reasonably undamaged, at the end of license period.

"Arbitration Act" means the Arbitration and Conciliation Act, 1996 and shall include modifications to or any re-enactment thereof, as in force from time to time;

"Maha-Metro Representative" means such person or persons as may be authorised in writing by the Maha-Metro to act on its behalf under this Agreement and shall include any person or persons having authority to exercise any rights or perform and fulfil any obligations of the Maha-Metro under this Agreement;

"Bank" means any Nationalised/Scheduled Commercial Bank of Indian or Foreign origin having business office in India;

"Commencement Date" means the date of handing over of station for advertisement for limited purpose of advertisement.

"Damages" shall mean any claim of Maha-Metro against the Licensee for breach of this Agreement, including but not limited to, losses, dues, arrears etc. against which Maha-Metro shall be entitled to claim and adjust the Security Deposit.

"Emergency" means a condition or situation that is likely to endanger the security of the individuals on or about the Nagpur Metro Rail Project, including Users thereof, or which poses an immediate threat of material damage to any of the Project Assets;

"Force Majeure" or "Force Majeure Event" shall have the meaning ascribed to it in Article 16;

"GOI" or "Government" means the Government of India;

"License" means the Advertising Rights granted by Maha-Metro to the Licensee for exclusive indoor advertisements at selected locations within respective Metro Station, under terms and conditions of this Agreement.

"Licensee" means the Licensee, who has executed the License Agreement with Maha-Metro pursuant to the conclusion of the bidding process.

"License Fee" means the amount payable by the Licensee to Maha-Metro for advertisement space as per terms and conditions of the License Agreement.

"License Period" means a period of 05 years from the date of handing over of advertisement spaces inside metro station..

"Maha-Metro" means Maharashtra Metro Rail Corporation Limited, A joint venture of Govt. of India and Govt. of Maharashtra incorporated under the Companies Act.

"Interest Free Security Deposit" means interest free amount to be deposited by the Licensee with Maha-Metro as per terms and conditions of License Agreement as a security against the performance of the License agreement.

"Parties" means the parties to this Agreement collectively and "Party" shall mean any or both of the parties to this Agreement individually;

"Places available for advertisement" or "Advertising Spaces" means pre-identified advertisement spaces in metro station of Nagpur Metro Rail Project wherein advertisement panels are installed by Maha-Metro, which shall be operated and maintained by Licensee for a period of 05 Years in pursuance with this Agreement.

"Re.", "Rs." or "Rupees" or "Indian Rupees" means the lawful currency of the Republic of India;

"Security Deposit " means an interest free amount deposited by Licensee with Maha-Metro, as per terms and conditions of License Agreement as a security against the performance of the License agreement during the entire license tenure and as set forth in **Article 13** of this License Agreement.

"Successful Bidder" means the Bidder who has been selected by Maha-Metro, pursuant to the bidding process for award of License.

"State" means the State of Maharashtra and "State Government" means the government of that State;

"Taxes" means and includes all taxes, fee, cesses, levies that may be payable by the Licensee under the Applicable Law to the Government or any of its agencies;

"Termination" means the expiry of the License period or termination of this Agreement and the License hereunder, whichever is earlier;

"Transfer Date" means the date on which this Agreement and the License hereunder expires pursuant to the provisions of this Agreement or is terminated by a Termination Notice;

1.2. Interpretation

1.2.1 In this Agreement, unless the context otherwise requires,

- (a) references to any legislation or any provision thereof shall include amendment or re-enactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or consolidation applies or is capable of applying to any transaction entered into hereunder;
- (b) references to laws of India or Indian law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, bye laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted;
- (c) references to a "**person**" and words denoting a natural person shall be construed as a reference to any individual, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and shall include successors and assigns;
- (d) the table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;
- (e) the words "**include**" and "**including**" are to be construed without limitation and shall be deemed to be followed by "**without limitation**" or "**but not limited to**" whether or not they are followed by such phrases;
- (f) any reference to any period of time shall mean a reference to that according to Indian Standard Time;
- (g) any reference to day shall mean a reference to a calendar day;
- (h) references to a "**business day**" shall be construed as a reference to a day (other than a Sunday) on which banks in Nagpur are generally open for business;
- (i) any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;

- (j) references to any date, period or Project Milestone shall mean and include such date, period or Project Milestone as may be extended pursuant to this Agreement;
- (k) any reference to any period commencing "**from**" a specified day or date and "**till**" or "**until**" a specified day or date shall include both such days or dates; provided that if the last day of any period computed under this Agreement is not a business day, then the period shall run until the end of the next business day;
- (l) the words importing singular shall include plural and vice versa;
- (m) references to any gender shall include the other and the neutral gender;
- (n) "**lakh**" means a hundred thousand (100,000) and "**crore**" means ten million (10,000,000);
- (o) "**indebtedness**" shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (p) references to the "**winding-up**", "**dissolution**", "**insolvency**", or "**reorganisation**" of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganisation, dissolution, arrangement, protection or relief of debtors;
- (q) save and except as otherwise provided in this Agreement, any reference, at any time, to any agreement, deed, instrument, licence or document of any description shall be construed as reference to that agreement, deed, instrument, licence or other document as amended, varied, supplemented, modified or suspended at the time of such reference; provided that this Sub-clause shall not operate so as to increase liabilities or obligations of the Maha-Metro hereunder or pursuant hereto in any manner whatsoever;
- (r) any agreement, consent, approval, authorisation, notice, communication, information or report required under or pursuant to this Agreement from or by any Party shall be valid and effective only if it is in writing under the hand of a duly authorised representative of such Party, in this behalf and not otherwise;
- (s) the Schedules and Recitals to this Agreement form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;
- (t) references to Recitals, Articles, Clauses, Sub-clauses or Schedules in this Agreement shall, except where the context otherwise requires, mean references to Recitals, Articles, Clauses, Sub-clauses and Schedules of or to this Agreement, and references to a Paragraph shall, subject to any contrary indication, be construed as a reference to a Paragraph of this Agreement or of the Schedule in which such reference appears;
- (u) the damages payable by either Party to the other of them, as set forth in this Agreement, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty (the "**Damages**"); and
- (v) time shall be of the essence in the performance of the Parties' respective obligations. If any time period specified herein is extended, such extended time shall also be of the essence.

1.2.2 Unless expressly provided otherwise in this Agreement, any Documentation required to be provided or furnished by the Licensee to the Maha-Metro shall be provided free of cost and in three copies, and if the Maha-Metro is required to return any such Documentation with their comments and/or approval, they shall be entitled to retain two copies thereof.

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

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

1.3. Measurements and arithmetic conventions

All measurements and calculations shall be in the metric system and calculations done to 2 (two) decimal places, with the third digit of 5 (five) or above being rounded up and below 5 (five) being rounded down.

1.4. Priority of agreements, clauses, and schedules

- i This Agreement, and all other agreements and documents forming part of or referred to in this agreement are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this Agreement, the priority of this Agreement and other documents and agreements forming part hereof or referred to herein shall, in the event of any conflict between them, be in the following order:
 - (a) this Agreement; and
 - (b) The Bid/Tender Document along with all the corrigendum issued.
 - (c) all other agreements and documents forming part hereof or referred to herein;

i.e. the Agreement at (a) above shall prevail over the agreements and documents at (b) and (c), (b) above shall prevail over the agreements and documents at (c) above.
- ii Subject to the provisions of Clause i, in case of ambiguities or discrepancies within this Agreement, the following shall apply:
 - (a) between two or more Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in other Clauses;
 - (b) between the Clauses of this Agreement and the Schedules, the Clauses shall prevail and between Schedules and Annexes, the Schedules shall prevail;
 - (c) between any two Schedules, the Schedule relevant to the issue shall prevail;
 - (d) between the written description on the Drawings and the Specifications and Standards, the latter shall prevail;

- (e) between the dimension scaled from the Drawing and its specific written dimension, the latter shall prevail; and
- (f) between any value written in numerals and that in words, the latter shall prevail.

ARTICLE 2: OBJECTIVE AND SCOPE OF EXCLUSIVE ADVERTISEMENT RIGHTS INSIDE SELECTED METRO STATIONS

2.1. Objectives of License Agreement

2.1.1. Objectives of License Agreement are set herewith:

- a. To augment non-operational revenue of Maha-Metro through advertisements.
- b. Position Maha-Metro as a most sought-after location for advertising.
- c. Contribute to the aesthetical view of Maha-Metro through high quality advertising comparable to world class Airports & Metro Railways and other leading destinations.
- d. Provide value to the Corporate who advertises in Maha-Metro.
- e. To promote Maha-Metro as the gateway to Nagpur Tourism by highlighting Nagpur's heritage and cultural beauty.

2.2. General Terms and Conditions

2.2.1. Based on the Advertisement Plans prepared by Maha-Metro the areas available at the selected Metro Stations of Nagpur Metro Rail Project are as follows –

Table showing Details of Advertisement Spaces in Selected Metro Stations

Sr. No.	Station Name	Reach	No. of identified Advertisement Locations	Cumulative Approximate Advertisement Space available at metro station (in Sq.mt.)	Minimum Advertisement Space to be taken up at metro station (in Sq.mt.)	Commitment of Bidder (in Sq.mt.)	Details and Location of Advertisements at respective Metro Stations
1	New Airport Metro Station	Reach-1	17	100.00	100.00		Annexure 3N
2	Airport South Metro Station	Reach-1	14	76.38	75.00		Annexure 3O
3	Ujjwal Nagar Metro Station	Reach-1	28	239.87	120.00		Annexure 3A
4	Jaiprakash Nagar Metro Station	Reach-1	27	113.52	100.00		Annexure 3B
5	Ajni Square Metro Station	Reach-1	23	130.43	100.00		Annexure 3C
6	Rahate Colony Metro Station	Reach-1	31	289.11	150.00		Annexure 3D
7	Congress Nagar Metro Station	Reach-1	73	833.15	200.00		Annexure 3E
8	Zeromile Freedom Park Metro	Reach-2	31	214.42	110.00		Annexure 3F

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Sr. No.	Station Name	Reach	No. of identified Advertisement Locations	Cumulative Approximate Advertisement Space available at metro station (in Sq.mt.)	Minimum Advertisement Space to be taken up at metro station (in Sq.mt.)	Commitment of Bidder (in Sq.mt.)	Details and Location of Advertisements at respective Metro Stations
	Station						
9	Institution of Engineers Metro Station	Reach-3	40	186.36	125.00		Annexure 3G
10	Shankar Nagar Metro Station	Reach-3	61	230.21	125.00		Annexure 3H
11	LAD chowk Metro Station	Reach-3	37	257.80	130.00		Annexure 3I
12	Dharampeth College Metro Station	Reach-3	54	205.90	120.00		Annexure 3J
13	Subhash Nagar Metro Station	Reach-3	28	130.25	100.00		Annexure 3K
14	Rachna Ring Road Metro Station	Reach-3	43	178.56	125.00		Annexure 3L
15	Vasudev Nagar Metro Station	Reach-3	44	166.66	120.00		Annexure 3M

(Note:

1. ***Maha-Metro has installed/placed the demonstration of advertisement boards at Subhash Nagar Metro Station. The Bidders are advised to visit the Subhash Nagar Metro Station to physically check the advertisement boards. Similar boards will be installed by Maha-Metro at all the advertisement sites earmarked in Annexure – 3.***
2. ***Areas indicated above are approximate. Actual advertisement area shall be measured at the time of handing over of space(s). If there is any variation in area the License Fees shall be charged on pro-rata/ actual area basis.)***

2.2.2. The advertisement rights inside selected metro stations of Nagpur Metro Rail Project shall be provided to the Licensee.

2.2.3. Maha-Metro shall install the advertisement panels/board/fixtures at the identified advertisement sites. The advertisement panels/board/fixtures are suitable for backlit advertisement. The offered advertisement panel/spaces as referred above will be provided on "as is where is basis". The offered sites are to be operated and maintained by Licensee with the prior approval of Maha-Metro.

2.2.4. The advertisement spaces shall be provided to Licensee/s on license basis for a period of 05 years.

2.2.5. Licensee shall be responsible for the following activities: -

- a) Advertisement inventory at pre-decided spaces as earmarked by Maha-Metro in plan attached as Annexure - 3. Advertisement spaces inside selected metro stations include all possible spaces including staircases, escalators, elevator spaces etc, subsequent to the approval of Maha-Metro, as stipulated.

- b) Submit to Maha-Metro the details of minimum advertisement location / spaces to be taken up for advertisement within that respective Metro Station.
 - c) Operate, manage and maintain the entire advertisement spaces offered to him at respective metro station.
 - d) Management of sales & marketing of the advertising within stations including providing adequate professionally trained manpower.
 - e) Obtain all approvals, permits, etc. from all competent and required authorities, including different tiers of government, statutory, local, civic authorities, etc. at its own cost.
 - f) Comply with all statutory requirements in connection with License Agreement.
 - g) Ensure regular and timely payments of all amounts due to Maha-Metro and discharge all obligations as per License Agreement.
 - h) All Applicable taxes including administrative taxes of NMC (if made applicable) Goods and Service Tax and all other statutory dues where applicable shall be borne solely by the licensee without any contest.
 - i) The cost of preparation of the advertisements/media/inserts shall be borne solely by the licensee. The licensee shall also maintain all the media/ inserts and advertisements as per standards indicated by Maha-Metro.
- 2.2.6. The licensee can utilise only backlit format of advertisement. The advertisement area for which license fee shall be charged shall be higher of (a) minimum Advertisement Space to be taken up at metro station (in Sq.mt.) (b) actual area handed over to the Licensee for Advertisement at the respective metro station. The Licensee Fees shall be charged even if the licensee does not utilise this advertisement area mentioned above.
- 2.2.7. In case the Licensee wishes to avail more advertisement area than the advertisement area already committed, the Successful Bidder shall have to submit the application regarding the same within 18 days of date of signing of License Agreement.
- The total advertisement area at the selected metro station shall be reserved for the Successful Bidder for a duration of 06 months from the date of signing of License Agreement. Upon expiry of the said duration, Maha-Metro shall be free to dispose/tender the balance advertisement area at the Selected Metro Station.
- 2.2.8. If the Selected Bidder wants to install additional advertisement area beyond the advertisement area as specified in Annexure – I, he may be permitted to do so after submission of drawings and approval thereto by Maha-Metro. For additional advertisement space in-addition to the advertisement spaces already identified, the Selected Bidder shall indicate the additional locations for advertising panel/s, design of media including their structural plans, electrical and cable routing plans, the advertising panels/type of advertisements for these locations and submit all the plans of proposed panels, including its fixing arrangements for Maha-Metro's approval, giving full compliance to Technical Parameters or any other prevailing applicable advertising policy. Maha-Metro reserves the right to reject any or all of the said submissions without assigning any reasons whatsoever. Maha-Metro has the right to indicate alternate locations. Maha-Metro also has the right to ask the licensee to re submit location plan, wiring

& routing plans etc, for those locations, which are not approved by Maha-Metro. The Selected Bidder hereby agrees to comply with the directives of Maha-Metro regarding alternative sites/ locations and designs as may be specified by Maha-Metro. The Selected Bidder hereby agrees voluntarily and unequivocally not to seek any claim, compensation, damages or any other consideration whatsoever on this account.

In such case the Successful Bidder shall have to install the advertisement panels/fixtures as per the specifications provided/approved by Maha-Metro. The advertisement panels/fixtures shall become property of Maha-Metro at the end of License period. The additional advertisement space, the same shall be permitted up-to 10% variation in the total advertisement area and the same shall be provided subject to technical feasibility, at the sole discretion of MAHA-METRO. For area beyond this time frame and/or above 10% variation range of tendered area, the same shall be provided on negotiated / market rate, if found feasible, on the sole discretion of MAHA-METRO. The license fee for such additional space shall commence after the expiry of 30 days from the date of handing over of such additional advertisement space.

- 2.2.9. In the event if Maha-Metro identifies any additional advertisement area for advertisement, then such advertisement space shall be offered to Licensee, at the sole discretion of MAHA-METRO. The advertisement panels/fixtures shall be installed by Maha-Metro at its own cost. The additional advertisement area upto 10% variation in the tendered area shall be offered to the Licensee at the discretion of Maha-Metro, without tendering, and on same License Fees applicable at the time of handing over of such additional advertisement space. For area and/or above 10% variation range of tendered area, the same shall be provided on negotiated / market rate, if found feasible, on the sole discretion of MAHA-METRO. The license fee for such additional space shall commence immediately from the date of handing over of such additional advertisement space.
- 2.2.10. At all times, the branding/display plan shall be in compliance with technical parameters of **Nagpur Municipal Corporation's Advt. policy/EPCA guidelines/directives given by Hon'ble courts, or any other prevailing policy as applicable in India**
- 2.2.11. The Licensee shall take into account all the aspects as mentioned in the mentioned in **ARITCLE 5: FACTORS GOVERNING SELECTION OF PERMISSIBLE ADVERTISEMENTS.**
- 2.2.12. The Licensee shall operate, manage and maintain the entire advertisement boards/panels/fixtures with adequately trained and experienced team for responsibilities as defined in this tender document.
- 2.2.13. The advertising media should be of fire retardant and low smoke material and comply with all Indian and International Standards.
- 2.2.14. Fire-fighting and other infrastructure so created pertaining to the advertisement spaces must be integrated with the infrastructure already provided /planned for the respective metro station by Maha-Metro.
- 2.2.15. Under no circumstances, shall the advertisement spaces or facilities constructed or installed at the advertisement space be mortgaged, charged or otherwise put under any lien (including

negative lien), charge or encumbrance be created or agreed to be created in favour of any person, including the Lenders/ Financial Institution (s)/ Banks etc.

2.2.16. The Licensee shall be responsible to keep the advertisement spaces and surrounding area clean.

2.3. Security and other services:

2.3.1. Maha-Metro shall provide reasonable security services, general cleaning & adequate lighting in the common areas. In the event that any one of the services provided by Maha-Metro may be interrupted or suspended by reason of accident, repair, alterations, strikes, lockout, etc. Maha-Metro shall not be liable for any compensation to the Licensee, however, Maha-Metro shall use its best efforts to restore such services as soon as reasonably possible.

2.4. Other Conditions

2.4.1. If during the License period, any loss of property and/or life takes place, the loss and account of the same shall be borne entirely by the Licensee and Maha-Metro shall not be liable for any such claims. The Licensee would be responsible for all the payments arising out of any third-party claims. The Licensee is advised to procure insurance for meeting such liabilities at his own cost.

2.4.2. Licensee shall provide unfettered access to the authorized representative of Maha-Metro and its operation staff for the purpose of maintenance works (with respect to Nagpur Metro Rail Project), if applicable, inside the specified area at all times during the License period.

2.4.3. Maha-Metro shall not be made party in any litigation arising between the Licensee and any third party during and/or associated with the refurbishing/finishing and operations/maintenance of the advertisement space. All civil and criminal liability shall be the responsibility of the Licensee.

2.4.4. The Licensee shall not employ any person who is under the age of 18 years.

2.4.5. Entry and access in paid area by the workmen of the licensee shall be through smart card and its cost shall be borne by the licensee. Identity Cards shall be issued by Maha-Metro but these ID cards shall not be applicable for making journey in trains and entry/ exit to paid areas of Stations. All the Licensee's personnel shall be required to possess ID card while working in Maha-Metro's premises as per prevailing procedure. Access inside the stations in paid areas shall be through smart cards as per prevailing applicable charges, in addition to the valid ID cards.

2.4.6. The Licensee shall not have any right to infringe the Maha-Metro premises, normal business, operation and commuters' facilities of Metro Rail Services.

Upon observation of any such infringement Maha-Metro shall issue a notice of compliance. If the Licensee fails to comply with three such notice and continue such infringement, Maha-Metro shall have right to impose a penalty of Rs. 5000/ per day. This penalty shall be in addition to License Fees & other taxes payable to Maha-Metro. In the event if penalty is imposed on Licensee for 3 times during the entire license tenure, then the agreement shall be liable for termination, subject to decision of Maha-Metro.

2.4.7. It shall be mandatory for the Licensee to follow the operational timings of Nagpur Metro Rail.

No activity shall be permitted within the Metro station premises beyond the operational timings. At present the metro is proposed to be operational from 6.00 AM till 12.00 midnight.

- 2.4.8. The Licensee shall ensure that under no circumstances, the employees and workmen of the Licensee or any Sub-Contractor, are otherwise deemed to be employees of Maha-Metro.

ARTICLE 3: TENURE OF LICENSE

3.1. Tenure of License

- 3.1.1. The exclusive advertisement rights of Selected Metro Stations shall be provided for a period of 05 years unless otherwise terminated by Maha-Metro or surrendered by the Licensee, in term of provisions of this License Agreement.
- 3.1.2. The tenure of License Agreement shall commence from the date handover of identified advertisement spaces within metro station for advertisement purpose.
- 3.1.3. The tenure of the License Period of any additional area handed over subsequently shall be co-terminus with above period irrespective of date of actual handing over for such additional space.
- 3.1.4. There shall be a lock in period of 01 year from the date of commencement of License Period.
- 3.1.5. The Licensee shall have option to exit from the License Agreement immediately after completion of lock in period of 01 (One) year. For it, the Licensee shall have to issue 90 days prior notice to Maha-Metro.
- 3.1.6. The Fitment period of 30 days shall be provided to Licensee from the date of handing over of metro station. The License Tenure shall be inclusive of fitment period of 30 days.
- 3.1.7. The Licensee shall not be eligible to claim any compensation on account of any delay in handing over of respective advertisement spaces to him.
- 3.1.8. At the time of termination/natural completion of license, Maha-Metro reserves the right to ask the Licensee to restore the said tendered/ advertisement panels/ hoardings as per original allotment.

3.2. Handing over of advertisement space(s)

- 3.2.1. The advertisement panels/fixtures/frames/space(s), as mentioned in Annexure-1, shall be handed over for its operations and maintenance for a period of 05 years unless otherwise terminated by Maha-Metro or surrendered by the Licensee, in term of provisions of License Agreement.
- 3.2.2. In the event if the licensee fails to take-over the possession of the Advertising Space within the time stipulated by Maha-Metro, the license period shall be deemed to have commenced from the date of signing of license agreement, irrespective of the date of actual handing over of the Advertising Space.
- 3.2.3. The Selected Bidder shall not be eligible to claim any compensation on account of any delay in handing over of any/all the advertisement spaces to him.
- 3.2.4. At the time of termination/natural completion of license, Maha-Metro reserves the right to ask the Selected Bidder to restore the said tendered/advertisement panels/fixtures as per original allotment.

3.3. Fitment period

- 3.3.1. The maximum rent-free fitment period of 30 days is provided to the Licensee for installation advertisement media at the respective advertisement panels/boards. The Fitment period shall be inclusive of tenure of license.

3.4. First Right of Refusal

- 3.4.1. The Licensee shall have "First Right of Refusal" at the end of license tenure, provided no default is made in the payments of License fees to Maha-Metro and the Licensee participates in the tender invited then and agrees to match the highest bid received.

ARTICLE 4: LICENSE FEES, TAXES AND DUTIES

4.1. License Fee

- 4.1.1. The License fee shall be charged as per the financial proposal submitted by the bidder. At any given period, the license fee shall be charged on higher of (a) minimum Advertisement Space to be taken up at metro station (in Sq.mt.) (b) actual area handed over to the Licensee for Advertisement at the respective metro station. The Licensee Fees shall be charged even if the licensee does not utilise this advertisement area mentioned above.
- 4.1.2. The License fee shall commence immediately after expiry of the fitment period of 30 days, i.e, from the 31st day from the date of handing over of station, for the limited purpose of advertisement at stations as per Annexure-1 and shall be charged until the termination/completion of agreement/Contract.
- 4.1.3. The Annual License Fees shall be computed for Twelve calendar months from 1st day of April to 31st day of March for payment of License Fees. The aforesaid Annual License Fees shall be paid in two instalments and shall be due on 1st April and 1st October of each calendar year.
- 4.1.4. The license fee shall be paid in advance within 15 days of the commencement of that half year. This has also been illustrated below for better understanding of licensee –

The Billing period	1 st April – 30 th September	1 st October – 31 st March
Period for the issue of Demand Note	16 th February to 15 th March	16 th August to 15 th September
Last Date of payment of Dues to Maha-Metro	15 th March	15 th September

- 4.1.5. In the event if the license tenure at the start and end of the agreement is lesser than the period of six months, then the license fees shall be paid on pro-rata basis.
- 4.1.6. The first payment of License Fees shall be paid for entire duration of 06 months and shall be paid within 30 days of issuance of LOA by the authority. The deduction of fees towards fitment/moratorium period & Fees as applicable from the date of agreement and up to the 31st day of March or October, as the case may be, shall be adjusted/taken into consideration at the time of second payment of License Fees.
- 4.1.7. The Annual License Fee shall be escalated by 5% every year, on compounding basis.
- 4.1.8. The Annual License fee as applicable for the base year shall be computed as follows –

$$\text{Annual License Fees} = \text{License Fee per Sqm. as quoted by Licensee (Rate per Sq.mt. per month)} * \text{Advertisement Area allotted to the Licensee.} * 12 \text{ months}$$

- 4.1.9. The Bidder voluntarily agrees not to seek any claim, compensation, damages or any other consideration whatsoever on any pretext whatsoever on account of his inability operate and

manage the advertisement spaces/panels.

- 4.1.10. Along with License Fee, Licensee shall also pay other dues i.e. Goods and Service Tax, Statutory dues / liabilities, Facilitation and Fixed Rental Charges, damage/ penal charges, pending arrears, etc. as applicable time to time.
- 4.1.11. The utility charges including Facilitation and Fixed Rental Charges shall also be payable by licensee to Maha-Metro in addition to above in accordance with terms & conditions of the agreement. These utility charges shall be payable by Licensee during the whole tenure of Licensee agreement as and when the demand raised by Maha-Metro.
- 4.1.12. The licensee shall preferably make the payment of the license fee to Maha-metro, as mentioned above, by electronic mode i.e. RTGS/NEFT/IMPS/Online Transfer after taking prior approval of Maha-Metro & complying with the laid down procedure.

4.2. Non-payment of License fees and other dues.

- 4.2.1. In case of default in payment of license fees, the Licensee have to pay the license fees along with interest within 90 days of due date failing which the Security Deposit shall be forfeited and the license shall be liable for termination.
- 4.2.2. Any delay in payments of Licensee Fees shall attract interest **@ SBI base rate plus 3% or 15% per annum**, whichever is higher, on the amount outstanding (calculated on a per day basis for a maximum period of 90 days), till the time the respective payments have been received by Maha-Metro..
- 4.2.3. Interest shall continue to accrue on compounding basis until the License Fee and other dues are finally paid. Such interest shall be charged for the delayed days only.
- 4.2.4. Non-payment of License Fee and other dues within the prescribed date will constitute Material Breach of Contract and Licensee Event of Default under this Agreement and shall entitle Maha-Metro to terminate the License Agreement as per provisions stipulated in **ARTICLE 16: BREACHES, EVENTS OF DEFAULT, SURRENDER AND TERMINATION OF LICENSE AGREEMENT.**
- 4.2.5. Licensee shall periodically advise the details of payment deposited with Maha-Metro. In the case of non-submission of such details, initially third-party dues, if any, i.e. statutory dues / liabilities shall be settled, then others dues / liabilities like Facilitation and Fixed Rental Charges and lastly the License fee shall be accounted for.
- 4.2.6. The Licensee agrees voluntarily and unequivocally to make all payments as may be due before the due date, without waiting for any formal advice / invoice from Maha-Metro.
- 4.2.7. In case payment is not made by due date, a 90 days' notice to cure the Licensee's Event of Default shall be issued. In the event of Licensee failing to cure the Default, Maha-Metro shall be entitled to terminate the License with 30 day's notice and shall be free to forfeit Interest Free Security Deposit and take such other action available to it under this Agreement and as per Law.
- 4.2.8. Any representation or any request by the Licensee in this regard shall only be entertained if the Licensee deposits 100% dues as per issue / demand within 15 days of issue of Licensee Event of Default Notice, along with a written request in the matter.

- 4.2.9. The Licensee shall vacate the premises within 07 days of termination of the License Agreement. A certificate from concerned Station Manager or its authorized representative in proof of Licensee having vacated the site will be required to be submitted by the Licensee. Any claim of vacation / non-vacation without the endorsement of Station Managers or its authorized representative shall not be entertained.
- 4.2.10. Interest Free Security deposit shall be forfeited in case of termination of contract or surrender by licensee before the lock in period of 01 year.
- 4.2.11. In no case, payments shall be allowed to remain outstanding for a period of more than 90 days. If any stage, the dues remain outstanding for the period of more than 90 days, the License agreement may stand terminated without giving any notice to the Licensee and Interest Free Security Deposit shall stand forfeited.

4.3. Taxes and Other Statutory Dues

- 4.3.1. The applicable Goods and Service Tax (GST), Administrative charges/taxes imposed by NMC (if made applicable) etc. or any other taxes as applicable shall also be payable extra as made applicable from time to time.
- 4.3.2. All other statutory taxes, statutory dues, local levies, third party dues as applicable shall be charged extra and shall have to be paid directly by the Licensee and a copy of proof of payment should be deposited with Maha-Metro. The Licensee shall indemnify Maha-Metro from any claims that may arise from the statutory authorities in connection with this tender document / license agreement. Any change in Tax structure will also be applicable.
- 4.3.3. Payment of stamp duty on execution & registration of license agreement, if any, to be executed in pursuance of this bid shall be solely borne by the Licensee.
- 4.3.4. If the Licensee fails to pay any Taxes, charges, outgoing payments etc., which expenses he is required to bear, and the same are instead paid by the Maha-Metro, then Maha-Metro shall be entitled, to be reimbursed for such amounts by the Licensee along with interest at a rate of 18% (Eighteen percent) per annum. In addition, the Licensee shall pay as damages to the Maha-Metro 25% (Twenty Five Percent) of the sum total of amount paid by Maha-Metro and interest payable to Maha-Metro.

ARTICLE 5: FACTORS GOVERNING SELECTION OF PERMISSIBLE ADVERTISEMENTS

5.1. Factors Governing Selection of Permissible Advertisements

5.1.1. The Licensee shall take into account the following aspects while selecting advertisements on the panels and abide by all the instruction of the authorized Maha-Metro representative on the same:

- a) The advertisement is prohibited from carrying information or graphic or other items relating to alcohol and tobacco products.
- b) The advertisement will have no objectionable and indecent portrays of people, products or any terms.
- c) The use of Maha-Metro name, logo or title without prior written permission is strictly prohibited. No co-branding with the Licensor is allowed, without prior permission.
- d) No Surrogate advertisements are permitted unless application for placement of the same is accompanied by "no objection certificate" from the Ministry of Information and Broadcasting.
- e) Advertisements pertaining to achievements by different Governments, their Departments, Ministries, Government Undertakings, and other Authorities shall be permitted. However, no advertisement of any political party, person shall be permitted. No advertisement of any political party, person violating "Model Code of Conduct" shall be allowed during the period whereby "Model Code of Conduct" has been enforced by Election Commission. Further, no advertisement which violates "Model Code of Conduct" shall be permitted during the period whereby "Model Code of Conduct" have been enforced by Election Commission.
- f) Station naming and branding shall not be allowed.
- g) Any type of audio / video advertisement shall not be allowed.
- h) All advertisement creative has to be approved by Maha-Metro before display.

5.1.2. **Negative list of Advertisements:** The licensee shall take into account that the following types of advertisements are strictly prohibited:

- Nudity
- Racial advertisements or advertisements propagating caste, community or ethnic differences.
- Advertisements of drugs, alcohol, cigarette, or tobacco items.
- Advertisement propagating exploitation of women or child.
- Advertisements having sexual overtone.
- Advertisements depicting cruelty to animals.
- Advertisements depicting any nation or institution in poor light.
- Advertisements banned by the Advertising Council of India or by Law.
- Advertisements glorifying violence.

Draft License Agreement for " Licensing of Advertisement Rights inside Selected Metro Stations of Reach-1, Reach-2 and Reach-3 of Nagpur Metro Rail Project for a period of 05 years."

- Advertisements of destructive devices and explosives depicting items, weapons and related items.
- Lottery tickets, sweepstakes entries and slot machines related advertisements.
- Advertisement which may be defamatory, trade libellous, unlawfully threatening or unlawfully harassing.
- Advertisements which may be obscene or contain pornography or contain an "indecent representation of women".

ARTICLE 6: RULES & REGULATION OF UTILIZATION OF ADVERTISEMENT SPACES

6.1. Advertisement Media

- 6.1.1. The Licensee shall have to use the advertisement media suitable for backlit advertisement.
- 6.1.2. The advertising media should be of fire retardant and low smoke material and comply with all Indian and International Standards.
- 6.1.3. The Licensee shall at all times adhere to all provisions of the Metro Railway (Operation And Maintenance) Act, 2002 and amendments thereto and shall also comply with all notices and circulars issued by Maha-Metro in this regard.
- 6.1.4. Advertisement spaces on Nagpur Metro stations are hereby provided to Licensee on "as is where is basis".
- 6.1.5. Licensee shall ensure that all the installed advertisement panels are fully engaged by proper advertisement media or any other proper creative to improve the ambience of the station. If advertisement is not available for any panel, the same should be utilized to display a message of Licensee or Maha-Metro. At no stage, any installed advertisement panels shall be left unattended.
- 6.1.6. The Licensee shall submit details along with contact Nos. of his authorized representative(s) which shall be available at the Metro Station(s), at a short notice, for inspection of advertisement spaces including measurement of area, failing which inspection done by Maha-Metro official(s) and shall be final and binding to the Licensee. If during inspection, the area of advertisement space for any category at any station is found to be at unapproved location or more than the approved area for that category at the Station, it shall be treated as unauthorized occupancy. The license fee of such unauthorized occupancy shall be charged at double the rate of that rate structure from the first day of that quarter or from the date of previous inspection in which the space was found as per approved plan, whichever is later and shall be charged till a vacation certificate of that unauthorized occupancy from the concerned Station Manager or his authorized representative is submitted to Maha-Metro or the unauthorized space is got approved from the Maha-Metro, whichever is later.
- 6.1.7. Licensee shall submit the monthly statement of actual area handed over to Licensee or the utilized for advertisement, whichever is higher, at each station, after due certification from Station Manager or his authorized representative. If the actual area utilized for advertisement at the respective metro station is found to be more than the area handed over to Licensee, the license fee shall be charged for actual area utilized for that rate structure at double the normal rate for whole month.

ARTICLE 7: FACILITATION AND FIXED RENTAL CHARGES

7.1. Facilitation and Fixed Rental Charges

7.1.1. Facilitation Charges

A non-refundable, facilitation charges amounting to Rs. 3000/- Plus GST, during fitment period, to be levied and would also be paid to Maha-Metro.

7.1.2. Fixed Rental Charges

The Licensee/licensee will have to pay fixed rental charges as per approved rate as per Maha-Metro's policy. The Licensee/licensee will have to declare the load required for the advertisement spaces at the time of possession of advertisement space as per (Annexure-A). Depending on the load the fixed rental charges will be levied by Maha-Metro, which will be revised yearly during license period. Licensee shall have to maintain its power demand within the declared load. However, the licensee if request for additional power load the Maha-Metro will provide the same with the fixed charges applicable for increased load. Licensee will have to apply the same one month in advance

Sr. No	Establishments	Monthly rental Charges (Rs. / kW / month)					
		2019-20	2020-21	2021-22	2022-23	2023-24	2024-25
1	Indoor Advertisement	5810	5640	5740	5780	4770	4580

The responsible persons, one each from O&M team, Accounts / finance team and third-party user representative will check the connected load initially and at surprise visits, and will sign the report as per **Annexure-A**.

ARTICLE 8: OBLIGATIONS OF THE LICENSEE

8.1. Obligations of the Licensee

- 8.1.1. The Licensee's Responsibilities and Duties shall include the following, in addition to and without prejudice to other obligations under this Agreement:
- a. to ensure that no structural damage is caused to the existing buildings and other permanent structures at the station as a result of his activities or any of its agents, contractors etc.;
 - b. to take all reasonable steps to protect the environment and to limit damage and nuisance to people and property resulting from installation of branding names, within guidelines specified as per Applicable Laws and Applicable Permits;
 - c. to duly supervise, monitor and control the activities of contractors, agents, etc., if any, under their respective License Agreements as may be necessary;
 - d. to take all responsible precautions for the prevention of accidents on or about the site and provide all reasonable assistance and emergency medical aid to accident victims;
 - e. use non-combustible material for advertisements at various locations within the Metro station. Use of combustible material shall not be permitted under any circumstances.
- 8.1.2. **Sub- Licensing:** The Licensee shall not be entitled to sub-license the advertisement rights allotted to him.
- 8.1.3. Licensee shall at all times adhere to all provisions of the Metro Railway (Operation And Maintenance) Act, 2002 and amendments thereto and shall also comply with all notices and circulars issued by Maha-Metro in this regard.

8.2. Employment of trained personnel

- 8.2.1. The Licensee shall ensure that the personnel engaged by it in the performance of its obligations under this Agreement are at all times properly trained for their respective functions.
- 8.2.2. The Licensee shall also ensure that the persons employed for work are above 18 years of age, and no child labour is being engaged for the work.
- 8.2.3. The Licensee shall ensure that under no circumstances, the employees and workmen of the Licensee or any Sub-Contractor, are otherwise deemed to be employees of Maha-Metro.

8.3. Authorised Representative and Project Manager

- 8.3.1. The Licensee shall, within 30 (thirty) days from the Effective Date, nominate its Authorised Representative and shall authorise him for all correspondence, communication, signing of documents, participation in meetings etc. with Maha-Metro in respect of the Project and issues relating to or arising out of the Agreement.
- 8.3.2. The Licensee shall at all times, take all reasonable precautions to prevent any unlawful, riotous, or disorderly conduct, by or amongst, his staff and labour, and to preserve peace and protection of persons and property in the neighbourhood of the Project, against such conduct. The

Licensee along with his Sub-Contractors (if any) shall disclose a list of all their employees and workmen, who are involved in the operation and maintenance of the project. The Licensee shall ensure that under no circumstances, the employees and workmen of the Licensee or any Sub-Contractor, are otherwise deemed to be employees of Maha-Metro.

8.4. Obligation with respect to Taxes, duties

- 8.4.1. The Licensee shall be solely responsible to pay all other statutory taxes (except Property tax), statutory dues, local levies along with third party dues, if any, as applicable on the agreement. The Licensee shall indemnify Maha-Metro from any claims that may arise from the statutory authorities in connection with this tender document / license agreement. Any change in Tax structure as per Govt. guidelines will also be applicable.
- 8.4.2. Any new levies, taxes, cess etc. if any, imposed by Government Authorities on Maha-Metro for awarding the contract shall be recovered from the Bidder separately by Maha-Metro. However, it is to be noted that Income tax if any which is imposed on Maha-Metro shall be borne by Maha-Metro only.
- 8.4.3. Payment of stamp duty on execution & registration of license agreement, if any, to be executed in pursuance of this bid shall be solely borne by the Licensee.
- 8.4.4. If the Licensee fails to pay any Taxes, charges, outgoings payments etc., which expenses he is required to bear, and the same are instead paid by the Maha-Metro, then Maha-Metro shall be entitled, to be reimbursed for such amounts by the Licensee along with interest at a rate of 18% (Eighteen percent) per annum. In addition the Licensee shall pay as damages to the Maha-Metro 25% (Twenty Five Percent) of the sum total of amount paid by Maha-Metro and interest payable to Maha-Metro.

ARTICLE 9: OBLIGATIONS OF THE AUTHORITY

9.1. Obligations of the Maha-Metro

- 9.1.1. The Maha-Metro shall, at its own cost and expenses undertake, comply with and perform all its obligations set out in this Agreement or arising hereunder.
- 9.1.2. The Maha-Metro agrees to provide the support to the Licensee and undertakes to observe, comply with and perform, subject to and in accordance with the provisions of this Agreement and the Applicable Laws, the following:
- (a) grant the Licensee the advertisement rights for display of indoor advertisement at the selected metro station in accordance with the terms and conditions of this License Agreement and the RFP Document.
 - (b) ensure that no barriers are erected or placed on or about the selected Metro Station by any Government Instrumentality or persons claiming through or under it, except for reasons of Emergency, national security, law and order or collection of inter-state taxes;
 - (c) not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Agreement;
 - (d) support, cooperate with and facilitate the Licensee in the advertisement space allotted to him in accordance with the provisions of this Agreement;

ARTICLE 10: REPRESENTATIONS AND WARRANTIES

10.1. Representations and warranties of the Licensee

10.1.1. The Licensee represents and warrants to the Maha-Metro that:

- (a) it is duly organised and validly existing under the laws of India, and has full power and authority to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- (b) it has taken all necessary corporate and other actions under Applicable Laws to authorise the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;
- (c) it has the financial standing and capacity to undertake the exclusive advertisement rights in accordance with the terms of this Agreement;
- (d) this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Agreement will be legally valid, binding and enforceable obligations against it in accordance with the terms hereof;
- (e) it is subject to the laws of India, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising there under including any obligation, liability or responsibility hereunder;
- (f) the information furnished in the Bid and as updated on or before the date of this Agreement is true and accurate in all respects as on the date of this Agreement;
- (g) there are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Agreement;
- (h) it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;
- (i) it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a material adverse effect on its ability to perform its obligations under this Agreement;
- (j) all its rights and interests in the exclusive advertisement rights in and advertisement rights shall pass to and vest in the Maha-Metro on the Transfer Date free and clear of all liens, claims and Encumbrances, without any further act or deed on its part or that of the Maha-Metro, and that none of the Project Assets shall be acquired by it, subject to any agreement under which a

security interest or other lien or Encumbrance is retained by any person, save and except as expressly provided in this Agreement;

- (k) no sums, in cash or kind, have been paid or will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for securing the License or entering into this Agreement or for influencing or attempting to influence any officer or employee of the Maha-Metro in connection therewith; and
- (l) all information provided by the Licensee in response to the Request for Proposal or otherwise, is to the best of its knowledge and belief, true and accurate in all material respects.

10.2. Representations and warranties of the Maha-Metro

10.2.1. The Maha-Metro represents and warrants to the Licensee that:

- (a) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary to execute this Agreement, exercise its rights and perform its obligations, under this Agreement;
- (b) it has taken all necessary actions under the Applicable Laws to authorise the execution, delivery and performance of this Agreement;
- (c) it has the financial standing and capacity to perform its obligations under this Agreement;
- (d) this Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- (e) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on the Maha-Metro's ability to perform its obligations under this Agreement;
- (f) it has complied with Applicable Laws in all material respects;
- (g) it has the right, power and authority to manage and operate the Nagpur Metro Rail Project.
- (h) it has good and valid ownership of the selected metro stations, and has power and authority to grant a licence in respect thereto to the Licensee.

10.3. Disclosure

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

ARTICLE 11: DISCLAIMER

11.1. Disclaimer

- 11.1.1. The Licensee acknowledges that prior to execution of this Agreement, it has extensively studied and analysed and satisfied itself about all the requirement of this License Agreement including but not limited to market and market conditions.
- 11.1.2. The Licensee acknowledges that prior to execution of this Agreement, it has carefully assessed business prospects from advertisements inside stations and that it will be fully responsible for all its assessment in this regard.
- 11.1.3. The Licensee confirms having seen / visited / assessed the potential locations inside the Metro Stations and fully understands and comprehends the technical, financial, commercial and investment requirements.
- 11.1.4. The Licensee also confirms that it has fully analysed to its fullest satisfaction, business viability of the License and hereby voluntarily and unequivocally agrees not to seek any claim, damages, compensation or any other consideration, whatsoever on this account.
- 11.1.5. This Agreement shall not in any way be construed as a lease and/or license of the Station or any part thereof, and only represents a contractual obligation of Maha-Metro to provide the advertisement rights inside the selected metro station for a period of 05 years only.

ARTICLE 12: SECURITY DEPOSIT

12.1. Security Deposit

- 12.1.1. The Licensee shall, for the performance of its obligations hereunder during the entire License Period, has provided to the Maha-Metro, the Security Deposit (the "Security Deposit") amounting to Rs.(License Fees applicable for 06 months period in the base year)...
- 12.1.2. The Security Deposit has been paid in the form of Cash/Demand Draft/Account Payee Cheque/NEFT/RTGS and shall be retained by Maha-Metro for the entire license period.
- 12.1.3. It is to be noted that the Bid Security shall be adjusted in the Security Deposit only when the other conditions precedents for signing of License Agreement are fulfilled by the Licensee.
- 12.1.4. The interest free security deposit is proposed to be recovered in manner as follows -
- a. Up to Rs. 10 Lakhs in the form of DD/PO/ Online Account transfer.
 - b. For amount more than Rs. 10 Lakhs, first Rs. 10 Lakhs in the form of DD/PO/ Online Account transfer; amount exceeding Rs. 10 Lakhs, minimum 50% in the form of DD/PO/ Online Account transfer (subject to maximum of Rs. 50.00 Lakhs) & balance amount in the form of Bank Guarantee.
- 12.1.5. The Security Deposit shall be retained for the entire License period plus six months and shall be considered as interest free deposits.
- 12.1.6. The interest free security deposit shall be escalated by 5% every year on compounding basis during the entire of license period.
- 12.1.7. Maha-Metro reserves the right for deduction dues from Licensee's Interest Free Security Deposit for: -
- a. Any penalty imposed by Maha-Metro for violation of any terms and conditions of agreement committed by the Licensee.
 - b. Any amount which Maha-Metro becomes liable to the Government/Third party due to any default of the Licensee or any of his director/ employees/ representatives/ servant/ agent, etc.
 - c. Any payment/ fine made under the order/judgment of any court/consumer forum or law enforcing agency or any person duly empowered in his behalf.
 - d. Any outstanding payment/ claims of Maha-Metro remained due after completion of relevant actions as per agreement.

12.2. Appropriation of Security Deposit

- 12.2.1. Upon occurrence of a Licensee's Default, the Maha-Metro shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate the relevant amounts from the Security Deposit as Damages for such Licensee Default or failure to meet any Condition Precedent. Upon such encashment and appropriation from the Security Deposit, the Licensee shall, within 30 (thirty) days thereof, replenish, in case of partial appropriation, to its original level the Security Deposit, and in case of appropriation of the entire Security Deposit

provide a fresh Security Deposit, as the case may be, and the Licensee shall, within the time so granted, replenish or furnish fresh Security Deposit as aforesaid failing which the Maha-Metro shall be entitled to terminate this Agreement. Upon replenishment or furnishing of a fresh Security Deposit, as the case may be, as aforesaid, the Licensee shall be entitled to an additional Cure Period of 90 (ninety) days for remedying the Licensee Default, and in the event of the Licensee not curing its default within such Cure Period, the Maha-Metro shall be entitled to encash and appropriate such Security Deposit as Damages, and to terminate this Agreement in accordance with **"ARTICLE 16: BREACHES, EVENTS OF DEFAULT, SURRENDER AND TERMINATION OF LICENSE AGREEMENT"**.

12.3. Release of Security Deposit

- 12.3.1. The Security Deposit which is a sum total of Rs./- (Rupees Lakhs) submitted in the form of and Rs. shall remain in force and effect for the entire License period. This Security Deposit shall be released upon Completion of entire License period plus six months and/or the termination (payable only in the event of non-Licensee default) date whichever is earlier. The Security Deposit shall be released subject to Maha-Metro's right to receive or recover amounts if any due from Licensee under this Agreement. No interest shall be paid on the Security Deposit.

ARTICLE 13: MAINTENANCE OF ADVERTISEMENT SPACES

13.1. Maintenance of Advertisement Spaces

- 13.1.1. Licensee shall keep and maintain the advertisement media/panel in neat, clean condition and in safe & sound manner during all the time of License tenure. Any defective, weak or corroded structure should be replaced immediately with new proper structure after due certification from reputed agency. In case of any incident / injury caused by advertisement media due to error / omission attributable on the part of Licensee, the Licensee shall be responsible for all compensation.
- 13.1.2. Licensee shall ensure that Licensee and its employees or other persons involved in the execution of the work does not in any way impinge on the safety and security of metro operations, safety & convenience of commuter, safety of metro properties and its assets. In case of serious accident caused due to negligence of the Licensee, resulting in injury, death to commuters or Maha-Metro employees or loss to Maha-Metro property, it shall constitute Material Breach of Contract and considered Licensees Event of Default that shall entitle Maha-Metro to terminate the License Agreement with 30 days written notice.
- 13.1.3. Access to stations for the purpose of placement of advertisements shall be regulated by the office of the Sr. Addl. General Manager/Property Development and the Licensee is required to take necessary permissions in this regard from the office of Sr. Addl. General Manager/Property Development as per extant policy of Maha-Metro. It is clarified that the permission to the Licensee shall not be unduly denied.
- 13.1.4. Regular joint inspection of each station will be conducted by Maha-Metro officials and Licensee, at least fortnightly. Discrepancy noticed or instructions issued by Maha-Metro shall be rectified / complied by the Licensee within a period of 7 days, failing which Maha-Metro reserves the right to impose fine up to Rs.5,000/- per instance of violation per week per station. Deliberate or wilful non-compliance of Maha-Metro's written instructions for a period of 90 days shall constitute Material breach and Licensee Event of Default, which shall entitle Maha-Metro to encash Security Deposit in part or full and or terminate the License Agreement after giving 90 day's notice to the Licensee.
- 13.1.5. Such termination of the License Agreement and forfeiture of the Interest Free Security Deposit by Maha-Metro shall be without prejudice to any other damages, rights or remedies applicable under law in its favour.

ARTICLE 14: OPERATION AND MAINTENANCE

14.1. Operation and Maintenance

- 14.1.1. Licensee confirms that he/they fully understand and confirm that the panels/advertisements spaces shall, at all-time belong to Maha-Metro, and no interest in the same shall be created by the licensee. The Licensee also agrees not to sub license, lease, lien, sub lease or part with, partially or fully in any form, the panels/advertisement spaces.
- 14.1.2. The advertising rights for panels will vest with the licensee only. Any persons wishing to advertise in the above-mentioned panels will have to deal directly with the Licensee, Maha-Metro will have no dealing in this regard. At no time subletting of rights for advertisement to other advertising agencies/outdoor agencies, Out of Home advertising agencies, etc. would be permissible under this agreement. The licensee agrees voluntarily and unequivocally to place Maha-Metro messages at their own cost in the panels which lie vacant and not commercialized at any time after the fitment period of 30 days from date of handover.
- 14.1.3. The Licensee will not ask for any claim or seek any compensation from Maha-Metro if advertisements are not permitted due to court order/local laws/civil authorities. The maintenance of all advertisement inserts, and the panels handed over will be borne solely by the Licensee. The replacement of bulbs, electrical chokes, other LED's their electrical parts, and also other components of all advertisement panels will be done as per directions and standards specified by the authorized representative of Maha-Metro Ltd.
- 14.1.4. The licensee agrees to pay and will continue to pay the license fees and all dues, even if any or all the panels are not functional or has/have been dismantled for repair or upkeep etc. The Licensee agrees that in the event of such dysfunction of the panels, the licensor will not be liable to pay any compensation to the licensee.
- 14.1.5. The licensee will have to maintain all the advertisement inserts in proper, clean, and safe condition during the currency of the contract. The advertising media should be of fire-retardant low smoke/zero halogen material and of international standards. The Licensee must submit the media sample for Maha-Metro's approval to the office of the Sr. Additional General Manager/Property Development before using the same. Maha-Metro reserves the right not to give such permission.
- 14.1.6. The licensee should at all times indicate the date till which their license is valid on each of their advertisements displayed.
- 14.1.7. All terms and conditions indicated in this agreement will also be applicable for the additional panels/spaces offered and accepted by the licensee.
- 14.1.8. Licensee shall keep and maintain the advertisement media/panel, etc, in safe and sound manner during all the time of contract period. Any defective, weak or corroded structure should be replaced immediately with new proper structure after due certification from reputed agency/Maha-Metro to ensure safety of Maha-Metro commuters.
- 14.1.9. Licensee shall ensure that all electrical wiring, power outlets and gadgets used are maintained properly, guarded against short circuits / fires. The instructions of Maha-Metro's electrical

inspectors/ authorized representative shall be complied by the licensee at its own cost.

- 14.1.10. In case of accident caused due to negligence of the Licensee resulting into injury/ death to Maha-Metro employees/ other users/ any person or loss to Maha-Metro property, Licensee shall compensate the loss (es), without prejudice to other actions under this Agreement at the sole discretion of Maha-Metro, including termination of Agreement.
- 14.1.11. The Licensee voluntarily and unequivocally agrees not to seek any claims, damages, compensation, or any other consideration whatsoever because of implementing the instruction issued by Maha-Metro fire officer, electrical inspector, Security officer or their authorized representatives from time to time.
- 14.1.12. Licensee and its employees or other persons involved in the execution of the work shall not, in any way, impinge on the safety and security of metro operations, passenger safety, safety of metro properties and its assets.
- 14.1.13. The Licensee shall comply with the all the applicable laws including Court judgments/ court orders/Maharashtra Pollution Control Board and Nagpur Fire Service guidelines and/or other government regulatory bodies, regulating the advertisements/ displays and Maha-Metro can't be held liable for any change/modification in these laws which adversely affects this tender and the licensee voluntarily and unequivocally agrees not to seek any claim, damages, compensation or any other consideration whatsoever on this account.
- 14.1.14. Penalty Clauses – Maha-Metro can impose the fine on Licensee up to Rs.5,000/- per offence on the following offenses: -
- a. Any staff of Licensee found in drunken condition/indulging in bad conduct.
 - b. Any staff of the Licensee found creating nuisance.
 - c. Improper maintenance & defacement of the Metro Property.
 - d. Dishonour of Cheques and Drafts submitted by Licensee to Maha-Metro. Cheques will be accepted only in emergency conditions & with the approval of Maha-Metro by official not below the rank of Additional General Manager.
 - e. Misbehaviour with staff and commuters of Maha-Metro.
 - f. Not following safety and security norms as may be indicated by authorized representative of Maha-Metro.
 - g. Utilizing advertisements at locations other than that approved by Maha-Metro.
 - h. Non-submission of monthly statement of advertisement area at respective metro station.
 - i. Vacant panels i.e. without mounted display/advertisement/filler/display of Maha-Metro at any time after completion of fitment period.
 - j. infringe into the Maha-Metro premises
- 14.1.15. The amount of penalty shall become double the specified amount after three years from the date of commencement of License Agreement.

14.1.16. The option to impose fine, penalty, etc. under this License Agreement shall be exercised by Maha-Metro official not below the rank of AGM (Additional General Manager).

14.2. Reports of unusual occurrence

The Licensee shall, prior to the close of each day, send to the Maha-Metro, by facsimile or e-mail, a report stating accidents and unusual occurrences on the premises relating to the safety and security of the users/commuters and the Nagpur Metro Rail Project. For the purposes of this Clause, accidents and unusual occurrences on the Project shall include:

- (a) death or injury to any person;
- (b) damaged or dislodged of equipment;
- (c) any obstruction on the premises, which results in slow down of the services being provided by the Licensee or which may result in slowdown of the services provided by the Maha-Metro;
- (d) communication failure affecting the operation of premises;
- (e) smoke or fire;
- (f) flooding of Project; and
- (g) such other relevant information as may be required by the Maha-Metro.

ARTICLE 15: FORCE MAJEURE

15.1. Force Majeure

- 15.1.1. Neither Maha-Metro nor Licensee shall be liable for any inability to fulfil their commitments and obligations hereunder occasioned in whole or in part by Force Majeure, any of the following events resulting in material adverse effect, shall constitute force majeure events:
- a. Earthquake, Flood, Inundation, Landslide.
 - b. Storm, Tempest, Hurricane, Cyclone, Lighting, Thunder or other extreme atmospheric disturbances.
 - c. Fire caused by reasons not attributable to the Licensor.
 - d. Acts of terrorism
 - e. War, hostilities (Whether war be declared or not), invasion, act of foreign enemy, rebellion, riots, weapon conflict or military action or civil war.
 - f. Strikes or boycotts, other than those involving the Licensor/ Licensee, its contractors, or their employees, agents etc.
- 15.1.2. The License fee for the portion affected due to Force Majeure shall be exempted for the affected period if the force majeure condition persists for more than 7 days.
- 15.1.3. Occurrence of any Force Majeure shall be notified to the other party within 7 days of such. If any Force Majeure continues for a period of three months, the party notifying the Force Majeure condition may be entitled to, though not being obliged, to terminate this agreement by giving a notice of 7 (seven) days to the other party and interest free Security Deposit shall be refunded by Maha-Metro to the Licensee after adjusting outstanding dues, if any.

ARTICLE 16: BREACHES, EVENTS OF DEFAULT, SURRENDER AND TERMINATION OF LICENSE AGREEMENT

16.1. Licensee Events of Default

Following shall be considered Material Breach of the Contract by Licensee resulting in Licensee's Events of Default :-

- 16.1.1. If the Licensee is found guilty of persistently breaching negative list of advertising and "Factors Governing Advertising Selection as stipulated in this Agreement.
- 16.1.2. If at any time during the subsistence of the License Agreement, there is non-conformity to the License Agreement or any time during the License Agreement, the Licensee indicates its unwillingness to abide by any clause of this License Agreement or repudiates the Agreement.
- 16.1.3. If the Licensee fails to pay License Fee or other amounts due to Maha-Metro and continues to be in default for more than 90 days. Even non-payment of one-month License Fee will be considered an Event of Default.
- 16.1.4. If the Licensee is in persistent non-compliance of the written instructions of a Maha-Metro officials.
- 16.1.5. If the Licensee or any of its representatives cause an incident or accident that results in injury or death to Maha-Metro employees/ commuters or loss to Maha-Metro property.
- 16.1.6. If Licensee is in violation of any of the clauses of this Agreement and after three written notice from Maha-Metro fails to cure the Default to the satisfaction of Maha-Metro.
- 16.1.7. If any of the above Material Breach and Licensee Events of Default happens, then:
- 16.1.8. If the Licensee during pendency of the License Agreement becomes insolvent or is put under receivership by a competent court.
- 16.1.9. If the licensee submitted false undertaking regarding not blacklisting / ban on Licensee by Central/ State Government Department/ Public Sector Undertaking/ Other Government Entities or Local Body or termination of contract due to their non-performance after award of contract during last five (5) years.

16.2. Consequences of Material Breach and Licensee's event of Default

- 16.2.1. If any of the above Material Breach and Licensee Events of Default happens, then
- 16.2.2. Maha-Metro, after giving due notice to the Licensee to Cure the Default, shall be entitled to terminate the License Agreement. For the avoidance of Doubt, it is clarified that the Cure Period available to the Licensee shall be as provided in various Clauses and sub-clauses of this Agreement.
- 16.2.3. Maha-Metro shall issue a note to the licensee to cure the defaults. If the Licensee fails to cure the Default within stipulated time, Maha-Metro after giving a final 15 days' termination notice shall be entitled to terminate the License Agreement.
- 16.2.4. In all other cases of Licensee's Event of Default where specific notice period is not provided, Maha-Metro shall issue a Notice to Licensee to cure the Default within 45 days. If the Licensee

fails to cure the Default within 45 days, Maha-Metro after giving a final 15 days' termination notice shall be entitled to terminate the License Agreement.

16.3. Handing over on Termination / Completion / Surrender -

16.3.1. In case of Termination / Completion / Surrender of the License Agreement, the Licensee shall hand over to concerned Station Manager or its authorized representative peaceful vacant possession of all Advertising Sites. Licensee shall remove all the media from Maha-Metro premises within 30 days of issue of termination letter, failing which a penalty of Rs. 5000 per day will be imposed on the Licensee.

16.4. Termination on the account of Operational Ground of Maha-Metro

- 16.4.1. Maha-Metro reserve the rights to terminate the License Agreement by giving ninety (90) days advance notice on operational ground. The License agreement will stand terminated on expiry of 90 day's notice. The advance license fees deposited by the Licensee for the balance period on pro-rata basis shall be refunded, without consideration of interest. Further, the Security deposit will be refunded after adjusting outstanding dues, if any.
- 16.4.2. The Licensee voluntarily agrees not to seek any claim, compensation, damages or any other consideration whatsoever on any ground in this regard.
- 16.4.3. The Licensee shall remove all the media from Maha-Metro premises within 15 days of issue of termination letter, failing Maha-Metro shall remove the same.

ARTICLE 17: DISPUTE RESOLUTION/ARBITRATION

17.1. Dispute Resolution

17.1.1. No legal action till Dispute Settlement Procedure is exhausted.

Any and all Disputes shall be settled in accordance with the provisions of Article 18. No action at law concerning or arising out of any Dispute shall be commenced unless and until all applicable Dispute resolution procedures set out in Article 18 shall have been finally exhausted in relation to that Dispute or any Dispute out of which that Dispute shall have arisen with which it may be or may have been connected.

17.1.2. Notice of Dispute

For the purpose of Sub-Clause 17.1.2, a Dispute shall be deemed to arise when one party serves on the other party a notice in writing (hereinafter called a "Notice of Dispute") stating the nature of the Dispute provided that no such notice shall be served later than 30 days after the date of takeover of the License Space by Maha-Metro.

17.1.3. Two Stages for Dispute Resolution

Disputes shall be settled through two stages:

- a. Conciliation procedures as established by "The Arbitration and Conciliation Act- 1996" & amended by the Arbitration & Conciliation (Amendment) Act, 2015 and any statutory modification or re-enactment thereof and in accordance with this Clause. In the event this procedure fails to resolve the Dispute then;
- b. Arbitration procedures undertaken as provided by "The Arbitration and Conciliation Act - 1996" & amended by the Arbitration & Conciliation (Amendment) Act, 2015 and any statutory modification or re-enactment thereof. and in accordance with this Clause.

17.1.4. Conciliation

Within 60 days of receipt of Notice of Dispute, either party shall refer the matter in dispute to conciliation.

Conciliation proceedings shall be initiated within 30 days of one party inviting the other in writing to Conciliation. Conciliation shall commence when the other party accepts in writing this invitation. If the invitation is not accepted then Conciliation shall not take place. If the party initiating conciliation does not receive a reply within 30 days from the date on which he sends the invitation he may elect to treat this as a rejection of the invitation to conciliate and inform the other party accordingly.

The Conciliation shall be undertaken by one Conciliator selected from a panel of Conciliators

maintained by the Licensor. The Conciliator shall assist the parties to reach an amicable settlement in an independent and impartial manner.

17.1.5. Conciliation Procedure

The Employer shall maintain a panel of Conciliators, who shall be from serving or retired engineers of Government Departments, or of Public Sector Undertakings. Out of this panel, a list of three Conciliators shall be sent to the Licensee who shall choose one of them to act as Conciliator and conduct conciliation proceedings in accordance with "The Arbitration and Conciliation Act, 1996" of India & amended by the Arbitration & Conciliation (Amendment) Act, 2015 and any statutory modification or re-enactment thereof. There will be no objection if conciliator so nominated is a serving employee of Maha-Metro who would be AGM level officer and above. The Licensor and the Licensee shall in good faith co-operate with the Conciliator and, in particular, shall endeavour to comply with requests by the Conciliator to submit written materials, provide evidence and attend meetings. Each party may, on his own initiative or at the invitation of the Conciliator, submit to the Conciliator suggestions for the settlement of the dispute. When it appears to the Conciliator that there exist elements of a settlement which may be acceptable to the parties, he shall formulate the terms of a possible settlement and submit them to the parties for their observations. After receiving the observations of the parties, the Conciliator may reformulate the terms of a possible settlement in the light of such observations.

If the parties reach agreement on a settlement of the dispute, they may draw up and sign a written settlement agreement. If requested by the parties, the Conciliator may draw up, or assist the parties in drawing up, the settlement agreement. When the parties sign the settlement agreement, it shall be final and binding on the parties and persons claiming under them respectively. The Conciliator shall authenticate the settlement agreement and furnish a copy thereof to each of the parties. As far as possible, the conciliation proceedings should be completed within 60 days of the receipt of notice by the Conciliator.

The parties shall not initiate, during the conciliation proceedings, any arbitral or judicial proceedings in respect of a dispute that is the subject matter of the conciliation proceedings.

17.1.6. Termination of Conciliation Proceedings

The conciliation proceedings shall be terminated:

- a) by the signing of the settlement agreement by the parties on the date of agreement; or
- b) by written declaration of the conciliator, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of such declaration; or
- c) by a written declaration of the parties to the conciliator to the effect that the conciliation proceedings are terminated, on the date of declaration; or

- d) by a written declaration of a party to the other party and the conciliator, if appointed, to the effect that the conciliation proceedings are terminated, on the date of declaration.

Upon termination of the conciliation proceedings, the conciliator shall fix the costs of the conciliation and give written notice thereof to the parties. The costs shall be borne equally by the parties unless settlement agreement provides for a different apportionment. All other expenses incurred by a party shall be borne by that party.

17.2. Arbitration

If the efforts to resolve all or any of the disputes through conciliation fails, then such disputes or differences, whatsoever arising between the parties, arising out of touching or relating to construction/ manufacture, measuring operation or effect of the License Agreement or the breach thereof shall be referred to Arbitration in accordance with the following provisions:

- a. Only such dispute(s) or difference(s) in respect of which notice has been made but could not be settled through Conciliation, together with counter claims or set off, given by the Licensor, shall be referred to arbitration. Other matters shall not be included in the reference.
- b. The Arbitration proceedings shall be assumed to have commenced from the day, a written and valid demand for arbitration is received by Managing Director, Maharashtra Metro Rail Corporation Limited, Nagpur (MD/Maha-Metro).
- c. The disputes so referred to arbitration shall be settled in accordance with the Indian Arbitration & Conciliation Act, 1996 & amended by the Arbitration & Conciliation (Amendment) Act, 2015 and any statutory modification or re-enactment thereof.

Further, it is agreed between the parties as under:

17.2.1. Number of Arbitrators: The arbitral tribunal shall consist of:

- a. Sole Arbitrator in cases where the total value of all claims in question added together does not exceed Rs. 2.00 crores;
- b. 3 (Three) arbitrators in all other cases.

17.2.2. Procedure for Appointment of Arbitrators: The arbitrators shall be appointed as per following procedure:

- i) In case of Sole Arbitrator: Within 60 days from the day when a written and valid demand for arbitration is received by MD/Maha-Metro, the Licensor will forward a panel of 03 names to the Contractor. The Licensee shall have to choose one Arbitrator from the panel of three, to be appointed as Sole Arbitrator within 30 days of dispatch of the request by the Licensor. In case the Licensee fails to choose one Arbitrator within 30 days of dispatch

of panel of arbitrators by Maha-Metro then MD/Maha-Metro shall appoint anyone Arbitrator from the panel of 03 Arbitrator as sole Arbitrator.

ii) In case of 3 Arbitrators:

- a) Within 60 days from the day when a written and valid demand for Arbitration is received by MD/Maha-Metro, the Licensor will forward a panel of 5 names to the Licensee. The Licensee will then give his consent for any one name out of the panel to be appointed as one of the Arbitrators within 30 days of dispatch of the request by the Licensor.
- b) Licensor will decide the second Arbitrator. MD/Maha-Metro shall appoint the two Arbitrators, including the name of one Arbitrator for whom consent was given by the Licensee, within 30 days from the receipt of the consent for one name of the Arbitrator from the Licensee. In case the Licensee fails to give his consent within 30 days of dispatch of the request of the Licensor then MD/Maha-Metro shall nominate both the Arbitrators from the panel.
- c) The third Arbitrator shall be chosen by the two Arbitrators so appointed by the parties out of the panel of 05 Arbitrators provided to Licensee or from the larger panel of Arbitrators to be provided to them by Licensor at the request of two appointed Arbitrators (if so desired by them) and who shall act as Presiding Arbitrator. In case of failure of the two appointed Arbitrators to reach upon consensus within a period of 30 days from their appointment, then, upon the request of either or both parties, the Presiding Arbitrator shall be appointed by the Managing Director / Maha-Metro, Nagpur.
- d) If one or more of the Arbitrators appointed as above refuses to act as Arbitrator, withdraws from his office as Arbitrator, or vacates his/their office/offices or is/are unable or unwilling to perform his functions as Arbitrator for any reason whatsoever or dies or in the opinion of the MD/Maha-Metro fails to act without undue delay, the MD/Maha-Metro shall appoint new Arbitrator /Arbitrators to act in his/their place except in case of new Presiding Arbitrator who shall be chosen following the same procedure as mentioned in para (ii)(c) above. Such re-constituted Tribunal may, at its discretion, proceed with the reference from the stage at which it was left by the previous Arbitrator(s).
- e) The Licensor at the time of offering the panel of Arbitrator(s) to be appointed as Arbitrator shall also supply the information with regard to the qualifications of the said Arbitrators nominated in the panel along with their professional experience, phone nos. and addresses to the Licensee.

17.2.3. Qualification and Experience of Arbitrators (to be appointed as per sub-clause 17.2.2 above)
: The Arbitrators to be appointed shall have minimum qualification and experience as under:

Arbitrator shall be;

a Working / Retired Officer (not below E-8 grade in a PSU with which Maha-Metro has no business relationship) of any discipline of Engineering or Accounts / Finance department, having experience in Contract Management;

or

a Retired Officer (retired not below the SAG level in Railways) of any Engineering Services of Indian Railways or Indian Railway Accounts Service, having experience in Contract Management; or a Retired Officer who should have retired more than 3 years previously from the date of appointment as Arbitrator (retired not below E-8 grade in Maha-Metro or a PSU with which Maha-Metro has a business relationship) of any Engineering discipline or Accounts / Finance department, having experience in Contract Management or retired judge of any High Court or Supreme Court of India or reputed Chartered Accountant & should be member of ICAI, New Delhi. No person other than the persons appointed as per above procedure and having above qualification and experience shall act as Arbitrator.

- 17.2.4. No new claim shall be added during proceedings by either party. However, a party may amend or supplement the original claim or defence thereof during the course of arbitration proceedings subject to acceptance by Tribunal having due regard to the delay in making it.
- 17.2.5. Neither party shall be limited in the proceedings before such arbitrator(s) to the evidence or arguments put before the Conciliator for the purpose of obtaining his decision. No decision given by the Conciliator in accordance with the foregoing provisions shall disqualify him from being called as a witness and giving evidence before the arbitrator(s) on any matter, whatsoever, relevant to dispute or difference referred to arbitrator/s. Neither party shall be limited in the proceedings before such arbitrators to the evidence.
- 17.2.6. It is agreed by both the Parties that in the cases where Arbitral Tribunal is consist of sole Arbitrator, their disputes shall be resolved by fast track procedure specified in sub-section (3) of 29B of the Arbitration and Conciliation (Amendment) Act , 2015 or as amended up to date.
- 17.2.7. If the Licensee(s) does/do not prefer his/their specific and final claims in writing, within a period of 90 days of receiving the intimation from the Licensor/ Conciliator that the final demand is ready, he/they will be deemed to have waived his/their claim(s) and the Licensor shall be discharged and released of all liabilities under the License Agreement in respect of these claims.
- 17.2.8. Arbitration proceedings shall be held at Nagpur, India and the language of the arbitration proceedings and that of all documents and communications between the parties shall be in English.

- 17.2.9. The Arbitral Tribunal should record day to day proceedings. The proceedings shall normally be conducted on the basis of documents and written statements. All arbitration awards shall be in writing and shall state item wise, the sum and detailed reasons upon which it is based. A model Time Schedule for conduct of Arbitration proceedings in a period of 180 days / 365 days will be made available to Arbitral tribunal for their guidance. Both the Parties should endeavour to adhere to time schedule for early finalization of Award.
- 17.2.10. The award of the sole Arbitrator or the award by majority of three Arbitrators as the case may be shall be binding on all parties. Any ruling on award shall be made by a majority of members of Tribunal. In the absence of such a majority, the views of the Presiding Arbitrator shall prevail.
- 17.2.11. A party may apply for correction of any computational errors, any typographical or clerical errors or any other error of similar nature occurring in the award of a tribunal and interpretation of specific point of award to tribunal within 60 days of the receipt of award. party may apply to tribunal within 60 days of receipt of award to make an additional award as to claims presented in the arbitral proceedings but omitted from the arbitral award.
- 17.2.12. **Interest on Arbitration Award**
- Where the arbitral award is for the payment of money, interest @ 15% per annum shall be payable on whole or any part of the money for the period it is accrued, till the date on which the award is made.
- 17.2.13. **Cost of Conciliation / Arbitration**
- The fees and other charges of the Conciliator / Arbitrators shall be as per the scales fixed by the Licensor from time to time irrespective of the fact whether the Arbitrator(s) is / are appointed by the Licensor or by the Court of law unless specifically directed by Hon'ble Court otherwise on the matter, and shall be shared equally by the Licensor and the Licensee. However, the expenses incurred by each party in connection with the preparation, presentation will be borne by itself. The latest scale of fee & other charges fixed by Maha-Metro are as per Schedule-D enclosed.
- 17.2.14. **Jurisdiction of Courts**
- Where recourse to a Court is to be made in respect of any matter, the court at Nagpur shall have the exclusive jurisdiction to try all disputes between the parties.

ARTICLE 18: INDEMNITY AND INSURANCE

- 18.1. Insurance and Waiver of Liability** - The Licensee will bear the cost, throughout the term of the License, for a comprehensive general liability insurance covering injury to or death of any person(s) while working in Maha-Metro premises, including death or injury caused by the sole negligence of the Licensee or the Licensee's failure to perform its obligations under the agreement. The Licensee shall submit to Maha-Metro, suitable evidence that the foregoing policy or policies are in effect. In the event of the default i.e. avoiding the insurance cover, the Licensee agrees and undertakes to indemnify and hold Maha-Metro harmless against any liability, losses, damages, claims, expenses suffered by Maha-Metro because of such default by the Licensee. The licensee within 45 days from the date of handing over of advertisement spaces, shall submit copy of insurance to Maha-Metro.
- 18.2.** The Licensee shall comply with all the provisions of Labour Laws & regulation in force including but not limited to the Contract Labour (Regulation & Abolition) Act-1976 including any subsequent amendment thereof and the rules made there under. Licensee will indemnify Maha-Metro Administration for any loss and damages suffered due to violation of its provision.
- 18.3.** The Licensee shall comply with the laws/guidelines/policies including **Nagpur Municipal Corporation's Advt. policy/EPCA guidelines/directives given by Hon'ble courts, or any other prevailing policy as applicable in India**, regarding advertisement/display. Maha-Metro will not be held liable for any change/modification in the laws that adversely affect this Agreement. Licensee shall have no right / claim in this regard, whatsoever the reason may be.
- 18.4.** The Licensee will not ask for any claim or seek any compensation from Maha-Metro if advertisement at any advertisement spaces inside any station is not permitted due to court order/local laws/civil authorities.
- 18.5.** The Licensee hereby indemnifies Maha-Metro against any loss, damage or liabilities arising as a result of any act of omission or commission on part of Licensee or on part of its personnel or in respect of non-observance of any statutory requirements or legal dues of any nature.
- 18.6.** The Licensee hereby agrees that Maha-Metro shall have no responsibility as regards Licensee employees and the employees shall be the employees of Licensee only and shall not be construed under any circumstances as employees of Maha-Metro. Licensee hereby indemnifies Maha-Metro against the claims made by Licensee's employees against Maha-Metro.
- 18.7.** The Licensee hereby undertakes to discharge all statutory obligations and liabilities in connection with employment of its personnel in the said premises. The Licensee hereby indemnifies Maha-Metro against any liability arising in connection with the employment of its

personnel in the said premises by Licensee. Licensee hereby undertakes to carry out police verification of its employees and submit the copy of same to Property Business Wing of Maha-Metro in accordance with Maha-Metro's policies regulations prevalent at that time.

18.8. The Licensee shall bear all salaries, wages, bonuses, payroll taxes or accruals including gratuity, superannuating, pension and provident fund contributions, contributions to worker's compensations funds and employees state insurance and other taxes and charges and all fringe and employee benefits including statutory contributions in respect of such personnel employed/deployed by the Licensee. These personnel shall at no point of time be construed to be employees of Maha-Metro and the Licensee shall be solely responsible for compliance with all labour laws which shall include all liabilities of the Provident Fund Act, ESI Act, Workmen's compensation Act, Minimum Wages Act and other Labour Welfare Act in respect of its personnel. The Licensee shall indemnify Maha-Metro from any claims that may arise in connection with above.

18.9. Employees conduct:

The Licensee shall ensure that all persons employed behave in an orderly and disciplined manner and that the said employees are prohibited from carrying on any unlawful, unfair activities or demonstrations. The personnel deployed shall be decent, courteous and without any adverse or criminal background. Licensee shall arrange ID cards for their personnel from Pass Section/ Maha-Metro Ltd. as per extent rules for the same. All the Licensee's personnel shall be required to possess ID card issued by Maha-Metro while working in Maha-Metro's premises as per prevailing procedure. Access inside the stations in paid areas shall be through smart cards as per prevailing applicable charges, in addition to the valid ID cards.

18.10. That no tenancy/sub-tenancy is being created by Maha-Metro in favour of Licensee under or in pursuance of this Agreement and it is distinctly & clearly understood, agreed & declared by and between the parties hereto that: -

- a. That the Licensee shall not have or claim any interest in/on the said Metro Station premises as a tenant/ sub-tenant or otherwise:
- b. That no right as a tenant/sub-tenant or otherwise is purported or intended to be created or transferred by Maha-Metro in favour of Licensee in or in respect of the advertisement spaces and metro premises, except to carry out their activities as granted under this License Agreement; and
- c. That the rights, which Licensee shall have in relation to the said premises, are only those set out in this Agreement.

- 18.11.** The relationship between Maha-Metro and Licensee under and/or in pursuance of this Agreement is as between Principal and Principal. Consequently, neither party shall be entitled to represent the other and/or make any commitment on behalf of and /or with traders or any other party. Furthermore, no relationship in the nature of Partnership or Association of persons is hereby being created or intended to be created between Maha-Metro on the one hand and Licensee on the other hand in connection with and/or relating to advertisements being displayed by the Licensee at the said premises.
- 18.12.** In case of non-payment of License fees and other dues or any other reasons whatsoever, the Licensee voluntarily agrees to and permits the licensor "Maha-Metro" to dismantle/remove hoardings and material installed by the Licensee at the metro station premises and also shall revoke the Licensee's right for the 300 advertisement minutes granted to the Licensee. The Licensee agrees voluntarily and also undertakes not to seek any claim, compensation, damages or any other consideration whatsoever, which may arise due to such disconnection by the Licensor.
- 18.13.** That the Licensee shall be responsible to obtain any or all permission and/or clearances from any/all authorities, governmental or otherwise and Maha-Metro shall not be liable or responsible for any of the act or omissions committed on the part of the licensee.
- 18.14.** The Licensee agrees voluntarily and unequivocally to make all payments as may be due on the due date, without waiting for any formal invoice from Maha-Metro. The Licensee also voluntarily agrees to collect the invoices from the office of the Authorized representative of the Maha-Metro before the due date. Non receipt of invoice will not be a consideration for delayed or non-payment of dues.
- 18.15.** In case of restricted availability of power supply / breakdown, the station power requirements would get first priority and this may result in restriction / rostering of power supply to the advertisements hoardings and associated lightings. In such situations or any supply disruptions due to strikes of employees, breakdowns of machinery and plant, lockout, failures of incoming supply of Maha-Metro or such causes where the supply of Maha-Metro is affected by a cause or causes over which Maha-Metro has no control, Maha-Metro shall not be liable for any claims for loss, damage or compensation whatsoever, arising out of failure of supply due to any of the afore mentioned causes.
- 18.16.** Notices:
- a. Maha-Metro and Licensee voluntarily and unequivocally agrees that any notices to be served with reference to the said agreement shall be sufficiently served and given if delivered to-

If to Maha-Metro:

Address : Maharashtra Metrorail Corporation Limited
Metro House, 28/2 Anand Nagar, C K Naidu Road,
Civil Lines, Nagpur-440001
Telephone : 0712 –
Fax :
Email :
Kind Attention : Managing Director
Cc : Maha-Metro Representative

If to the Licensee

Name : M/s
Address : " "
Telephone : 0712 –
Fax :
Mobile :
Attention :

- b. That any notice or correspondence under the terms of this License shall be in writing by registered post/ Speed Post/ Courier or delivered personally. All activities including day to day management, billing, cancellation/termination/surrender etc. shall be carried out from the office of the General Manager/Property Business or by his duly authorized representative. All Notice shall be addressed as follows:
- c. No instruction/ notice of any party if not communicated in writing, shall be entertained by the other party.

Draft License Agreement for " Licensing of Advertisement Rights inside Selected Metro Stations of Reach-1, Reach-2 and Reach-3 of Nagpur Metro Rail Project for a period of 05 years."

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DAY, MONTH AND YEAR FIRST ABOVE WRITTEN.SIGNED, SEALED AND DELIVERED

For and on behalf of
THE AUTHORITY by:

(Signature)
(Name)
(Designation)

THE COMMON SEAL OF LICENSEE has been affixed pursuant to the resolution passed by the Board of Directors of the Licensee at its meeting held on the day of 20..... hereunto affixed in the presence of, Director, who has signed these presents in token thereof and, company Secretary / Authorised Officer who has countersigned the same in token thereof

§:

2.

.....

§ To be affixed in accordance with the articles of association of the Licensee.

Annexures

Annexure – 1:

Table No. 1: Details of Advertisement Spaces in Selected Metro Stations

Sr. No.	Station Name	Reach	Advertisement Space identified by Maha-Metro at metro station (in Sq.mt.)	Minimum Advertisement Space to be taken up at metro station (in Sq.mt.)
1	New Airport Nagar Metro Station	Reach-1	100.00	100.00
2	Airport-South Metro Station	Reach-1	76.38	75.00
3	Ujjwal Nagar Metro Station	Reach-1	239.87	120.00
4	Jaiprakash Nagar Metro Station	Reach-1	113.52	100.00
5	Ajni Square Metro Station	Reach-1	130.43	100.00
6	Rahate Colony Metro Station	Reach-1	289.11	150.00
7	Congress Nagar Metro Station	Reach-1	833.15	200.00
8	Zeromile Freedom Park Metro Station	Reach-2	214.42	110.00
9	Institution of Engineers Metro Station	Reach-3	186.36	125.00
10	Shankar Nagar Metro Station	Reach-3	230.21	125.00
11	LAD chowk Metro Station	Reach-3	257.80	130.00
12	Dharampeth College Metro Station	Reach-3	205.90	120.00
13	Subhash Nagar Metro Station	Reach-3	130.25	100.00
14	Rachna Ring Road Metro Station	Reach-3	178.56	125.00
15	Vasudev Nagar Metro Station	Reach-3	166.66	120.00

1. Licensee is to be charged for the higher of the following, i.e. minimum chargeable area offered **OR** the actual handed over.
2. Areas indicated above are approximate. Actual advertisement area shall be measured at the time of handing over of space(s). If there is any variation in area the License Fees shall be charged on pro-rata/ actual area basis.

Note:

1. **Licensee shall not have any claim for compensation or damages, revision/reduction in License fee, in case of delay in commissioning of stations as mentioned in Annexure-I.**
2. **Maha-Metro has installed/placed the demonstration of advertisement boards at Subhash Nagar Metro Station. The Bidders are advised to visit the Subhash Nagar Metro Station for to check the board physically. Similar boards will be installed by Maha-Metro at all the advertisement sites earmarked in Annexure – 3.**

